Table 3 (South) Continued

Other limits and requirements apply -- Read §§660.10 through 660.399 before using this table 9/24/2021

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[1/]:						
40	40°10' N. lat. - 38°57.5' N. lat.	40 fm line[1/] - 125 fm line[1/]					
41	38°57.5' N. lat. -34°27' N. lat.	50 fm line[1/] - 125 fm line[1/]					
42	South of 34°27' N. lat.	100 fm line[1/] - 150 fm line[1/] (also applies around islands)					
	See §§660.60 and 660.230 for additional gear, trip limit and conservation area requirements and restrictions. See §§660.70-660.74 and §§660.76-660.79 for conservation area descriptions and coordinates (including RCAs, YRCAs, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
43	**SALMON TROLL** *(subject to RCAs when retaining all species of groundfish, except for yellowtail rockfish, as described below)*						
44	South of 40°10' N. lat.	Salmon trollers may retain and land up to 1 lb of yellowtail rockfish for every 2 lb of Chinook salmon landed, with a cumulative limit of 200 lb/month, both within and outside of the RCA. This limit is within the 4,000 lb per 2 month limit for minor shelf rockfish between 40o10' and 34o27' N lat., and not in addition to that limit. All groundfish species are subject to the open access limits, seasons, size limits and RCA restrictions listed in the table above, unless otherwise stated here.					
45	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**						
46	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut, Sea Cucumber & Ridgeback Prawn:**						
47	*40°10' N. lat. - 38°00' N. lat.*	*100 fm line[1/] - 200 fm line[1/]*	*100 fm line[1/] - 150 fm line[1/]*				*100 fm line[1/] - 200 fm line[1/]*
48	*38°00' N. lat. - 34°27' N. lat.*	*100 fm line[1/] - 150 fm line[1/]*					
49	*South of 34°27' N. lat.*	*100 fm line[1/] - 150 fm line[1/]*					
50		Groundfish: 300 lb/trip. Species-specific limits described in the table above also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38o57.50' N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 29).					
51	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*						
52	South	Effective April 1 - October 31: Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary rockfish, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of all groundfish species count toward the per day, per trip or other species-specific sublimits described here and the species-specific limits described in the table above do not apply. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

Table 3 (South) Continued

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ POP is included in the trip limits for minor slope rockfish. Blackgill rockfish have a species specific trip sub-limit within the minor slope rockfish cumulative limits. Yellowtail rockfish is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ "Shallow Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(1).

5/ "Deeper Nearshore" are defined at § 660.11 under "Groundfish" (7)(i)(B)(2).

6/ The commercial minimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

7/ "Other fish" are defined at § 660.11 and includes kelp greenling off California and leopard shark.

8/ Open access vessels are allowed to fish inside groundfish conservation areas using hook and line only. See section 660.330 (d) of the regulations for more information.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 211203–0251]

RIN 0648–BL01

Fisheries Off West Coast States; Emergency Action to Temporarily Reopen the Sablefish Primary Fishery Season for Vessels Using Pot Gear

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

ACTION: Temporary rule; emergency action.

SUMMARY: This emergency rule temporarily reopens the 2021 sablefish primary fishery for vessels using pot/trap gear effective December 10, 2021, to December 31, 2021. This action is necessary to provide operational flexibility so that vessels in the sablefish primary fishery are able to fully harvest their tier limits despite high economic uncertainty in 2021.

DATES: Effective December 10, 2021, until December 31, 2021.

ADDRESSES:

Electronic Access

This emergency rule and supporting documents, including a Supplemental Information Report prepared for this action, are accessible via the internet at the Office of the Federal Register website at *https://www.federalregister.gov.* Background information and documents are also available at the NMFS West Coast Region website at: *https://www.fisheries.noaa.gov/species/west-coast-groundfish* and at the Pacific Fishery Management Council's website at *https://www.pcouncil.org/managed_fishery/groundfish/.*

FOR FURTHER INFORMATION CONTACT: Abbie Moyer, phone: 206–305–9601, or email: *Abbie.moyer@noaa.gov.*

SUPPLEMENTARY INFORMATION: The primary sablefish fishery tier program is a limited access privilege program set up under Amendment 14 to the Pacific Coast Groundfish Fishery Management Plan (PCGFMP); which was approved by the Pacific Fishery Management Council (Council) in 2000 and was implemented by NMFS in 2001 (66 FR 41152, August 7, 2001). Participants hold limited entry permits with a pot gear and/or longline gear endorsement and a sablefish endorsement.

Under Amendment 14, as set out in 50 CFR 660.231, the permit holder of a sablefish-endorsed permit receives a tier limit, which is an annual share of the sablefish catch allocation to this sector. NMFS sets three different tier limits through the biennial harvest specifications and management measures process (for the 2021 limits, see 85 FR 79880, December 11, 2020); and up to three permits may be stacked at one time on a vessel participating in the fishery. Stacked tier limits are combined to provide a cumulative catch limit for that vessel. After vessels have caught their full tier limits, they are allowed to move into other fisheries for sablefish, specifically the daily trip limit (DTL) fishery or the open access fishery, or fisheries for other species.

Under Amendment 14, the sablefish primary season has historically been open from April 1 through October 31 of each year, though individual permit holders may only fish up to their tier limits so may be required to cease fishing prior to October 31. These season dates were put into regulation during the development and implementation of the fishery under Amendment 14. Prior to the implementation of Amendment 14, the sablefish fishery had operated as a 'derby' style fishery, with a season length lasting a few weeks to a few days. Under Amendment 14, the fishery began operating under a 7-month season. The 7-month season structure, as opposed to a year-long season, was intended to allow for timely catch accounting so that the sector allocation was not exceeded.

At the September 2021 Council meeting, the Council's Groundfish Management Team (GMT) provided analysis of the 2021 sablefish primary fishery participation and performance compared to prior years of the fishery. The GMT demonstrated in their analysis that from 2011 to 2019, annual attainment averaged over 90 percent of total sablefish tier allocations, with 65 percent harvested between April and mid-September. By contrast, the GMT showed the fishery in 2021 has only attained 42 percent of its allocation as of mid-September. This underattainment is attributed to unforeseen delays related to the ongoing COVID–19 pandemic that have resulted in management problems for the harvesting fleet, processors and sales managers to catch, process and market sablefish in a timely manner within the current sablefish primary fishery season of April 1, 2021, to October 31, 2021. The GMT estimated that if the sablefish primary fishery season closed on October 31, 2021, the fishery would only attain 64 percent of its allocation, which equates to about $2.76 million in lost ex-vessel revenue and additional economic benefits for coastal communities. Because of this risk and uncertainty, members of industry and the Council Groundfish Advisory Subpanel (GAP) and GMT advisory bodies recommended the Council take emergency action to extend the sablefish primary fishery season in 2021 to reduce economic hardships.

The Council reviewed the information provided by the GMT and by fishery stakeholders and discussed options to provide relief to commercial fishermen in this sector from economic losses as a result of the recent unforeseen events associated with the ongoing COVID–19 pandemic that began in approximately March 2020. These unforeseen events have adversely affected commercial fishermen throughout the Council's jurisdiction for an extended period of time. These events have also caused serious management problems by making it more difficult to achieve optimum yield (OY) for sablefish.

On October 29, 2021, NMFS took emergency action to extend the sablefish primary fishery season for vessels using bottom longline gear from October 31 to December 31 for the 2021 fishing year (86 FR 59873). The emergency action also extended the incidental halibut retention allowance for the sablefish primary fishery, north of Point Chehalis, Washington, from October 31 to December 7, 2021. The Council recommended the emergency extension for the sablefish primary fishery, which includes vessels fishing with longline and/or pot gear. Due to lack of a Marine Mammal Protection Act (MMPA) section 101(a)(5)(E) permit for sablefish pot gear, however, NMFS only issued the temporary season extension for vessels using bottom longline gear.

On October 22, 2021, NMFS published a notice of proposed issuance of a MMPA section 101(a)(5)(E) permit and proposed negligible impact determination (NID) (86 FR 58641). On December 10, 2021, NMFS will issue a MMPA section 101(a)(5)(E) permit for the sablefish pot gear fishery.

Criteria and Justification for Emergency Action

Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes the Secretary of Commerce to implement emergency regulations to address fishery emergencies. NMFS' Policy Guidelines for the Use of Emergency Rules (62 FR 44421; August 21, 1997) list three criteria for determining whether an emergency exists. Specifically, NMFS' policy guidelines require that an emergency: (1) Result from recent, unforeseen events or recently discovered circumstances; (2) present serious conservation or management problems in the fishery; and (3) can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process.

NMFS has evaluated all relief mechanisms, and given the limited time remaining in the sablefish primary fishery season extension, an emergency action to reopen the fishery for vessels using pot/trap gear is the only mechanism sufficient to provide participants access to their quota. NMFS is issuing this emergency rule in compliance with these guidelines to prevent significant direct economic loss and preserve economic opportunities that otherwise might be foregone.

This emergency action will help the fishery achieve, but not exceed, the allocation of sablefish to the sablefish primary fishery, and the sablefish annual catch limit. NMFS evaluated the anticipated effects of this emergency action and determined that the effects fall within those described in the Environmental Assessment for the 2021–2022 Groundfish Harvest Specifications and Management Measures; which is tiered from the Harvest Specifications and Management Measures for 2015–2016 and Biennial Periods Thereafter Final Environmental Impact Statement (EIS) which discloses the longer-term framework and environmental impacts of the biennial specifications process. NMFS documented this decision-making process in a Supplemental Information Report (see **ADDRESSES**).

Emergency Measures

Effective December 10, 2021, this action temporarily reopens the 2021 sablefish primary season for limited entry, sablefish-endorsed vessels using

pot/trap gear North of 36° N lat., to December 31, 2021 as defined at 50 CFR 660.11.

Classification

The NMFS Assistant Administrator has determined that this emergency rule is consistent with the PCGFMP, section 305(c) and other provisions of the Magnuson-Stevens Act, the Administrative Procedure Act (APA), and other applicable law. Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries finds good cause to waive prior notice and the opportunity for public comment because it would be impracticable and contrary to the public interest.

The Council made an emergency modification to their September 2021 meeting agenda to consider taking emergency action in response to requests from industry representatives, the Groundfish Advisory Panel, and the public. These entities raised concerns that many vessels would be unable to harvest their allocations before the sablefish primary fishery season closed due to unforeseen issues resulting from restrictions associated with the COVID–19 pandemic. Providing prior notice through proposed rulemaking and public comment period in the normal rulemaking process would be counter to public interest by delaying implementation of emergency measures intended to address a time-sensitive management problem. Further delays to extend the season through emergency action would jeopardize the ability of sablefish primary fishery participants to land allocations, and avoid economic hardship. For the reasons outlined above, NMFS finds it impracticable and contrary to the public interest to provide prior opportunity to comment on these emergency measures.

Additionally, this rule is exempt from the 30-day delayed effectiveness provision of the APA under 5 U.S.C. 553(d)(3) because it would be counter to public interest to delay implementation of emergency measures intended to address a time-sensitive management problem, consistent to the rationale described above. Waiving the 30-day delayed effectiveness for this rule is necessary allow maximum socioeconomic benefits to the fishery and coastal communities in Washington, Oregon, and California. Not extending the sablefish primary fishery season for vessels using pot/trap gear would present immediate serious economic impacts without contributing to the economic goals of the sablefish tier program.

This action is being taken pursuant to the emergency provision of Magnuson-Stevens Act and is exempt from Office of Management and Budget (OMB) review. This final rule has been determined to be not significant for purposes of Executive Order 12866.

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

This action does not contain a collection-of-information requirements for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: December 6, 2021.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs, 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 § 660.25, add paragraphs (b)(4)(v)(C)(*2*) and (b)(4)(vi)(D)(*3*) to read as follows:

§ 660.25 Permits.

* * * * *

(b) * * *

(4) * * *

(v) * * *

(C) * * *

(*2*) *Emergency rule extending sablefish primary season for vessels using pot gear.* Effective December 10, 2021, until December 31, 2021, notwithstanding any other section of this part, the primary sablefish season described at § 660.231 is extended until December 31 for vessels registered to a sablefish-endorsed limited entry permit using pot/trap gear, as defined at § 660.11.

* * * * *

(vi) * * *

(D) * * *

(*3*) *Emergency rule extending sablefish primary season for vessels using pot gear.* Effective December 10, 2021, until December 31, 2021, notwithstanding any other section of this part, the primary sablefish season described at § 660.231 is extended until December 31 for vessels registered to a sablefish-endorsed limited entry permit using pot/trap gear, as defined at § 660.11.

* * * * *

■ 3. In § 660.213, add paragraph (d)(2)(ii) to read as follows:

§ 660.213 Fixed gear fishery—recordkeeping and reporting.

* * * * *

(d) * * *

(2) * * *

(ii) *Emergency rule extending sablefish primary season for vessels using pot gear.* Effective December 10, 2021, until December 31, 2021, notwithstanding any other section of this part, the primary sablefish season described at § 660.231 is extended until December 31 for vessels registered to a sablefish-endorsed limited entry permit using pot/trap gear, as defined at § 660.11.

* * * * *

■ 4. In § 660.231, add paragraph (b)(1)(ii) to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(1) * * *

(ii) *Emergency rule extending sablefish primary season for vessels using pot gear.* Effective December 10, 2021, until December 31, 2021, notwithstanding any other section of this part, North of 36° N lat., the sablefish primary season for the limited entry, fixed gear, sablefish-endorsed vessels using pot/trap gear, as defined at § 660.11, closes at 12 midnight local time on December 31, or closes for an individual vessel owner when the tier limit for the sablefish endorsed permit(s) registered to the vessel has been reached, whichever is earlier, unless otherwise announced by the Regional Administrator through the routine management measures process described at § 660.60(c).

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