



**Billing Code: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

**[Docket No. 140904754-5917-03]**

**RIN 0648-BE27**

**Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2015-2016 Biennial Specifications and Management Measures; Amendment 24; Correction**

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

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This action corrects the 2015-2016 harvest specifications and management measures final rule that published on March 10, 2015. That rule established 2015-2016 harvest specifications and management measures for groundfish taken in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California, consistent with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Pacific Coast Groundfish Fishery Management Plan (PCGFMP), and approved Amendment 24 to the PCGFMP. This action corrects management measures in California recreational fisheries that are intended to keep the total catch of California scorpionfish within the harvest specifications. This action shortens the season for the recreational California scorpionfish fishery in the Southern

Management Area, consistent with the season lengths of the other three management areas where California scorpionfish predominantly occur. This correcting amendment implements the intended season dates as described in the preamble of the harvest specifications and management measures final rule, consistent with the Pacific Fishery Management Council's (Council) previous recommendations.

**DATES:** Effective [*insert date of publication in the Federal Register*].

**ADDRESSES:** Information relevant to the March 10, 2015, final rule (80 FR 12567) and Amendment 24, which includes a final environmental impact statement (EIS), the Record of Decision (ROD), a regulatory impact review (RIR), final regulatory flexibility analysis (FRFA), and amended PCGFMP, are available from William Stelle, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070. Electronic copies of that final rule are also available at the NMFS West Coast Region Web site:

*<http://www.westcoast.fisheries.noaa.gov>*.

**FOR FURTHER INFORMATION CONTACT:** Gretchen Hanshew, phone: 206-526-6147, fax: 206-526-6736, or e-mail: *[gretchen.hanshew@noaa.gov](mailto:gretchen.hanshew@noaa.gov)*.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The March 10, 2015, final rule (80 FR 12567) set catch limit specifications for 2015-2016 (overfishing limits (OFLs), acceptable biological catches (ABCs), and annual catch limits (ACLs)), and established management measures designed to keep catch within the ACLs. As part of that final rule, consistent with the Council's recommendations and described in the preamble to that rule, NMFS shortened the recreational fishing season for California scorpionfish. In 2014, the California scorpionfish fishery was open year-round and harvest was

higher than anticipated, exceeding the California scorpionfish ACL. The season length was shortened by four months to prevent harvest from exceeding the ACL in 2015 and beyond.

### **Need for Correction**

#### *Correcting California Scorpionfish Season Dates*

The March 10, 2015, final rule closed the recreational California scorpionfish fishery early in three of the four applicable management areas, but inadvertently left the California scorpionfish fishery open year-round in one of the four management areas. The change to the California scorpionfish season length in the Southern Management Area was mistakenly omitted. This action changes the season dates for the California scorpionfish fishery in the Southern Management Area at § 660.360(c)(3)(v)(A)(4), closing the fishery September 1 through December 31.

#### *Clarifying Seasonal Fishing Closures*

The recreational rockfish conservation area (RCA) is a seasonal depth-based closure that prohibits recreational fishing for groundfish species seaward of a boundary line approximating a depth contour. The depth at which the RCA begins the closure varies by management area (i.e. the RCA closes seaward of the 30 fm line in the San Francisco Management Area and closes seaward of the 40 fm line in the Central Management Area (§ 660.360)(c)(3)(i)(A)(3) and (4)). Because the recreational RCA applies to various groundfish species and species groups, seasonal depth restrictions are described separately from the fishing seasons for groundfish species and species groups. For the most part, the seasonal depth restrictions apply during the times that the fishing seasons for groundfish species and species groups are open. If the RCA has not closed an area, fishing is not necessarily allowed for a species or species group if the season for that species or species group is closed. Accordingly, in addition to the change in season dates for

California scorpionfish described above, this action also clarifies this point in the recreational RCA regulations, as described below.

The September 1 through December 31 closure of the California scorpionfish fishing season applies in all areas, including the cowcod conservation areas (CCAs) and the areas that are open outside the depth-based recreational RCAs. Clarifying edits to this effect in the recreational RCA regulations were mistakenly omitted in the final rule. Regulations at § 660.360(c)(3)(i)(A)(5) published in the March 10, 2015, final rule stated that “Recreational fishing for California scorpionfish south of 34°27' N. lat. is prohibited seaward of a boundary line approximating the 60 fm (109.7 m) depth contour from January 1 through December 31...”. It could be interpreted that this means that recreational fishing for California scorpionfish is open in the Southern Management Area year-round, as long as fishing occurs shoreward of the boundary line approximating the 60 fm (109.7 m) depth contour. This is not the case, given the applicable season dates for California scorpionfish at § 660.360(c)(3)(v) that are cited earlier in the paragraph. Clarifying changes to the RCA regulations at § 660.360(c)(3) and (c)(3)(i)(A) are made to clearly state that that only “when the fishing season is open” can you retain California scorpionfish in the areas not closed by the recreational RCA. Added regulatory text clarifies that retention of groundfish species or species groups for which the season is closed is prohibited in the recreational fishery seaward of California all year in all areas, “unless otherwise authorized in this section,” and makes no change in how current regulations apply.

### **Classification**

The Assistant Administrator (AA) for Fisheries, NOAA, finds that pursuant to 5 U.S.C.553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and would be contrary to the

public interest. This correcting amendment implements regulations as recommended by the Council, brings consistency between Federal and State regulations, and implements the season dates that were described in the preambles to the harvest specification and management measures proposed (80 FR 687, January 6, 2015) and final rules (80 FR 12567, March 10, 2015). NMFS announced to the public January 6, 2015 (80 FR 687, 696) that the Council had recommended an early closure of the recreational fishery for California scorpionfish, that regulations at § 660.360(c)(3) would be modified, and requested public comment on the potential changes that would be incorporated into regulations in the final rule. No comments regarding the shortened recreational California scorpionfish seasons were received. In the final rule, NMFS described changes from the proposed rule with regards to the recreational fishing regulations for California scorpionfish (80 FR 12567, 12569) and made the appropriate changes to regulations for three of the four management areas. The correction this rule makes to regulatory text at § 660.360(c)(3)(v)(A)(4) is consistent with changes that NMFS has already taken public comment on, therefore further notice and opportunity for public comment on this change is unnecessary. The minor correction to regulatory text at § 660.360(c)(3)(v)(A)(4) is limited in its effect to the public because California State regulations already prohibit fishing for California scorpionfish from September 1 through December 31 in all management areas, including the Southern Management Area that is the subject of this action. The minor edits to § 660.360(c)(3) introductory text, (c)(3)(i)(A) introductory text and (c)(3)(i)(A)(5) make no changes to the effect of the regulations, but clarify that fishers cannot retain species for which the season is closed, even if they are fishing in an area that is generally open to recreational fishing for other groundfish species. It would be contrary to the public interest to delay implementation of the minor corrections in this rule because they will reduce confusion caused by inconsistency in

State and Federal regulations. For the reasons above, the AA also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness and makes this rule effective immediately upon publication. This rule is exempt from the procedures of the Regulatory Flexibility Act (RFA) because the rule is issued without opportunity for prior notice and opportunity for public comment. Therefore, RFA analysis is not required and none has been prepared.

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

Fisheries, Fishing, Indian Fisheries.

Dated: October 7, 2015.

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Samuel D. Rauch III,  
Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is corrected by making the following correcting amendments:

**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 § 660.360, revise paragraphs (c)(3) introductory text, (c)(3)(i)(A) introductory text, (c)(3)(i)(A)(5), and (c)(3)(v)(A)(4) to read as follows:

**§ 660.360 Recreational fishery—management measures.**

\* \* \* \* \*

(c) \* \* \*

(3) *California*. Seaward of California, California law provides that, in times and areas when the recreational fishery is open, there is a 20 fish bag limit for all species of finfish, within which no more than 10 fish of any one species may be taken or possessed by any one person. [Note: There are some exceptions to this rule. The following groundfish species are not subject to a bag limit: Petrale sole, Pacific sanddab and starry flounder.] For groundfish species not specifically mentioned in this paragraph, fishers are subject to the overall 20-fish bag limit for all species of finfish and the depth restrictions at paragraph (c)(3)(i) of this section. Recreational spearfishing for all federally-managed groundfish, is exempt from closed areas and seasons, consistent with Title 14 of the California Code of Regulations. This exemption applies only to recreational vessels and divers provided no other fishing gear, except spearfishing gear, is on board the vessel. California state law may provide regulations similar to Federal regulations for the following state-managed species: Ocean whitefish, California sheephead, and all greenlings of the genus *Hexagrammos*. Kelp greenling is the only federally-managed greenling. Retention of cowcod, yelloweye rockfish, bronzespotted rockfish, and canary rockfish is prohibited in the recreational fishery seaward of California all year in all areas. Retention of species or species groups for which the season is closed is prohibited in the recreational fishery seaward of California all year in all areas, unless otherwise authorized in this section. For each person

engaged in recreational fishing in the EEZ seaward of California, the following closed areas, seasons, bag limits, and size limits apply:

(i) \* \* \*

(A) *Recreational rockfish conservation areas.* The recreational RCAs are areas that are closed to recreational fishing for groundfish. Fishing for groundfish with recreational gear is prohibited within the recreational RCA, except that recreational fishing for “other flatfish” is permitted within the recreational RCA as specified in paragraph (c)(3)(iv) of this section. It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA, unless otherwise authorized in this section. A vessel fishing in the recreational RCA may not be in possession of any species prohibited by the restrictions that apply within the recreational RCA. [For example, if a vessel fishes in the recreational salmon fishery within the RCA, the vessel cannot be in possession of rockfish while in the RCA. The vessel may, however, on the same trip fish for and retain rockfish shoreward of the RCA on the return trip to port.] If the season is closed for a species or species group, fishing for that species or species group is prohibited both within the recreational RCA and shoreward of the recreational RCA, unless otherwise authorized in this section.

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(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 60 fm (109.7 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). When the California scorpionfish fishing season is open, recreational fishing for California scorpionfish south of 34°27' N. lat. is prohibited seaward of a boundary line approximating the 60 fm (109.7 m) depth contour, except in the CCAs where fishing is prohibited seaward of the 20 fm (37 m) depth contour.

\* \* \* \* \*

(v) \* \* \*

(A) \* \* \*

(4) South of 34°27' N. lat. (Southern Management Area), recreational fishing for California scorpionfish is open from January 1 through August 31 (i.e., it's closed from September 1 through December 31).

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[FR Doc. 2015-26056 Filed: 10/13/2015 08:45 am; Publication Date: 10/14/2015]