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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 160808696-7010-02]

RIN 0648-BI47

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 routine inseason adjustments to management measures in California recreational groundfish fisheries. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan, is intended to allow recreational fishing vessels to access more abundant groundfish stocks while protecting overfished and depleted stocks.

DATES: This final rule is effective [*INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Karen Palmigiano, phone: 206-526-4491 or e-mail: karen.palmigiano@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 Coast Groundfish Fishery Management Plan (PCGFMP) 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. The Pacific Fishery Management Council (Council) develops groundfish harvest specifications and management measures for two-year periods (i.e., a biennium). NMFS published the final rule to implement harvest specifications and management measures for the 2017—18 biennium for most species managed under the PCGFMP on February 7, 2017 (82 FR 9634). In general, the management measures set at the start of the biennial specifications cycle to help the various sectors of the fishery attain, but not exceed, the catch limits for each stock. The Council, in coordination with the States of Washington, Oregon, and California, recommends adjustments to the management measures during the fishing year to achieve this goal.

Current estimates indicate higher than anticipated yelloweye rockfish catch in both the Oregon and California recreational groundfish fisheries. This higher mortality is likely the result of favorable weather conditions during the summer months, as well as increased fishing for groundfish due to a decline in salmon harvest opportunities. The most recent estimates indicate that catch may approach or exceed both the Oregon and California Federal recreational harvest guidelines (HG) for yelloweye rockfish for the 2018 fishing year. Yelloweye rockfish is currently rebuilding, but no longer overfished.

The Oregon Department of Fish and Wildlife will take action through its state inseason processes to address the higher than anticipated catch of yelloweye rockfish. The California Department of Fish and Wildlife (CDFW) has already taken action on August 25, 2018, through public notice, to reduce recreational fishing impacts on yelloweye rockfish through restrictions on recreational fishing depth north of Point Conception. However, CDFW relies on modifications to the federal regulations to codify the adjusted depth restrictions needed to address their higher than anticipated harvest. Inseason changes to depth restrictions for the California recreational fishery are designated as routine management measures at § 660.60(c)(3)(i) and in section 6.2.1 of the PCGFMP.

Analysis of Potential Impacts

At the September Council meeting, CDFW notified the Council that information through September 2, 2018, indicated that, without additional intervention beyond the depth restrictions north of Point Conception that were put in place by CDFW on August 25, 2018, the California recreational yelloweye rockfish catch would exceed the state's HG by 20 percent, or 0.81 metric tons (mt), over their 3.9 mt HG in 2018. Based on this new information, and taking into account the higher than anticipated take of yelloweye rockfish in the Oregon recreational fishery, the Council's Groundfish Management Team (GMT) examined the need for additional restrictions to California recreational depth limits by analyzing the risk to the yelloweye rockfish annual catch limit (ACL) from state recreational HG overages. The GMT determined that there is likely to be 2.8 mt of the yelloweye rockfish ACL that will go unused due to lower than anticipated catch under the research and tribal allocations. Therefore, even with catch in excess of the Oregon and California recreational HGs, there is little risk of exceeding the yelloweye rockfish ACL. The

overall 2018 catch of yelloweye rockfish for all groundfish fisheries is expected to be 17.2 mt, or 86 percent, of the 20 mt ACL.

Therefore, the Council recommended and NMFS is implementing, through modifications to regulations at 50 CFR 660.360(c)(3)(i)(A), more restrictive depth limits for the Northern Management Area (between 42° N. lat. and 40°10' N. lat.), San Francisco Management Area (between 38°57.50' N. lat. and 37°11' N. lat.), and the Central Management Area (between 37°11' N. lat. and 34°27' N. lat.). The Council did not recommend changes for the Mendocino Management Area (between 40°10' N. lat. and 38°57.50' N. lat.) where fishing is currently restricted to shoreward of the 20 fathom (fm) (37 m) depth contour through December 31, or the Southern Management Area (south of 34°27' N. lat.) where fishing is restricted to shoreward of the 60 fm (109.7 meters [m]) depth contour through December 31.

Under the current regulations, recreational fishing in the Northern Management Area is prohibited seaward of the 30 fm (55 m) depth contour from May 1 through October 15 and prohibited seaward of 20 fm (37 m) from October 16 through December 31. With the implementation of this rule, recreational fishing in this management area will be restricted to shoreward of the 20 fm depth (37 m) contour (prohibited seaward of the 20 fm depth contour) through December 31.

Recreational fishing is currently prohibited seaward of the 40 fm depth (73 m) contour in the San Francisco Management Area from April 15 through October 15 and seaward of the 50 fm depth contour in the Central Management Area. This rule will further restrict recreational fishing depths in these areas through December 31, 2018. Recreational fishing in the San Francisco Management Area will be prohibited to seaward of the 30 fm (55 m) depth contour (prohibited seaward of the 30 fm depth contour) and in the Central Management Area

recreational fishing will be prohibited seaward of the 40 fm (73 m) depth contour through December 31, 2018.

Classification

This final rule makes routine inseason adjustments to groundfish fishery management measures, based on the best available information, consistent with the PCGFMP 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 by contacting Karen Palmigiano in NMFS West Coast Region (see FOR FURTHER INFORMATION CONTACT, above), or view at the NMFS West Coast Groundfish website: <http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html>.

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 *[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

The adjustments to management measures in this document affect recreational fisheries in California. No aspect of this action is controversial, and changes of this nature were anticipated in the biennial harvest specifications and management measures established through the final rule for the 2017-18 harvest specifications and management measures which published on February 7, 2017 (82 FR 9634).

At its September 2018 meeting, the Council recommended changes to the depth restrictions for recreational fishery management areas off of California be implemented as soon as possible to conform to action already taken by CDFW to prevent recreational catch from further exceeding the state recreational HG for yelloweye rockfish. Without immediate Federal action, there is the potential that yelloweye rockfish impacts would exceed what is expected under the new restrictions, possibly resulting in harvest beyond the yelloweye rockfish ACL. Exceeding an ACL could result in area closures, reduced bag limits, and, in the worst case, a complete recreational fishery closure. According to CDFW, recreational anglers make, on average, more than 100,000 trips in all five management areas in October and November each year. Prematurely closing the fishery or severely limiting recreational fishing by closing certain areas would result in economic harm to those communities that rely on recreational fishing.

Additionally, there was not sufficient time after the September 2018 Council meeting for proposed and final rulemaking before this action needs to be in effect. Affording the time necessary for prior notice and opportunity for public comment would prevent NMFS and California taking effective and efficient action to prevent further impacts to yelloweye rockfish and prevent the potential harm that would result from more restrictive fishery management measures (i.e. area restrictions or closures) in October and November. NMFS and the Council used the best available science when considering the risk to the yelloweye ACL and determined that these depth-based restrictions will move vessels to shallower waters where they are less likely to encounter yelloweye rockfish, while also providing the recreational fishing opportunity that benefits local communities.

It is in the public interest in California to allow the recreational fishery to remain open for the remainder of the year. Recreational fishing in California contributes revenue to the coastal

communities of that state, and closing the fishery for a portion or remainder of the year would cause adverse economic impacts to those communities. This action, if implemented quickly, is anticipated to provide recreational fishing opportunity for the duration of the year while keeping yelloweye rockfish harvest within the ACL, and is consistent with the best scientific information available.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian Fisheries.

Dated: September 21, 2018.

Margo B. Schulze-Haugen,
Acting 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 § 660.360, revise paragraphs (c)(3)(i)(A)(1) through (4) to read as follows:

§ 660.360 Recreational fishery – management measures.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(A) * * *

(1) Between 42° N. lat. (California/Oregon border) and 40°10' N. lat. (Northern Management Area), recreational fishing for all groundfish (except petrale sole, starry flounder, and “other flatfish” as specified in paragraph (c)(3)(iv) of this section) is closed entirely from January 1 through April 30; is prohibited seaward of the 30 fm (55 m) depth contour along the mainland coast and along islands and offshore seamounts from May 1 through *[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]* (shoreward of 30 fm is open); and is prohibited seaward of the 20 fm (37 m) depth contour along the mainland coast and along islands and offshore seamounts from *[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]* through December 31 (shoreward of 20 fm is open). Coordinates for the boundary line approximating the 20 (37 m) and 30 fm (55 m) depth contours are listed in § 660.71.

(2) Between 40°10' N. lat. and 38°57.50' N. lat. (Mendocino Management Area), recreational fishing for all groundfish (except petrale sole, starry flounder, and “other flatfish” as specified in paragraph (c)(3)(iv) of this section) is closed entirely from January 1 through April 30, and is prohibited seaward of the 20 fm (37 m) depth contour along the mainland coast and along islands and offshore seamounts from May 1 through December 31 (shoreward of 20 fm is open). Coordinates for the boundary line approximating the 20 fm depth contour are listed in § 660.71.

(3) Between 38°57.50' N. lat. and 37°11' N. lat. (San Francisco Management Area), recreational fishing for all groundfish (except petrale sole, starry flounder, and “other flatfish” as specified in paragraph (c)(3)(iv) of this section) is closed entirely from January 1 through April

14; is prohibited seaward of the boundary line approximating the 40 fm (73 m) depth contour along the mainland coast and along islands and offshore seamounts from April 15 through *[INSERT DATE OF PUBLICATION DATE OF PUBLICATION IN THE FEDERAL REGISTER]*; and is prohibited seaward of the boundary line approximating the 30 fm (55 m) depth contour along the mainland coast and along islands and offshore seamounts from *[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]* through December 31. Closures around Cordell Banks (see paragraph (c)(3)(i)(C) of this section) also apply in this area. Coordinates for the boundary line approximating the 30 (55 m) and 40 fm (73 m) depth contours are listed in § 660.71.

(4) Between 37°11' N. lat. and 34°27' N. lat. (Central Management Area), recreational fishing for all groundfish (except petrale sole, starry flounder, and “other flatfish” as specified in paragraph (c)(3)(iv) of this section) is closed entirely from January 1 through March 31 (i.e., prohibited seaward of the shoreline); is prohibited seaward of a boundary line approximating the 50 fm (91 m) depth contour along the mainland coast and along islands and offshore seamounts from April 1 through *[INSERT DATE OF PUBLICATION DATE OF PUBLICATION IN THE FEDERAL REGISTER]*; and, is prohibited seaward of a boundary line approximating the 40 fm (73 m) depth contour along the mainland coast and along islands and offshore seamounts from *[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]* through December 31. Coordinates for the boundary line approximating the 40 fm (73 m) depth contour are specified at § 660.71 and the 50 fm (91 m) depth contour are specified in § 660.72.

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