

thornyheads (both shortspine and longspine), and trawl-caught sablefish (DTS) complex. In recent years, the DTS complex has been managed with cumulative trip limits, with specific limits on sablefish and thornyheads. The remainder of catch could be Dover sole. The industry generally concentrated on the higher valued fish, thornyheads and sablefish. However, at its extreme, the entire cumulative limit for the DTS complex (since January 1, 1996, 70,000 lb (31,752 kg) per 2-month period) could consist of Dover sole. Dover sole currently is managed with a coastwide harvest guideline, which includes a harvest guideline for Dover sole in the Columbia area (43°00'–47°30' N. lat.), where harvest typically has been the highest.

The best available information at the June 1996 Council meeting indicated that 1,361 mt of Dover sole in the Columbia area had been taken through May 31, 1996, and that the 2,850-mt harvest guideline for this area would be reached by October 25, 1996, if the rate of landings is not slowed. The Council recommended that an explicit 2-month cumulative limit of 38,000 lb (17,236 kg) be specified for Dover sole taken and retained north of Cape Mendocino, CA. This is the amount of the DTS complex that would remain under the existing cumulative 2-month limit north of Cape Mendocino if the sub-limits for sablefish and thornyheads are fully taken. The 2-month cumulative limit for Dover sole is applied north of Cape Mendocino because this encompasses the Columbia area, and is consistent with current 2-month cumulative limits for the DTS complex (which differ north and south of Cape Mendocino) without unduly restricting the fishery south of Cape Mendocino.

NMFS action. NMFS concurs with the Council's recommendations, which are intended to keep landings of POP and Dover sole within their 1996 harvest guidelines. These restrictions apply to both the limited entry and open access fisheries, including exempt trawl gear used to harvest pink shrimp and prawns. As stated in the annual management measures at 61 FR 279 (January 4, 1996), "A vessel operating in the open access fishery must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery; or for the same gear and/or subarea in the limited entry fishery; or, in any calendar month, 50 percent of any 2-month cumulative trip limit for the same gear and/or subarea in the limited entry fishery, called the '50-percent monthly limit.'" The annual management measures announced at 61 FR 279, as amended, are modified as follows:

1. Paragraphs IV.D.(1) and (2) of the annual management measures for POP are revised to read as follows:

"D.(1) *Limited entry fishery.* The cumulative trip limit for POP is 8,000 lb (3,629 kg) per vessel per 2-month period. The 60-percent monthly limit is 4,800 lb (2,177 kg).

D.(2) *Open access fishery.* Within the limits at paragraph IV.I. for the open access fishery, the 50-percent monthly limit for POP is 4,000 lb (1,814 kg)."

2. Paragraphs IV.E.(3)(b)(i), IV.E.(3)(b)(iii), and IV.E.(4) of the annual management measures for the DTS complex are revised to read as follows:

"E.(3)(b)(i). *North of Cape Mendocino.* The cumulative trip limit for the DTS complex taken and retained north of Cape Mendocino is 70,000 lb (31,752 kg) per vessel per 2-month period. Within this cumulative trip limit, no more than 12,000 lb (5,443 kg) may be sablefish, no more than 38,000 lb (17,236 kg) may be Dover sole, and no more than 20,000 lb (9,072 kg) may be thornyheads. No more than 4,000 lb (1,814 kg) of the thornyheads may be shortspine thornyheads."

"E.(3)(b)(iii) The 60-percent monthly limits are: For the DTS complex, 42,000 lb (19,051 kg) north of Cape Mendocino, and 60,000 lb (27,216 kg) south of Cape Mendocino; for trawl-caught sablefish, 7,200 lb (3,266 kg); for Dover sole north of Cape Mendocino, 22,800 lb (10,342 kg); for both species of thornyheads combined, 12,000 lb (5,443 kg); and for shortspine thornyheads 2,400 lb (1,089 kg)."

"E.(4) *Open access fishery.* Within the limits in paragraph IV.I. of the annual management measures, a vessel using exempt trawl gear in the open access fishery is subject to the 50-percent monthly limits which are as follows: For the DTS complex, 35,000 lb (15,876 kg) north of Cape Mendocino, and 50,000 lb (22,680 kg) south of Cape Mendocino; for trawl-caught sablefish, 6,000 lb (2,722 kg); for Dover sole north of Cape Mendocino, 19,000 lb (8,618 kg); for both species of thornyheads combined, 10,000 lb (4,536 kg); and for shortspine thornyheads, 2,000 lb (907 kg)."

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 Director, Northwest Region, NMFS (see ADDRESSES) during business hours. Because of the need for immediate action to slow the rate of harvest of Dover sole and POP, and because the

public had an opportunity to comment on the action at the June 1996 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)(i), and are exempt from review under E.O. 12866.

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

Dated: June 28, 1996.

Richard W. Surdi,

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

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50 CFR Part 660

[Docket No. 960126016-6121-04; I.D. 062896A]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California; Closure from Point Arena, CA, to the U.S.-Mexican Border

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

ACTION: Closure.

SUMMARY: NMFS announces that the recreational salmon fishery in the area from Point Arena, CA, to the U.S.-Mexican border, in the exclusive economic zone (EEZ), closes at 0001 hours, July 2, 1996 and will remain closed until 0001 hours, July 15, 1996. The season in the EEZ will reopen under the terms of the preseason announcement of the 1996 management measures. NMFS has determined that the 2-week closure is necessary to offset the increased impacts on Sacramento River winter chinook salmon resulting from the decision by the California Fish and Game Commission (Commission) to delay implementing an increase in the recreational minimum size limit for chinook salmon within state waters. This action is necessary for ocean salmon fisheries to remain in conformance with the March 8, 1996, biological opinion issued by NMFS and is intended to provide protection to Sacramento River winter chinook salmon.

DATES: Effective 0001 hours local time, July 2, 1996, through 0001 hours local time, July 15, 1996. Comments will be accepted through July 15, 1996.

ADDRESSES: Comments may be mailed to Hilda Diaz-Soltero, Director, Southwest Region, National Marine Fisheries

Service, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4132. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the Southwest Regional Office, and at the Northwest Regional Office, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700-Bldg. 1, Seattle, WA 98115-0070.

FOR FURTHER INFORMATION CONTACT: Rodney R. McInnis or Daniel Viele, 310-980-4030.

SUPPLEMENTARY INFORMATION:

Sacramento River winter chinook was listed under the Endangered Species Act (ESA) in 1989. In response to continuing and dangerously low abundance of winter chinook, NMFS issued a March 8, 1996, biological opinion (revised April 5, 1996) which required that ocean fishery impacts on winter chinook be reduced to the extent that winter chinook spawning escapement would be increased by 35 percent compared to current levels. The 1996 ocean salmon management measures (61 FR 20175, May 6, 1996) recommended by the Pacific Fishery Management Council (Council) and approved and implemented by NMFS meet the requirements of the biological opinion through a combination of season reductions and increased minimum size limits.

The State of California acted in late April to conform its commercial and recreational fishing regulations to the Council's recommended management measures. On May 1, 1996, the Commission, which regulates the recreational salmon fishery within state waters, announced its intent to consider delaying implementation of the July 2 increase in the minimum size limit south of Point Arena for recreationally caught chinook until August 26.

The Council considered the Commission's proposed action at its June 18-19 meeting in Seattle, WA. NMFS informed the Council that any state actions resulting in an increase in winter chinook impacts would trigger inseason action by NMFS to ensure the requirements of the biological opinion would continue to be met. NMFS urged the Council to recommend adjustments to the fishing seasons in the EEZ, which would result in ocean salmon fisheries operating within the constraints of the biological opinion, should the Commission delay implementation of the July 2 minimum size limit increase. Despite advice from its Salmon Technical Team (STT) that the decrease in winter chinook spawning escapement resulting from the proposed delay

would not meet ESA requirements, the Council, at its June 18-19 meeting, recommended that NMFS delay the minimum size limit increase in Federal waters as well. The Council further advised NMFS to constrain any Federal regulatory adjustments stemming from the Commission's actions to the California recreational fishery.

On June 21, the Commission approved a July 15, 1996, date for the increase in the minimum size limit for chinook in the recreational salmon fishery south of Point Arena. A preliminary analysis by the STT indicates that the difference between the winter chinook spawning escapement increase expected under the NMFS approved and implemented management measures and the Commission's delay to July 15 would be 0.7 percent. Although small, this difference results in winter chinook impacts that do not meet the requirement of the biological opinion to increase winter chinook spawning escapement by 35 percent.

NMFS has taken this inseason action to close the recreational fishery in the EEZ during the same time period that the Commission has delayed the increase in the minimum size limit in state waters. Differing size limits in Federal and state waters are considered to be unenforceable. Analysis of how to compensate in the EEZ for the 2-week delay is made difficult by the lack of data partitioning recreational effort between the EEZ and state waters, and an inability to predict the portion of the recreational effort normally occurring in the EEZ that will shift to state waters as a result of an EEZ closure. Data for the commercial troll fishery off California in 1983 and 1984 indicate 67 percent of the catch occurred in the EEZ. However, there is no reason to assume a similar distribution of the recreational effort. Officials at the California Department of Fish and Game estimate that perhaps 70 percent of the recreational effort in July may occur inside state waters. If it is assumed that 30 percent of the recreational fishing effort occurs in the EEZ and that no effort shift will result from an EEZ closure, a 2-week closure of the EEZ to recreational fishing in July would approximately compensate for the winter chinook impacts caused by the 2-week delay in the minimum size limit in state waters, according to the Winter Chinook Ocean Harvest Model. Based on that analysis, NMFS expects that with this 2-week closure the ocean fisheries will continue to meet the requirements of the biological opinion. If, however, further analysis by the STT should indicate that additional adjustments are required, NMFS will

consider further closures to salmon fisheries in the EEZ.

The Regional Director consulted with representatives of the Council and the California Department of Fish and Game. Because of the need for immediate action, NMFS has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. This notice does not apply to other fisheries that may be operating in other areas.

Classification

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under E.O. 12866.

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

Dated: June 28, 1996.

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

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50 CFR Part 681 and 15 CFR Part 902

[Docket No. 960401094-6183-02; I.D. 022296D]

RIN 0648-A132

**Western Pacific Crustacean Fisheries;
Amendment 9; OMB Control Numbers**

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 9 to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP). This rule establishes a new annual harvest limitation program for the Northwestern Hawaiian Islands (NWHI) lobster fishery based on the status of stocks and an explicit level of risk of overfishing. This eliminates operational problems with the current quota system. Current prohibitions on retaining juvenile lobsters and berried lobsters are eliminated. The rule establishes framework procedures to implement regulatory changes if needed in the future. This rule also announces the harvest guideline for the 1996 fishing season. The rule is intended to maintain the productivity of the stocks while providing a reasonable opportunity for permit holders to participate in the fishery and to maintain their markets. The changes also improve the administration of the