

U.S.C. 971 *et seq.*), amended the regulations found at 50 CFR Part 285 governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction to prohibit the use of spotter aircraft in assisting BFT vessels in other than the Harpoon and Purse Seine categories (62 FR 38485, July 18, 1997).

In response to a lawsuit filed by the Atlantic Fish Spotters Association, the Court, on June 10, 1998, overturned the prohibition on the use of spotter aircraft in assisting BFT vessels in other than the Harpoon and Purse Seine categories, as codified in 50 CFR Part 285. Therefore, consistent with the judicial order, spotter aircraft may now assist vessels in all categories, and the prohibition at 50 CFR Part 285 is rescinded.

Classification

This action is not significant for purposes of review under E.O. 12866.

The Assistant Administrator for Fisheries finds good cause under 5 U.S.C. 553(b)(B) to waive the requirement to provide prior notice and an opportunity for public comment as such procedures are unnecessary. This rule, which rescinds an existing rule, is being issued pursuant to a court order invalidating the existing rule. NMFS has no discretion to consider alternatives to the issuance of this rule implementing the order. As such, prior notice and an opportunity for public comment are unnecessary because NMFS has no authority to alter the provisions of this rule. Because this action relieves a restriction, under 5 U.S.C. 553(d)(1), it is not subject to a delay in effective date.

List of Subjects in 50 CFR Part 285

Fisheries, Fishing, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: June 30, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 285 is amended to read as follows:

PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for part 285 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*

§ 285.31 [Amended]

2. In § 285.31, paragraph (a)(40) is removed.

§ 285.33 [Amended]

3. In § 285.33, paragraph (b) is removed and reserved.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No. 971229312-7312-01; I.D. 062698A]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Changes

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces changes to the trip limits to the Pacific Coast groundfish limited entry fishery for the *Sebastes* complex south of Cape Mendocino, to the coastwide open access fisheries for widow rockfish, canary rockfish, the *Sebastes* complex, and lingcod, and to the open access nontrawl sablefish fishery north of 36°00' N. lat. In addition, closure of the open access fishery for lingcod is announced for August 1, 1998. Trip limits for the Washington Coastal Treaty tribes for canary rockfish and lingcod also are announced. These actions, which are authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), are intended to keep landings within the 1998 harvest guidelines (HGs) and allocations for these species.

DATES: Effective 0001 hours local time (l.t.) July 1, 1998, except the change to the trip limit for the *Sebastes* complex for limited entry trawl vessels in the "B" platoon becomes effective at 0001 hours l.t. July 16, 1998, and closure of the open access lingcod fishery occurs at 0001 hours on August 1, 1998. These changes remain in effect, unless modified, superceded or rescinded, until the effective date of the 1999 annual specifications and management measures for the Pacific Coast groundfish fishery, which will be published in the **Federal Register**. Comments will be accepted through July 22, 1998.

ADDRESSES: Submit comments to William Stelle, Jr., Administrator, Northwest Region (Regional

Administrator), NMFS, 7600 Sand Point Way NE., Bldg. 1, Seattle WA 98115-0070; or William Hogarth, Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: Bill Robinson, Northwest Region, NMFS, 206-526-6140; or Svein Fougner, Southwest Region, NMFS, 526-980-4040.

SUPPLEMENTARY INFORMATION: The following changes to current management measures were recommended by the Pacific Fishery Management Council (Council) at its June 23-26, 1998, meeting in Seattle, WA, in consultation with the States of Washington, Oregon, and California.

Limited Entry Fishery

The *Sebastes* complex means all rockfish managed by the FMP except Pacific ocean perch, widow rockfish, shortbelly rockfish, and shortspine and longspine thornyheads.

Currently the *Sebastes* complex is managed with 2-month cumulative trip limits: 40,000 lb (18,144 kg) north of Cape Mendocino and 150,000 lb (68,039 kg) south of Cape Mendocino. Within the cumulative limits for the *Sebastes* complex, no more than 13,000 lb (5897 kg) may be yellowtail rockfish north of Cape Mendocino, no more than 2,000 lb (907 kg) may be bocaccio south of Cape Mendocino, and no more than 15,000 lb (6,804 kg) may be canary rockfish coastwide.

The best available information at the June Council meeting indicated that the 4,677 mt limited entry allocation for the *Sebastes* complex in the Eureka-Monterey-Conception area would be reached between August 27 and September 18, 1998, if the rate of landings is not curtailed. The Council recommended that the current 2-month cumulative trip limit of 150,000 lb (68,039 kg) south of Cape Mendocino be reduced to 40,000 lb (18,144 kg), the same as north of Cape Mendocino, which makes one, consistent coastwide limit for the complex. The limited entry limits for yellowtail rockfish, bocaccio, and canary rockfish are not changed.

Open Access Fishery

Widow rockfish. Currently, the open access fishery for widow rockfish is managed by a 1-month cumulative trip limit of 15,000 lb (6,804 kg), which is half the limited entry 2-month cumulative limit. The best available information at the June Council meeting indicated that the 158-mt open access allocation would be reached between August 2, 1998, and November 9, 1998,

if the rate of landings is not slowed. The Council, therefore, recommended an immediate reduction of the cumulative 1-month trip limit to 3,000 lb (1,361 kg) to extend the fishery as long as possible during the year. Washington Coastal Treaty tribes will implement the same limit for their fisheries.

Canary rockfish. Canary rockfish is a component of the *Sebastes* complex. Currently, the open access fishery for canary rockfish is managed by a 1-month cumulative trip limit of 7,500 lb (3,402 kg), which is half the limited entry 2-month cumulative limit. The best available information at the June Council meeting indicated that the 90 mt open access allocation would be reached by July 6, 1998, if the rate of landings is not slowed. Because canary rockfish are unavoidable in other fisheries, the Council recommended a 1-month cumulative trip limit of 200 lb (91 kg) to accommodate minor amounts of unavoidable incidental catch. The harvest guideline may be exceeded by a slight amount, but a complete closure is not recommended because most incidentally-caught canary rockfish are not expected to survive if returned to sea.

The trip limit for Washington Coastal Treaty tribes will be 300 lb (136 kg) "per trip" for canary rockfish taken in their tribal longline fisheries, which is expected to result in a harvest of about 5–7 mt, consistent with tribal landings in recent years.

***Sebastes* complex/rockfish limits.** The Council recommended that the overall, 40,000 lb (18,144 kg) monthly cumulative trip limit for all rockfish in the open access fishery be removed, and replaced with a 33,000 lb (14,969 kg) monthly cumulative trip limit for the *Sebastes* complex. In doing so, the open access fishery is constrained adequately by limits on the major rockfish components (3,000 lb (1,361 kg) for widow rockfish, 4,000 lb (1,814 kg) for Pacific ocean perch (POP), and 33,000 lb (14,969 kg) for the *Sebastes* complex) that add up to 40,000 lb (18,144 kg) per month. This is intended to simplify complicated regulations, and to discourage additional effort on species that are fully utilized.

Lingcod. Currently the open access fishery for lingcod is managed with a 2-month cumulative trip limit of 1,000 lb (454 kg); all lingcod must be larger than 24 inches (61 cm) total length. (The preamble to the annual management measures at 63 FR 419 (January 6, 1998) stated that the 24-inch (61 cm) total length size limit applied to all commercial and recreational lingcod, but this was inadvertently deleted in the open access trip limit. This document

confirms that the 24-inch (61 cm) size limit was intended to apply to the open access fishery as well.) The 60:40 percent limits that apply in the limited entry fishery do not apply to lingcod caught in the open access fishery. The best available information at the June Council meeting indicated that the 76 mt open access allocation for lingcod would be reached by July 18 through August 1, 1998, if the rate of landings is not slowed. The Council recommended that the open access fishery for lingcod be slowed significantly by implementing a 250 lb (113 kg) cumulative monthly trip limit, for the month of July only, followed by complete closure for all open access gears starting on August 1, 1998. This enables the lingcod open access allocation to be achieved but not exceeded, while providing the industry with adequate notice of the pending closure. The 250 lb (113 kg) monthly trip limit is implemented immediately because even the current limit of 1,000 lb (454 kg) per 2 months could easily be taken if the closure were not implemented at the beginning of the next 2-month cumulative period on July 1. Survivability of released lingcod appears to be high.

The trip limit for Washington Coastal Treaty tribes will be 300 lb (136 kg) "per trip" for lingcod taken in their tribal fisheries, which is expected to result in harvest of about 1 mt, consistent with tribal landings in recent years.

Nontrawl sablefish. Currently the open access, nontrawl fishery for sablefish is managed with a 300 lb (136 kg) daily trip limit, which counts toward a 700 lb (318 kg) cumulative limit per 2-month period. The non-trawl fishery includes hook-and-line, pot, setnet, and trammel nets. (The 60:40 percent limits that apply in the limited entry trawl fishery do not apply to nontrawl sablefish in the open access fishery.) The best available information at the June Council meeting indicated that the 278 mt open access allocation for sablefish north of 36°00' N. lat. would not be reached. The Council recommended that the 2-month cumulative open access limit be increased to 1,800 lb (816 kg), the same as currently in effect for the limited entry nontrawl sablefish fishery north of 36°00' N. lat., with the intent that the open access allocation will be achieved in 1998.

NMFS Action

For the reasons stated above, NMFS concurs with the Council's recommendations and announces the following changes to the 1998 annual

management measures (63 FR 419, January 6, 1998, as amended).

1. In Section IV., under *B. Limited Entry Fishery*, paragraphs (2)(b) and (2)(c) are revised to read as follows:

B. Limited Entry Fishery

* * * * *

(2) * * *

(b) **Cumulative trip limits.** The coastwide cumulative trip limit for the *Sebastes* complex is 40,000 lb (18,144 kg) per vessel per 2-month period. Within the cumulative trip limit for the *Sebastes* complex, no more than 13,000 lb (5,897 kg) may be yellowtail rockfish taken and retained north of Cape Mendocino; no more than 2,000 lb (907 kg) may be bocaccio taken and retained south of Cape Mendocino; and no more than 15,000 lb (6,804 kg) may be canary rockfish.

(c) The 60 percent monthly limits, which are the maximum amounts that may be taken and retained, possessed, or landed in either month in a 2-month period are: For the *Sebastes* complex coastwide, 24,000 lb (10,866 kg); for yellowtail rockfish, 7,800 lb (3,538 kg) north of Cape Mendocino; for bocaccio, 1,200 lb (544 kg) south of Cape Mendocino; and for canary rockfish coastwide, 9,000 lb (4,082 kg).

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2. In Section IV., under *C. Trip Limits in the Open Access Fishery*, paragraph 1 introductory text, (1)(a), and (1)(b) are revised; paragraphs (1)(c) through (e) are added; and (2)(a)(i) and (3) are revised.

C. Trip Limits in the Open Access Fishery

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(1) **Rockfish.** Rockfish means all rockfish as defined at 50 CFR 660.302, which includes the *Sebastes* complex, shortbelly rockfish, widow rockfish, POP, and thornyheads (longspine and shortspine). The *Sebastes* complex contains all other species of rockfish, including yellowtail rockfish, bocaccio, canary rockfish, and black rockfish. The following limits for rockfish in this paragraph C. (1) apply to all open access gear, including exempted trawl gear, unless otherwise specified.

(a) **All rockfish.** The trip limit for rockfish taken with hook-and-line or pot gear is 10,000 lb (4,536 kg) per vessel per fishing trip. Rockfish taken under this trip limit count toward cumulative trip limits.

(b) **Thornyheads.**

(i) **North of Pt. Conception.**

Thornyheads (shortspine and longspine) may not be taken and retained, possessed, or landed north of Pt. Conception, except for a daily trip limit of 100 lb (45 kg) that applies to vessels engaged in fishing for pink shrimp.

(ii) *South of Pt. Conception*. The daily trip limit for thornyheads is 50 lb (23 kg).

(c) *Widow rockfish*. The cumulative monthly trip limit for widow rockfish is 3,000 lb (1,361 kg).

(d) *POP*. The 50 percent monthly limit for POP is 4,000 lb (1,814 kg).

(e) *Sebastes complex*. The monthly cumulative limit for the *Sebastes complex* is 33,000 lb (14,969 kg) coastwide. The individual trip limits for species in the *Sebastes complex* in paragraph C. (d) are counted toward monthly limits for the *Sebastes complex* or rockfish, as applicable, and also apply to exempted trawl gear.

(i) *Yellowtail rockfish*. The 50 percent monthly limit for yellowtail rockfish is 6,500 lb (2,948 kg) north of Cape Mendocino.

(ii) *Bocaccio*.

(A) *All open access gear except setnets or trammel nets*. For all open access gear except setnets or trammel nets, the 50 percent monthly limit for bocaccio is 1,000 lb (454 kg) south of Cape Mendocino, of which no more than 500 lb (227 kg) per trip may be taken and retained with hook-and-line or pot gear.

(B) *Setnets or trammel nets* (legal only south of 38° N. lat.): For set nets or trammel nets, the cumulative monthly trip limit is 2,000 lb (907 kg).

(iii) *Canary rockfish*. The cumulative monthly trip limit for canary rockfish is 200 lb (91 kg).

(iv) *Black rockfish*. The trip limit at 50 CFR 660.323(a)(i) for black rockfish caught with hook-and-line gear also applies and is counted toward the cumulative *Sebastes* and rockfish limits. (The black rockfish limit is also stated in paragraph IV.B.7.)

(2) * * *

(a) * * *

(i) *North of 36°00' N. lat.* North of 36°00' N. lat, the daily trip limit for sablefish is 300 lb (136 kg), which counts toward a cumulative trip limit of 1,800 lb (816 kg) per 2-month period. The 2-month cumulative trip limit may be taken at any time during the 2-month period; there is no 60 percent monthly limit for the open access fishery.

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(3) *Lingcod*.

(a) The monthly cumulative trip limit for lingcod is 250 lb (113 kg) during July 1998. All lingcod must be longer than 24 inches (61 cm) total length.

(b) Effective August 1, 1998, lingcod may not be taken and retained, possessed, or landed by any open access gear, including exempted trawl gear, coastwide.

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V. Washington Coastal Tribal Fisheries [Amended]

3. In the second column, the fifth paragraph from the top is designated as *A. Sablefish*; the sixth paragraph from the top is designated as *B. Rockfish* and revised. In the third column, the first complete paragraph is designated as *C. Whiting*; and paragraph *D. Lingcod* is added to read as follows:

V. Washington Coastal Tribal Fisheries

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B. Rockfish: For the commercial harvest of black rockfish off Washington State, an HG of: 20,000 lb (9,072 kg) north of Cape Alava (48° 09' 30" N. lat.) and 10,000 lb (4,536 kg) between Destruction Island (47° 40' 00" N. lat.) and Leadbetter Point (46° 38' 10" N. lat.). This 30,000 lb (13.6 mt) is subtracted from the HG for the northern *Sebastes complex*.

(1) Thornyheads taken and retained with longline gear are subject to a 300 lb (136 kg) trip limit, which is expected to result in landings of 8,000–10,000 lb (3–5 mt).

(2) Canary rockfish taken and retained with longline gear are subject to a 300 lb (136 kg) trip limit, which is expected to result in landings of 10,000–15,000 lbs (5–7 mt).

(3) Widow rockfish taken and retained with any gear are subject to a 3,000 lb (1,361 kg) monthly cumulative limit.

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D. Lingcod: Lingcod taken and retained with any gear are subject to a 300 lb trip limit.

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Classification

These actions are authorized by the regulations implementing the FMP. The determination to take these actions is based on the most recent data available. The aggregate data upon which the determinations are based are available for public inspection at the Office of the Administrator, Northwest Region, NMFS (see ADDRESSES) during business hours. Because of the need for immediate action to implement these changes at the beginning of the next 2-month cumulative trip limit period and because the public had an opportunity to comment on the action at the June 1998 Council meeting, NMFS has determined that good cause exists for this document to be published without affording a prior opportunity for public comment or a 30-day delayed effectiveness period. These actions are taken under the authority of 50 CFR 660.323(b)(1) and are exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 30, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 980501115-8160-02; I.D. 032498A]

RIN 0648-AK86

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Compensation for Collecting Resource Information

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

ACTION: Emergency rule.

SUMMARY: This action, authorized by the Magnuson-Stevens Conservation and Management Act (Magnuson-Stevens Act), implements provisions by which a vessel owner or operator who has collected resource information according to a NMFS-approved protocol may be compensated with the opportunity to harvest fish in excess of current vessel limits and/or outside other restrictions. This action is intended to improve the types and amounts of scientific information available for use in stock assessments and management of the Pacific coast groundfish fishery. This action must be implemented under the Magnuson-Stevens Act emergency rulemaking authority so that NMFS may contract with commercial fishing vessels to conduct resource surveys during the summer of 1998. The Pacific Fishery Management Council (Council) is considering an amendment to the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) that would continue this compensation initiative beyond 1998.

DATES: Effective July 1, 1998 through January 4, 1999.

ADDRESSES: Send comments to William Stelle, Jr., Administrator, Northwest Region, (Regional Administrator) NMFS, 7600 Sand Point Way NE., Seattle, WA 98115; or William T. Hogarth, Administrator, Southwest Region, (Regional Administrator) NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. Copies of the