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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 301

[Docket No. 950106003-5070-02; I.D. 062695B]

#### Pacific Halibut Fisheries; Treaty Indian Commercial Fishery in Subarea 2A-1

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

**ACTION:** Closure.

**SUMMARY:** The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission (IPHC), publishes this inseason action pursuant to IPHC regulations approved by the U.S. Government to govern the Pacific halibut fishery. This action is intended to enhance the conservation of Pacific halibut stock in order to help sustain it at an adequate level in the northern Pacific Ocean and Bering Sea.

**EFFECTIVE DATE:** June 12, 1995, through December 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** Steven Pennoyer, 907-586-7221; William W. Stelle, Jr., 206-526-6140; or Donald McCaughran, 206-634-1838.

**SUPPLEMENTARY INFORMATION:** The IPHC, under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has issued this inseason action pursuant to IPHC regulations governing the Pacific halibut fishery. The regulations have been approved by NMFS (60 FR 14651, March 20, 1995). On behalf of the IPHC, this inseason action is published in the **Federal Register** to provide additional notice of its effectiveness, and to inform persons subject to the inseason action of the restrictions and requirements established therein.

#### Inseason Action

##### Northwest Treaty Tribes Fishery in Area 2A

Northwest treaty Indian tribes were allocated a total allowable catch of

182,000 lb (82.55 metric tons (mt)) in the subarea 2A-1 (northern Washington coast) in 1995. Of this total, 11,000 lb (4.98 mt) are reserved for ceremonial and subsistence purposes, leaving 171,000 lb (77.56 mt) for the commercial fishery. The commercial catch as of June 12, 1995, in subarea 2A-1 was 175,000 lb (79.37 mt), closing the treaty Indian commercial fishery for the remainder of 1995.

Dated: June 26, 1995.

**Richard W. Surdi,**

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

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#### 50 CFR Part 663

[Docket No. 950209046-5167-03; I.D. 011295D]

RIN 0648-AG82

#### Pacific Coast Groundfish Fishery; Modification of Nontrawl Sablefish Season

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

**ACTION:** Final rule.

**SUMMARY:** NMFS announces regulations to establish a new season structure for the nontrawl sablefish component of the Pacific Coast Groundfish limited entry fishery off Washington, Oregon, and California. The new regular season for this fishery will begin each year at 12 noon August 6. In addition, both the limited entry and open-access groundfish fisheries are required to remove all fixed gear from the water 72 hours prior to the start of the regular season. This rule is intended to promote the goals and objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP) by providing an equitable opportunity for different types of nontrawl gear to harvest the limited entry nontrawl allocation for sablefish, to enhance vessel safety by avoiding a winter opening, to keep the fishery within the annual management target, and to minimize gear conflicts.

**EFFECTIVE DATE:** August 2, 1995.

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson at 206-526-6140; or Rodney McInnis at 310-980-4040.

#### SUPPLEMENTARY INFORMATION:

NMFS issues this final rule under the authority of the FMP and the Magnuson Fishery Conservation and Management Act (Magnuson Act). NMFS published a

proposed rule at 60 FR 11062 (March 1, 1995), requesting comments through April 17, 1995, based on a recommendation of the Pacific Fishery Management Council (Council) at its October 1994 meeting. No written comments were received. NMFS concurs with the Council's recommendations, and therefore, this final rule is substantively the same as proposed, with several clarifications explained below. The proposed rule and Environmental Assessment and Regulatory Impact Review (EA/RIR) prepared for this action contain background and rationale.

#### Clarifications

The proposed rule stated that all nontrawl gear must be out of the water 72 hours before the regular season and sablefish may not be landed during that time. However, a review of the Council's motion revealed that this requirement was intended to apply only to fixed gear (longline, trap or pot, set net and stationary hook-and-line gear, including commercial vertical hook-and-line gear), not all nontrawl gear. Nontrawl gear includes fixed as well as mobile gear. Most at-sea enforcement of the closure will be conducted by over-flights. Because it is difficult to distinguish between the various types of access or limited entry fixed gear, the requirement for gear to be out of the water applies to both open access and limited entry operations. Mobile nontrawl gear catches only small amounts of sablefish, and, since it is not marked with buoys, its use does not complicate aerial enforcement. Therefore, it is unnecessary to require mobile nontrawl gear to be out of the water. In the pink shrimp and spot and ridgeback prawn fisheries, pot (trap) vessels may set their gear as long as groundfish are not retained or landed during the 72-hour period.

To facilitate enforcement, NMFS intends to use 12 noon as the starting and ending times of the regular and mop-up fisheries, whenever practicable. Regarding the length of the mop-up season and amount of the cumulative trip limit, the requirement for the NMFS Regional Director to consult with the Council's "Groundfish Management Team" has been revised to its "designees" to provide flexibility.

The Council confirmed its intent and it is NMFS policy that, as in other groundfish fisheries, a vessel must initiate offloading its catch before the effective time of any closure or reduced trip limit. This ensures that fishers have enough time to come to shore and start offloading their catch, which is well documented because each landing of

groundfish requires a State "fish ticket" or similar documentation.

#### Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this final rule is necessary for management of the Pacific Coast groundfish fishery and that it is consistent with the Magnuson Act and other applicable law.

The Council prepared an EA for this rule (contained in the EA/RIR) and the AA concluded that there would be no significant impact on the environment.

This rule has been determined to be not significant for purposes of E.O. 12866.

#### List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 28, 1995.

#### Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 663 is amended as follows:

#### PART 663—PACIFIC COAST GROUND FISH FISHERY

1. The authority citation for part 663 continues to read as follows:

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

2. Effective August 2, 1995, § 663.23, paragraph (b)(2) is revised to read as follows. This amendment supersedes the document published at 60 FR 10040, February 23, 1995.

#### § 663.23 Catch restrictions.

\* \* \* \* \*

(b) \* \* \*

(2) *Nontrawl sablefish*. This paragraph (b)(2) applies to the limited entry fishery, except for paragraphs (b)(2)(i) and (v), which also apply to the open-access fishery. All times are local times.

(i) *Pre-season closure—Open-access and limited entry fisheries*. (A) Sablefish taken with fixed gear in the limited entry or open access fishery in the EEZ may not be retained or landed from 12 noon August 3 through 12 noon August 6.

(B) All fixed gear used to take and retain groundfish must be out of EEZ waters from 12 noon August 3 through 12 noon August 6, except that pot gear used to take and retain groundfish may be deployed and baited in the EEZ after 12 noon on August 5.

(ii) *Regular season—Limited entry fishery*. The regular season for the limited entry nontrawl sablefish fishery begins at 1201 hours on August 6. During the regular season, the limited entry nontrawl sablefish fishery may be subject to trip limits to protect juvenile sablefish. The regular season will end when 70 percent of the limited entry nontrawl allocation has been or is projected to be taken. The end of the regular season may be announced in the **Federal Register** either before or during the regular season.

(iii) *Mop-up season—Limited entry fishery*. A mop-up season to take the remainder of the limited entry nontrawl allocation will begin about 3 weeks after the end of the regular season, or as soon

as practicable thereafter. During the mop-up fishery, a cumulative trip limit will be imposed. The length of the mop-up season and amount of the cumulative trip limit, including the time period to which it applies, will be determined by the Regional Director in consultation with the Council or its designees, and will be based primarily on the amount of fish remaining in the allocation and the number of participants anticipated. The Regional Director may determine that too little of the nontrawl allocation remains to conduct an orderly or manageable fishery, in which case there will not be a mop-up season.

(iv) The dates and times that the regular season ends (and trip limits on sablefish of all sizes are resumed) and the mop-up season begins and ends, and the size of the trip limit for the mop-up fishery, will be announced in the **Federal Register**, and may be modified. Unless otherwise announced, these seasons will begin and end at 12 noon on the specified date.

(v) Trip and/or frequency limits may be imposed in the limited entry fishery before and after the regular season, and after the mop-up season, under paragraph (c) of this section. Trip and/or size limits to protect juvenile sablefish in the limited entry or open-access fisheries also may be imposed at any time under paragraph (c) of this section. Trip limits may be imposed in the open-access fishery at any time under paragraph (c) of this section.

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