

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified

Maps are available for inspection at the City of Yakima Department of Community and Economic Development, City Hall, 129 North Second Street, Yakima, Washington.

Send comments to The Honorable Lynn K. Buchanan, Mayor, City of Yakima, City Hall, 129 North Second Street, Yakima, Washington 98901.

	Yakima County (Unincorporated Areas).	Yakima River	Approximately 2,200 feet downstream of Interstate Highway 82 (near Wapato Dam).	None	*945
			Approximately 600 feet upstream of confluence with Selah Creek.	None	*1,152

Maps are available for inspection at the Yakima County Planning Department, Yakima County Courthouse, Room 417, 128 North Second Street, Yakima, Washington.

Send comments to The Honorable William H. Flower, Chairperson, Yakima County Board of Commissioners, Yakima County Courthouse, 128 North Second Street, Yakima, Washington 98901.

Wyoming	Rock Springs (City) Sweetwater County.	Bitter Creek	Approximately 500 feet downstream of confluence with Killpecker Creek.	*6,244	*6,246
			Approximately 1,000 feet downstream of Union Pacific Railroad.	*6,262	*6,263

Maps are available for inspection at the City of Rock Springs Department of Public Works, 212 D Street, Rock Springs, Wyoming.

Send comments to The Honorable Paul Oblock, Mayor, City of Rock Springs, 212 D Street, Rock Springs, Wyoming 82901.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: May 22, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 970520120-71-01; I.D. 040297A]

RIN 0648-AJ19

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; 1997 Management Measures for Nontrawl Sablefish

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement management measures recommended by the Pacific Fishery Management Council (Council) for the 1997 limited entry, fixed gear sablefish fishery north of 36° N. lat. These measures are a "regular" limited entry, fixed gear sablefish season of no

longer than 10 days, with an equal cumulative landing limit for all permit holders with sablefish endorsements, with starting date, ending date, and a landing limit announced by NMFS; closure of both the limited entry and open access fixed gear fisheries for sablefish for 48 hours both immediately before and after the regular fishery; and a cumulative limit mop-up fishery following the regular fishery, to allow any of the harvest guideline that remains after the regular fishery has closed. The proposed rule would also implement several long-term changes recommended by the Council including: A framework to start the regular fishery from August 1 through September 30 and an at-sea closure with a prohibition on setting or pulling fixed gear during the 48 hours after the regular fishery closes. The preamble also discusses the Council's recommendations for a year-round, daily trip limit for limited entry, fixed gear vessels harvesting or landing sablefish south of 36° N. lat. to be implemented as a routine management measure. These actions are intended to reduce the risk to human life and safety inherent in the current "derby" fishery. **DATES:** Comments must be submitted in writing by July 3, 1997.

ADDRESSES: Comments may be mailed to William Stelle, Jr., Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115-0070; or to William Hogarth, Acting Administrator, Southwest Region, NMFS, 501 W. Ocean Blvd.,

Suite 4200, Long Beach, CA 90802-4213. Information about this proposed rule is available for public review during business hours at the Office of the Administrator, Northwest Region, NMFS, and at the Office of the Administrator, Southwest Region, NMFS. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) may be obtained from the Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140, or Rodney R. McInnis at 310-980-4030. **SUPPLEMENTARY INFORMATION:** NMFS is proposing this rule based on recommendations of the Council, under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP) and the Magnuson-Stevens Act. This proposed rule would suspend certain parts of the regulations currently in place and temporarily replace them with the new management measures recommended by the Council through December 31, 1997. The background and rationale for the Council's recommendations are summarized below. More detail appears in the EA/RIR/IRFA prepared by the Council for this action (see **ADDRESSES**).

Background

Sablefish (*Anoplopoma fimbria*) is one of the most valuable species in the groundfish fishery off Washington,

Oregon, and California (WOC). Since 1987, the annual sablefish non-tribal harvest guideline has been divided between trawl gear and fixed gear fisheries. Historically, the sablefish trawl fishery has been managed with trip or period landings limits, which means with a limit on the amount of fish that may be harvested during a fishing trip or during a set time period. Trip or period landings limits mainly have been imposed to extend a fishery throughout most of the year. By contrast, the fixed gear sablefish fishery has historically taken most of its allocation in an intense, open competition called the "regular" or "derby" season, which has had no trip limits except on small sablefish less than 22 inches (56 cm) in length. In recent years, the fixed gear fleet has operated under daily trip limits (250–500 lb (113–227 kg) per day) outside of the "primary season" (i.e., the "regular" season combined with the "mop-up" season). The limited entry fixed gear fishery for sablefish involves two operationally distinct gear types, pot (or trap) and longline, that compete for the nontrawl (fixed gear) harvest allocation.

The Council's first concern regarding the current management of the limited entry, fixed gear sablefish fishery is that, if this fishery were allowed to continue as a derby, the season would become even shorter and the danger of fishing in the derby would rise. Before 1990, the fixed gear sablefish fishery began on January 1 and usually lasted for the greater part of the year. However, fishing effort increased and quotas were reduced during the late 1980s and early 1990s, resulting in the recent short "derby" seasons. In 1995 and 1996, the seasons were 7 and 5 days derbies, respectively. Seasons shorten from year to year because each vessel owner has an incentive to invest in new and better gear each year, hoping to increase the amount of fish that he/she can catch per hour or per day, and because the relatively high price of sablefish provides strong incentives for new entrants to join the fishery annually. With seasons measured in numbers of days, the derby is not just hazardous because it gives fishers strong incentives to stay out during bad weather but also because they work at sea with heavy machinery and with little or no sleep throughout the derby. The 1996 reauthorization of the Magnuson-Stevens Act included new National Standard 10, which requires, to the extent practicable, the promotion of the safety of human life at sea in conservation and management measures.

Beyond the Council's safety concerns with the derby fishery, the Council has also cited economic and conservation detractions of the derby fishery. Just as fishers cannot choose to fish during the best weather, they also cannot choose to fish during periods of highest sablefish market value. Fish caught under derby conditions often cannot be handled or processed into the highest value sablefish products. In a derby for high-value fish like sablefish, lower-value bycatch may be thrown overboard, dead and unused. Magnuson-Stevens Act National Standard 9 supports efforts to minimize bycatch and bycatch mortality. With shortening derby seasons, fishers may also be more likely to abandon their gear at sea, leaving that gear to continue to "ghost fish" after the derby has ended. Finally, as the length of the derby decreases, it becomes more difficult for managers to accurately choose a closing date to prevent the harvest from exceeding the allowable catch.

The Council has been exploring an individual fishing quota (IFQ) system for the fixed gear sablefish fishery since 1991, in order to equitably put an end to the derby fishery. However, the Magnuson-Stevens Act was recently amended to prohibit implementation of new IFQ programs until October 1, 2000. Therefore, the Council has turned to other management measures to resolve the problems inherent in the derby. At its August 1996 meeting, the Council continued its efforts to address safety and overcapacity in the limited entry, fixed gear sablefish fishery, by recommending Amendment 9 to the FMP, which would require a sablefish endorsement for vessels taking part in the primary sablefish season, north of 36° N. lat. Under Amendment 9, sablefish endorsement qualifications are a single year of permit catch history in which Council-managed sablefish caught with longline or fishpot gear exceeded 16,000 pounds (7,257 kg) (round weight), during the 1984–1994 qualifying period. Given these qualifications, it is likely that approximately 167 of the current 237 longline and pot permits would qualify for sablefish endorsements. NMFS approved Amendment 9 on May 8, 1997, and the endorsement is expected to be in place for the 1997 season.

Council recommendations from the October 1996 and March 1997 meetings strengthened the separation of sablefish fishing effort north and south of 36° N. lat. New management schemes that would put an end to the derby have been recommended for each area.

North of 36° N. lat.

Cumulative Limit Fishery

At the October 1996 and March 1997 Council meetings, industry members continued the long-standing debate about the future of limited entry, fixed gear sablefish management. Most fishers recognized that the trend in annually decreasing derby duration was likely to continue if there were a derby in 1997. Fear of a future sablefish season that would be measured in hours and frustration with the difficult fishing conditions of the derby brought forth much public testimony against a 1997 derby.

During the industry debates and on the Council floor, it became clear that traditionally low producers and traditionally high producers could not agree on a new management scheme. The traditionally low producers, who make up the majority of the fishery participants, but a minority of the total catch, favored an end to the derby and a system of equal cumulative limits for all participants. While the traditionally high producers did not necessarily wish to continue the derby, many were dissatisfied with the available management options, and saw the derby as the best way to maintain past trends in income distribution between fishery participants.

Members of the Council were forced to weigh the long-voiced anger over the continuing danger of the derby against the severe redistributive results of a management option to set equal cumulative limits for all of the vessels endorsed for the limited entry, fixed gear sablefish fishery. The Magnuson-Stevens Act national standards recognize the importance of both these issues. National Standard 10 places an emphasis on the safety of human life at sea, yet National Standard 4 requires that if allocation of fishing privileges between U.S. fishermen is necessary, then that allocation must be fair and equitable.

The Council's October recommendation was a three-week cumulative limit season, with equal limits for all participants. Although the Council considered the equal cumulative limit fishery to be undesirable for the long term, due to its redistribution of catch and income among fishery participants, it was the only acceptable alternative to the derby amongst the options available to the Council.

Following the October meeting, Council and NMFS staff analyzed the Council's proposal with newly available data from the 1996 fishery. This analysis showed that under a three week equal

cumulative limit fishery, almost all of the fishery participants likely would take their full cumulative limit. If this happened, the implementation of the three week equal cumulative limit fishery would be the implementation of an IFQ program. Since implementation of new IFQ programs is prohibited by the Magnuson-Stevens Act until October 1, 2000, NMFS, on February 28, 1997, rejected the Council's recommendation and requested that the Council either revise the equal limit proposal or adopt a different regime.

In order not to violate the prohibition on implementing any new IFQ programs, the fishery would have to be managed as a true cumulative limit fishery, where the limit is only the upper limit on what can be taken, rather than a fishery where the total allowable catch is divided up such that each participant has an exclusive right to a set amount. Therefore, management of the fishery had to be structured so that it could be expected that a substantial number of vessels would be unlikely to take the cumulative limit. The Council met these conditions by revising its season structure recommendations at the March 1997 meeting by (1) shortening the recommended length for the fishery to not more than 10 days, and (2) recommending a larger, less conservative, but still risk averse, maximum potential harvest.

For 1997 only, the Council recommended that the limited entry, fixed gear sablefish fishery north of 36° N. lat. consist of a no more than 10-day regular season with a single cumulative limit, equal for all vessels. Prior to and following the regular fishery, the current small daily trip limit fishery of 300 pounds (136 kg) per day would continue. Based on the number of permits qualifying for the proposed sablefish endorsement and the amount of harvest taken in the daily trip limit fishery, the cumulative limit amount, and the length in days of the fishery, would be established by the NMFS Regional Administrator, in consultation with the Council, and announced in the **Federal Register**.

Following the cumulative limit regular fishery, there would be a cumulative limit mop-up fishery to allow any of the harvest guideline that remains after the cumulative limit regular fishery and which is in excess of the amount needed for the daily trip limit fishery following the cumulative limit fishery to be taken. The recommendation on the size of the mop-up cumulative limit would be made by the Council's Groundfish Management Team, following a calculation of the actual landed catch from the initial

cumulative limit fishery and the daily trip limit fishery. The regular and mop-up seasons are designed to take the entire fixed gear allocation, except for approximately 385 mt for the daily trip limit fishery. The 385 mt for the daily trip limit fishery is slightly higher than the amount taken in the 1996 daily trip limit fishery.

Season Start Date

Before 1995, the start of the regular season off Washington, Oregon, and California was linked to the fixed gear sablefish season opening in the Gulf of Alaska, to reduce effort in the fishery by forcing fishers to choose between participating in the fishery off Alaska or the West Coast fishery. When the individual quota program was introduced for halibut and sablefish fisheries in exclusive economic zone (EEZ) waters off Alaska in 1995, the Council no longer had a reason to set start dates to match the Alaska fisheries. In 1995 and 1996, the Council set start dates of August 6 (60 FR 34472, July 3, 1995) and September 1 (61 FR 16402, April 15, 1996), respectively, because wind and sea conditions are generally safer along the coast at that time of year and to avoid overlapping with other West Coast fisheries and fishing opportunities.

At the October 1996 meeting, the Council decided to improve on 1995 and 1996 management efforts with a framework for future limited entry, fixed gear sablefish season start dates that would allow the start date to occur on any day from August 1 through September 30. The NMFS Regional Administrator would establish the season start date after consulting with the Council, at the June meeting if possible, and taking into account tidal conditions, Council meeting dates, conflicts with alternative fisheries, and industry comments. For 1997 only, establishment of the season start date would be affected by the status of the implementation of the sablefish endorsement program under Amendment 9 and the implementation date of this rule.

48-Hour Pre-Season Enforcement Closure

To facilitate enforcement at the start of the 1997 regular cumulative limit fishery, there would be a 48-hour closure before the 10-day cumulative limit fishery, during which time no fixed gear vessel (limited entry and open access) may deploy gear used to take and retain groundfish, or take or retain sablefish north of 36° N. lat. All fixed gear used to take groundfish must be out of the water during this period.

No Pre-Set Gear

In the past, there has been some conflict between longline and pot gear users over whether pot vessels should be allowed to set their gear in advance of the derby. Pots are extremely cumbersome and most pot fishers cannot store and transport all of their gear on board at once without increasing safety risks. Setting pot gear for the limited entry sablefish season may require more than one trip from shore to sea. In the 1995 and 1996 derbies, pot fishers were allowed to set baited gear 24 hours prior to the start of the derby. Longliners were opposed to this practice because it gave pot fishers the chance to choose and then monopolize premium fishing ground positions before the start of the derby. Because of these concerns and because the 1997 10-day fishery period is expected to provide all pot gear participants with sufficient time to set and tend their gear, there would be no opportunities for pot fishers to set their gear before the 1997 regular season start time.

Longliners have recently made requests to pre-set their gear for the derby, hoping to improve their competitive standing against the pre-set allowance for pot fishers. However, with no derby in 1997, and no pot gear pre-set provision, the perceived competitive disadvantage to the longliners is eliminated. Longliners would also not have the opportunity to set their gear before the start of the cumulative limit season.

At-sea closure

The Council decided that safety concerns associated with at-dock closures outweighed the enforcement benefits of at-dock closures. Therefore the Council recommended that at the end of the regular season; fishers must stop fishing, they must stop pulling gear but they need not be at the dock at the end of the regular season. The Council's Enforcement Consultants assured Council members that it would be possible to enforce an at-sea closure under a 10-day cumulative limit system or derby fishery, particularly with a 48-hour post-season closure. A portion of the fleet would have caught the cumulative limit before the end of the season, which means that fewer vessels would be fishing up until the season closure.

48-Hour Post-Season Enforcement Closure

To facilitate enforcement at the end of the regular season, there would be a 48-hour post-season closure, during which time no sablefish taken with fixed gear

(limited entry or open access) may be taken and retained for the 48 hours immediately after the end of the regular season. However, sablefish taken and retained during the regular season may be possessed and landed during that 48-hour period. Gear may remain in the water during the 48-hour post-season closure; however, gear used to take and retain groundfish may not be set or retrieved during this period.

Daily Trip Limit Fishery

Outside of the initial cumulative limit fishery, the mop-up fishery, and the associated 48-hour closures, there would continue to be a daily trip limit fishery. Under Amendment 9's sablefish endorsement program, in order to land limited entry fixed gear sablefish during either the initial cumulative limit fishery or the mop-up fishery, a fisher would be required to have a limited entry permit with a sablefish endorsement. During these fisheries, there would be no daily trip limit sablefish fishing opportunities for limited entry fixed gear vessels without permits with sablefish endorsements. During the time between the end of the 48-hour closure following the cumulative limit period and the beginning of the mop-up fishery, the daily trip limit fishery would be open.

South of 36° N. lat.

Catch taken south of 36° N. lat. counts against the southern area acceptable biological catch (ABC). The available harvest has not been fully exploited in past years, and many southern area vessels have harvested sablefish only in recent years. Therefore, many southern area fishers would not qualify for sablefish endorsements. For these reasons, the Council recommended exempting vessels fishing for sablefish in this area from the sablefish endorsement requirement. In order to prevent all of the unendorsed vessels from northern areas moving to the south, the Council also recommended eliminating the "primary season" for waters south of 36° N. lat. Historically, most of the fishing in this area has been low volume, year-round fishing; the Council's recommendations for the southern area preserve that traditional structure. Southern area fishers would have a year-round trip limit fishery, and those without sablefish endorsements would not be permitted to move north to take part in the primary northern season without obtaining permits with sablefish endorsements.

The Council and southern area industry goal for this area was a management regime that would allow traditional sablefish fishing practices,

yet discourage an influx of northern vessels into the southern area. Fishers from the southern area wish to continue operating a low-level, year-round harvest, and recognize that this will only happen if the total harvest for that area remains below the southern area ABC. An influx of new effort into the southern area could raise harvest levels above the ABC, leading to more complex management schemes for that area.

At the October 1996 Council meeting, the Council recommended the elimination of the primary season for the southern area, resulting in a year-round daily trip limit fishery south of 36° N. lat. The 1997 daily trip limit began the year at 350 pounds (159 kg) round weight per day (62 FR 700, January 6, 1997), and may be adjusted up or down at a 1997 Council meeting, to ensure that the ABC can be harvested without being exceeded. Southern area fixed gear sablefish fishing would henceforth be managed under routine management measures imposed under 50 CFR 660.323(b). This proposed rule does not amend § 660.323(b) but appropriately references it. Limits would be established in the annual specifications.

Biological Impacts

Biological impacts of the proposed action would be expected to be fairly minimal. However, there may be some negative biological impacts from moving to a non-derby management regime, such as highgrading, trip limit induced discards, and under-reporting of catch.

For vessels able to fully take the cumulative limit in the time available, highgrading provides an opportunity to increase revenues by discarding smaller sablefish in favor of the higher-priced large sablefish. Unrecorded discards can lead to a higher than intended fishing mortality level, although the amount would have to be substantial to measurably alter the sablefish ABC. Because highgrading and catch discard do not necessarily lead to mortality of the catch, the mortality rate associated with highgrading may be below the highgrading rate. Under the 10-day cumulative limit fishery, it is expected that 65 percent of the catch would be taken by vessels able to slow their usual rate of harvest and highgrade.

Trip limit induced discards happen when vessels fishing up to some limit exceed that limit and must discard catch to bring landings down to the limit. The more trip limit periods there are in a fishery, the more frequent the possibilities of trip limit induced discards. Under the proposed management scheme, vessels would

have two chances to generate trip limit induced discards, in the initial cumulative limit period and in the mop-up period.

Under a derby fishery, there is no incentive to under-report the amount of fish landed. With cumulative limit management, incentives to under-report are much higher, and under-reporting may occur in the proposed management scheme. Potential under-reporting can be mitigated by strong enforcement presence at the docks and processing plants, but it is not yet known what level of enforcement would be needed to ensure that the new management rules are followed.

All three of these possibilities, highgrading, trip limit induced discards, and under-reporting of landings, could have long-term negative impacts on the sablefish stock. If the true impact of the fishery on the stock cannot be measured, there may be a decrease in sablefish stock abundance that is scientifically "invisible" for the short term. If this fishery were introduced as a long-term measure, the West Coast sablefish ABC and associated harvest guideline could decline over time as a result of the unmeasured impacts that this type of fishery may have on the fish stocks. If the level of discards were known, one solution to unintended stock reduction might be to adjust stock assessments to account for unreported discards. Observer data would improve the accuracy of the adjustments.

No significant new biological impacts are expected to result from the change in management structure for the southern area, limited entry, fixed gear sablefish fishery. Only a few vessels in the area have participated in past derbies, and their catches have been comparable to medium and low level harvesters from the rest of the coast.

Socio-Economic Impacts

The major positive sociological impact of ending the derby regime is the improved safety of operation for fishery participants. A trip limit system would be expected to increase safety for those vessels able to easily take the cumulative limit during the allotted time. Under cumulative limits, such a vessel would not lose sablefish harvesting opportunity if it stays in port during bad weather, stops fishing to make repairs, or harvests at slightly slower and safer rate. A 10-day cumulative limit period would still leave a number of vessels unable to take the available limits in the allotted time, thereby giving those fishers an incentive to fish as they would have under derby management. However, even for vessels unable to take the cumulative limit in

the allotted time, there may be a safety benefit to the 10-day fishery because there would be less financial pressure to fish at the frenetic speed of the derby.

Replacing the derby with a 10-day cumulative limit fishery could have significant short and long term economic impacts on the fishery participants. There would likely be a 29 percent redistribution of the harvest from traditionally high producers to traditionally low producers, a redistribution of ex-vessel revenue of about \$2.5 to \$3.0 million. It is expected that under the single cumulative limit scheme, 38 fishing operations would experience a greater than 5 percent loss in their total gross fishing revenues, a level of loss considered significant for purposes of the Regulatory Flexibility Act. Fishers in the top third of the fleet in terms of production levels would face severe reductions in their sablefish incomes, which would be funneled into distributed gains for the lower producing two-thirds of the fleet. For many of the fleet's top producers, income from past sablefish derbies has represented a significant portion of their total annual incomes.

No substantial reallocate effect is expected from not providing a derby or some other primary sablefish opportunity in the southern area. By maintaining the daily trip limit regime, the Council is discouraging the influx of new effort into the southern area. Without new effort increases, southern area harvests should stay below the ABC, and if the ABC is not exceeded, southern area management would likely remain relatively free of regulatory complexity and reallocate socio-economic impacts on the fishing community.

Classification

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

The Council prepared an initial regulatory flexibility analysis that describes the impact that this proposed rule, if adopted, would have on small entities. A copy of this analysis is available from the Council (see ADDRESSES). The SBA defines a small business in commercial fishing as a firm with receipts up to \$2 million annually, which includes all of the vessels that would be affected by this proposed rule.

In general, NMFS has determined that a "substantial number" of small entities would be more than 20 percent of those small entities engaged in the fishery. Economic impacts on small business entities are considered "significant" if the proposed action would result in any of the following: (a) reduction in annual

gross revenues by more than 5 percent; (b) increase in total costs of production by more than 5 percent as a result of compliance costs; (c) compliance costs as a percent of sales for small entities are at least 10 percent higher than compliance costs as a percent of sales for large entities; (d) capital costs of compliance represent a significant portion of capital available to small entities, considering internal cash flow and external financing capabilities; or (e) as a rule of thumb, 2 percent of small business entities being forced to cease operations.

As indicated above and in the EA/RIR/IRFA for this action, 38 of the expected endorsed participants (23 percent of 164 expected endorsed permits north of 36° N. lat.) in the limited entry, fixed gear sablefish fishery would suffer a greater than 5 percent loss in total gross fishing income. The Council views these losses as a necessary burden that comes with the reduction of the greater threat to the general well-being of the fishery posed by the unsafe derby conditions. Additionally, when looking at the nation as a whole, the impact on traditionally high sablefish producers would be mitigated by the benefits of this action to traditionally low sablefish producers, also small businesses.

It is expected that small business entities would not face further compliance or capital costs in order to comply with the proposed regulations. It is also not expected that any small business entities would be forced to cease operations because of the proposed regulations, although several would be forced into severe cutbacks in production and employment. An initial regulatory flexibility analysis (RFA) was prepared with the EA/RIR for this issue.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: May 29, 1997.

Rolland A. Schmitt,
Assistant Administrator for Fisheries,
National Marine Fisheries Services.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

Subpart G—West Coast Groundfish Fisheries

2. Section 660.323 is amended by revising paragraph (a)(2) to read as follows:

§ 660.323 Catch restrictions.

(a) * * *

(2) *Nontrawl sablefish.* This paragraph (a)(2) applies to the regular and mop-up seasons for the nontrawl limited entry sablefish fishery north of 36° N. lat., except for paragraphs (a)(2)(ii) and (iii) of this section, which also apply to the open access fishery north of 36° N. lat. Limited entry and open access fixed gear sablefish fishing south of 36° N. lat. is governed by routine management measures imposed under paragraph (b) of this section.

(i) *Sablefish endorsement.* In order to lawfully participate in the regular season or mop-up season for the nontrawl limited entry fishery, the owner of a vessel must hold (by ownership or otherwise) a limited entry permit for that vessel, affixed with both a gear endorsement for longline or trap (or pot) gear, and a sablefish endorsement.

(ii) *Pre-season closure—open access and limited entry fisheries.* (A) From August 1, 1997, through December 31, 1997, sablefish taken with fixed gear in the limited entry or open access fishery in the EEZ may not be retained or landed during the 48 hours immediately before the start of the regular season for the nontrawl limited entry sablefish fishery. Beginning January 1, 1998, sablefish taken with fixed gear in the limited entry or open access fishery in the EEZ may not be retained or landed during the 72 hours immediately before the start of the regular season for the nontrawl limited entry sablefish fishery.

(B) From August 1, 1997, through December 31, 1997, all fixed gear used to take and retain groundfish must be out of EEZ waters during the 48 hours immediately before the opening of the regular season for the nontrawl limited entry sablefish fishery. Beginning January 1, 1998, all fixed gear used to take and retain groundfish must be out of EEZ waters during the 72 hours immediately before the opening of the regular season for the nontrawl limited entry sablefish fishery, except that pot gear used to take and retain groundfish may be deployed and baited in the EEZ up to 24 hours immediately before the start of the regular season.

(iii) *Regular season—nontrawl limited entry sablefish fishery; starting in 1998.* The NMFS Regional Administrator will announce a season to start on any day from August 1 through September 30,

based on consultations with the Council, taking into account tidal conditions, Council meeting dates, conflicts with alternative fisheries, and industry comments. 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.

(iv) *Post-season closure—limited entry and open access.* No sablefish taken with fixed gear may be taken and retained during the 48 hours immediately after the end of the regular season for the nontrawl limited entry sablefish fishery. Sablefish taken and retained during the regular season may be possessed and landed during that 48-hour period. Gear may remain in water during the 48-hour post-season closure. Fishers may not set or pull from the water fixed gear used to take and retain groundfish during the 48-hour post-season closure. At the end of the post season closure, the daily trip limit regime will resume.

(v) *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 the amount of the cumulative trip limit, including the time period to which it applies, will be

determined by the Regional Administrator in consultation with the Council or its designees, and will be based primarily on the amount of fish remaining in the allocation, the amount of sablefish needed for the remainder of the daily trip limit fishery, and the number of mop-up participants anticipated. The regular and mop-up seasons are designed to take the entire nontrawl allocation, except for approximately 385 mt for the daily trip limit fishery. The Regional Administrator 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. There will be no daily trip limit fishery during the mop-up season. At the end of the mop-up season, the daily trip limit fishery will resume.

(vi) *Other announcements; starting in 1998.* The dates and times that the regular season ends (and trip limits on sablefish of all sizes are resumed), the dates and times for the 48-hour post-season closure, the dates and times that 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.

(vii) *Regular season; from August 1, 1997, through December 31, 1997—limited entry fishery.* (A) The regular season for the nontrawl limited entry sablefish fishery will be a cumulative limit fishery of up to 10 days, with the same cumulative limit for each vessel with a sablefish endorsement. During

the regular season, the limited entry nontrawl sablefish fishery may be subject to trip limits to protect juvenile sablefish. There will be no daily trip limit fishery during the regular season.

(B) The NMFS Regional Administrator will announce a season to start on any day from August 1 through September 30, based on consultations with the Council, taking into account tidal conditions, Council meeting dates, conflicts with alternative fisheries, and industry comments.

(C) The Regional Administrator will announce the size of the cumulative limit and the number of days in the fishery based on Council recommendations, taking into account the exact number of vessels qualifying for the sablefish endorsement and the amount of sablefish that has been harvested by the daily trip limit fishery prior to the start of the regular season.

(viii) *Other announcements; from August 1, 1997, through December 31, 1997.* The number of days in the regular and mop-up seasons, dates and times that the regular and mop-up seasons start and end (and trip limits on sablefish of all sizes are resumed), dates of the pre- and post-season closures, and the sizes of the trip limits for the regular and mop-up seasons, 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.

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