



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

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

**[Docket No. 160808696-7010-02]**

**RIN 0648-BG76**

**Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2017-2018 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 fishery. This action implements an increase in the incidental Pacific halibut retention ratio in the sablefish primary fishery, and changes to recreational fisheries management measures that will reduce recreational groundfish and rockfish bag limits and eliminate length requirements for recreationally caught lingcod in all areas.

**DATES:** This final rule is effective [*insert date of publication in the Federal Register*].

**FOR FURTHER INFORMATION CONTACT:** Benjamin Mann phone: 206-526-6117, fax: 206-526-6736, or e-mail: [Benjamin.mann@noaa.gov](mailto:Benjamin.mann@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

This rule is accessible via the Internet at the Office of the Federal Register Web site at <https://www.federalregister.gov>. Background information and documents are available at the Pacific Fishery Management Council's website at <http://www.pcouncil.org/>.

## **Background**

The Pacific Fishery Management Council (Council)—in coordination with the International Pacific Halibut Commission (IPHC) and the States of Washington, Oregon, and California—recommended changes to groundfish management measures at its March 7-13, 2017, meeting. Specifically, the Council recommended (1) an increase in incidental halibut retention allocation in the primary sablefish fishery from 110 lbs dressed weight halibut per 1,000 lbs dressed weight sablefish, to 140 lbs halibut to 1,000 lbs sablefish to improve opportunity for industry to harvest more of the sablefish allocation without exceeding it or the incidental halibut allocation ACLs, and (2) a reduction in rockfish bag limits in the Washington recreational groundfish fishery (all areas) from 10 to 7 rockfish per angler, a reduction in the aggregated groundfish daily bag limit from 12 to 9 fish per angler, and finally, removal of the 22-inch minimum size limit for lingcod retention.

### ***Increased Incidental Halibut Retention in the Limited Entry Fixed Gear Sablefish Primary Fishery***

The 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 for IPHC Area 2A (waters off the U.S. West Coast), developed by the Council and implemented by the Secretary, allocates portions of the annual TAC among fisheries off Washington, Oregon, and California. Pacific halibut is generally

a prohibited species for vessels fishing in Pacific coast groundfish fisheries, unless explicitly allowed in groundfish regulations and authorized by the Pacific halibut Catch Sharing Plan.

In years where the Pacific halibut TAC is above 900,000 lbs (408.2 mt), the Catch Sharing Plan allows the limited entry fixed gear sablefish primary fishery an incidental total catch allowance for Pacific halibut north of Pt. Chehalis, WA (46°53.30' N. lat.). The 2017 Pacific halibut Area 2A TAC is 1,330,000 lbs (603 mt), a 190,000 lb (86.2 mt) increase from 2016. Consistent with the provisions of the Catch Sharing Plan, the limited entry fixed gear sablefish primary fishery north of Pt. Chehalis, WA is allowed an incidental total catch limit of 70,000 lbs (31.7 mt) for 2017.

At its March 2017 meeting, the Council considered the new 2017 total allowable catch (TAC) for Pacific halibut in Area 2A (waters off the U.S. West coast), and the total catch of Pacific halibut in the limited entry fixed gear sablefish primary fishery in recent years. Given the higher halibut allocation in 2017, the Groundfish Advisory Panel (GAP) requested the GMT look at recent participation in the primary fixed gear sablefish fishery north of Point Chehalis, and provide analysis relative to a reasonable ratio of halibut to sablefish, since it has been several years since the allocation has been at the level achieved for 2017.

Current regulations provide for halibut retention starting on April 1 with a landing ratio of 110 lbs dressed weight of halibut, for every 1,000 lbs dressed weight of sablefish landed, and up to an additional 2 halibut in excess of this ratio. These limits were based on the 2016 allocation of 49,686 lbs (approximately 71 percent of the 2017 allocation) and resulted in a catch of 29,499 lbs of incidental halibut, and 372,113 lbs of sablefish (approximately 58 percent of the sablefish allocation). At the March, 2017 Council meeting, the GMT examined landing restriction ratios of 110, 140, and 150 lbs dressed halibut per 1,000 lbs dressed sablefish. Based

on 2016 catch totals, the number of vessels fishing that participated, and the average number of trips taken, which constitutes the best available information, an increase from 100 lbs to 140 lbs dressed incidental Pacific halibut retention per 1,000 lbs dressed sablefish would allow total catch of Pacific halibut to approach, but not exceed, the 2017 allocation for the sablefish primary fishery and provide greater opportunity for industry to catch a higher percentage of the sablefish primary fishery allocation. This ratio can be adjusted through routine inseason action based on participation and landings in the fishery, if warranted.

In order to allow increased incidental halibut catch in the sablefish primary fishery to begin on April 1, or as soon as possible thereafter, the Council recommended and NMFS is revising incidental halibut retention regulations at § 660.231(b)(3)(iv) to increase the catch ratio to “140 lb (64 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 140 lbs per 1,000 lbs ratio per landing.”

The retention limits for Pacific halibut were not revised as part of the 2017-2018 harvest specifications and management measures because the Pacific halibut TAC is developed each year based on the most current scientific information, and the TAC for 2017 was not determined until the IPHC meeting in January, 2017.

### ***Washington State Recreational Management Measures***

In June, 2016, the Council recommended Washington recreational groundfish regulations for 2017 and 2018. At that time, management measures were anticipated to keep recreational yelloweye rockfish within harvest guidelines and black rockfish catch within harvest targets. Once catch data was compiled for 2016, harvest projections for black rockfish in 2017 and 2018 exceeded the harvest targets. As a result, WDFW adopted revised management measures by

emergency rule in February 2017, consistent with Federal guidelines that state regulations may be more restrictive than Federal regulations. At its March 2017 meeting, the Council considered taking action to modify Federal regulations to keep catch within harvest targets and bring consistency with state regulations.

The Council considered the best available fishery information, and recommended a reduction in the daily rockfish bag limit from 10 to 7 per angler to keep the Washington recreational black rockfish catch within the harvest targets for 2017 and 2018 as described. A 7 rockfish bag limit is anticipated to keep harvest of black rockfish within the target harvest limit and avoid having further bag limit reductions inseason.

In the Washington recreational groundfish fishery, the aggregate groundfish limit is currently, and has traditionally been 2 fish higher than the rockfish bag limit (with a rockfish limit of 10 fish the groundfish total bag limit was 12 fish), allowing anglers to retain a 2 fish bag limit for species other than rockfish, like lingcod or cabezon. To remain consistent with Washington recreational groundfish regulations, the Council recommended reducing the aggregate groundfish daily bag limit from 12 to 9 keeping the aggregate limit at 2 fish higher than the rockfish daily bag limit. Given their recommendation to reduce the rockfish daily bag limit from 10 fish to 7 fish, the Council also recommended an aggregate groundfish bag limit reduction from 12 to 9.

Recreational fishing regulations do not allow yelloweye rockfish to be retained, to discourage targeting, keep mortality within the harvest guideline, and promote rebuilding. Yelloweye rockfish are often caught incidentally while targeting other groundfish species, such as lingcod. Under current Washington state regulations, lingcod must be a minimum of 22 inches to be retained. Angler interview data indicates that the number of discarded lingcod has

increased in recent years, suggesting that anglers are catching undersized lingcod at a higher rate. Removing the minimum lingcod size limit is intended to encourage anglers to retain the first two lingcod caught, reducing their time on the water and potential interactions with yelloweye rockfish. Consistent with WDFW's regulations, the Council recommended removing the 22-inch minimum size limit for lingcod in the Washington recreational groundfish fishery.

The Council also recommended removing a requirement for observers to count and weigh canary rockfish and bocaccio before leaving a Shorebased IFQ vessel that has docked but hasn't yet offloaded. Higher 2017 ACLs and trawl allocations for these two species are anticipated to increase the volume of fish landed and to reduce a vessel's incentive to discard the fish while in port but prior to offload. Additionally, canary rockfish is no longer managed under a rebuilding plan, therefore the added burden for accounting catch of this species is no longer necessary. The Council considered modification to shorten the length of time the observer must remain on board the vessel once it docks, potentially saving vessels a small part of the cost of the observer's time.

The species that are subject to this catch accounting requirement are designated as a routine management measure at § 660.60(c)(1) and may be revised after a single Council meeting. However, NMFS has not found good cause to waive notice and comment in this case. Higher 2017 ACLs and trawl allocations, potential for higher catches and rebuilding status of these two species was considered in a notice and comment rule over winter (81 FR 75266, October 28, 2016; 82 FR 9634, February 7, 2017). Circumstances facilitating the Council to recommend this change are not substantively different from those that were considered in the 2017-2018 harvest specifications and management measures rule. There is no evidence of higher than anticipated catches in early 2017 for these species, or other new information suggesting that there is good cause to waive notice and comment. Therefore, NMFS is not including this change

in this inseason action. NMFS notified the Council at its April meeting of our intent to implement this regulatory change through a notice and comment rulemaking.

### **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.

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

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 the regulatory changes in this final rule may become effective as soon as possible.

At its March, 2017 meeting, the Council was presented with the IPHC final Area 2A Pacific halibut TAC of 1,330,000 lbs (603 mt). The Pacific halibut TAC is above 900,000 lbs (408.2 mt), therefore, per the Area 2A Catch Sharing Plan, retention of Pacific halibut will be allowed in the Limited Entry Fixed Gear (LEFG) sablefish primary fishery in 2017. Because the 2017 TAC is 190,000 lbs (86 mt) higher in 2017 than in 2016, the Council recommended an increase from 110 lbs to 140 lbs of dressed weight halibut per 1,000 lbs dressed weight sablefish. The Council recommended this increased limit be implemented by April 1, 2017, the start of the LEFG sablefish primary fishery, or as soon as possible thereafter to increase Pacific halibut

harvest opportunity, to allow Pacific halibut to be retained throughout the LEFG sablefish primary season, and to achieve attainment of incidental Pacific halibut quota in this fishery given the most recent Pacific halibut catch data and higher 2017 allocation.

During this March, 2017 meeting, the Council also recommended a reduction in the Washington recreational daily rockfish limit and daily aggregate groundfish limit, as well as removal of the 22 inch size limit for lingcod in all areas, in conformance with Washington state recreational fisheries management measures. This recommendation is based on the most recent information available including 2016 catch data as presented to the Council in March 2017. This data indicates that 2017 and 2018 black rockfish harvest projections for Washington recreational fisheries would exceed their target amounts through the end of the year if no changes were made. These adjustments to management measures are intended, and must be implemented in a timely manner, to prevent black rockfish harvest in the Washington recreational groundfish fishery, when combined with harvest in Washington commercial fisheries, from exceeding the black rockfish ACL for the area between the U.S.-Canada border and 46°16' N. lat.

There was not sufficient time after the March meeting to 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 ACLs in accordance with the PCGFMP, the Pacific halibut Area 2A CSP, and applicable law. If this rule is not implemented in a timely manner, the public could have incorrect information regarding Washington State recreational groundfish regulations which could result in confusion and be inconsistent with the Council's intent.

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 prevent overfishing in accordance with the PCGFMP and applicable law.

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 PCGFMP goals and objectives of managing for appropriate harvest levels while providing for year-round fishing and marketing opportunities. No aspect of this action is controversial, and changes of this nature were anticipated in the groundfish biennial harvest specifications and management measures established for 2017-2018.

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, and Reporting and recordkeeping requirements.

Dated: May 8, 2017.

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Karen H. Abrams,  
Acting Deputy Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 660 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, revise paragraph (b)(3)(iv) to read as follows:

**§ 660.231 Limited entry fixed gear sablefish primary fishery.**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(iv) *Incidental Pacific halibut retention north of Pt. Chehalis, WA (46°53.30' N. lat.).*

From April 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: 140 pounds (64 kg) dressed weight of Pacific halibut for every 1,000 pounds (454 kg) dressed weight of sablefish landed and up to 2 additional Pacific halibut in excess of the 140-pounds-per-1,000-pound ratio per landing. "Dressed" Pacific halibut in this area means halibut landed eviscerated with their heads on. Pacific 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, revise paragraphs (c)(1) introductory text and (c)(1)(ii) and (iv) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(1) *Washington*. For each person engaged in recreational fishing off the coast of Washington, the groundfish bag limit is 9 groundfish per day, including rockfish, cabezon and lingcod. Within the groundfish bag limit, there are sub-limits for rockfish, lingcod, and cabezon outlined in paragraph (c)(1)(i)(D) of this section. The recreational groundfish fishery will open the second Saturday in March through the third Saturday in October for all species in all areas except lingcod in Marine Area 4 as described in paragraph (c)(1)(iv) of this section. In the Pacific halibut fisheries, retention of groundfish is governed in part by annual management measures for Pacific halibut fisheries, which are published in the Federal Register. The following seasons, closed areas, sub-limits and size limits apply:

\* \* \* \* \*

(ii) *Rockfish*. In areas of the EEZ seaward of Washington that are open to recreational groundfish fishing, there is a 7 rockfish per day bag limit. In Marine Areas 1 and 2 there is a 1 fish sub-bag limit per day for canary rockfish. Taking and retaining canary rockfish is prohibited in Marine Areas 3 and 4. Taking and retaining yelloweye rockfish is prohibited in all Marine areas.

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(iv) *Lingcod*. In areas of the EEZ seaward of Washington that are open to recreational groundfish fishing and when the recreational season for lingcod is open, there is a bag limit of 2 lingcod per day. The recreational fishing seasons are as follows:

(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 2017 and 2018, from April 16 through October 15.

(B) Between 48°10' N. lat. (Cape Alava) and 46°16' N. lat. (Columbia River) (Washington Marine Areas 1-3), recreational fishing for lingcod is open for 2017 from March 11 through October 21, and for 2018 from March 10 through October 20.

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[FR Doc. 2017-09577 Filed: 5/8/2017 4:15 pm; Publication Date: 5/11/2017]