

to narrowband technology. Relief arguably is not necessary to avoid an equipment shortage, given that the rules do not prohibit the marketing and sale of existing inventories of 25 kHz-capable equipment after January 1, 2011. Nonetheless, we believe that a temporary waiver of the prohibition on manufacture or import of 25 kHz-capable equipment is appropriate, in order to ensure that necessary equipment remains available during the narrowbanding transition. We therefore grant a blanket waiver of § 90.203(j)(10) until January 1, 2013.

9. *Certification of equipment with a 25 kHz mode.* With respect to new certifications of equipment capable of operating in 25 kHz mode, however, we conclude that a waiver would not be appropriate. Permitting the continued manufacture and import of existing 25 kHz-capable models is sufficient to ensure that adequate supplies remain available in order to maintain existing systems during the narrowbanding transition. In contrast, there is no convincing evidence or argument upon which to conclude that certifying new types of 25 kHz-capable equipment is necessary for maintaining those systems, or that it would otherwise be in the public interest to expand the range of available 25 kHz-capable equipment as the 12.5 kHz migration deadline approaches. We therefore decline to grant a waiver of § 90.203(j)(4).

10. *New or expanded 25 kHz operations.* We also deny NPSTC's request with respect to the deadline in § 90.209(b)(6) for applications for new 25 kHz operations, or modification applications that expand the authorized contour of existing 25 kHz stations. NPSTC argues that prohibiting new or modified 25 kHz licenses will hamper interoperability between systems. The relief requested, however, is much broader, and would permit new or expanded 25 kHz operations for any reason. The interim deadlines were intended to encourage licensees to begin planning and implementing migration to narrowband technology well before January 1, 2013. We conclude that continuing to authorize new or expanded 25 kHz operations after January 1, 2011 generally would be contrary to the public interest, and would otherwise undermine our goals in establishing the narrowbanding transition deadlines in the first instance. As 25 kHz licensees migrate to narrowband technology, spectrum becomes available to other licensees to relieve congestion. We decline to take any action that would leave spectrum encumbered by 25 kHz operations

longer than necessary. In situations where authorizing new or expanded 25 kHz operations would further the public interest, case-by-case relief may be considered through the waiver process.

11. *Certification of equipment lacking a 6.25 kHz mode.* Finally, NPSTC argues that requiring applications for equipment certification to specify 6.25 kHz capability as of January 1, 2011 will increase equipment costs with no accompanying benefit for 12.5 kHz or 25 kHz licensees. NPSTC also notes that a public safety interoperability standard for 6.25 kHz operation is still under development, and argues that compelling the purchase of more expensive equipment that may need to be replaced once a standard is adopted would burden public safety resources. NPSTC therefore requests that this requirement be extended to January 1, 2015, which would align it with the deadline requiring manufacturers of 700 MHz public safety band equipment to certify, manufacture, market, and import only equipment with a 6.25 kHz capability. In the *Third Report and Order* at 72 FR 19387, April 18, 2007, in this proceeding, the Commission agreed with NPSTC and others that it would be premature to take regulatory action toward a migration to 6.25 kHz technology before standards for such equipment are developed. Because the standards still have not been finalized, we agree with NPSTC that the deadline for complying with the 6.25 kHz requirement in § 90.203(j)(5) should be delayed. We do not, however, believe that it is necessary to move this deadline to the same date as the 700 MHz deadline. Because our intent is to avoid any impediment to 150–174 MHz or 421–512 MHz licensees' migration to 12.5 kHz technology, we grant a waiver of § 90.203(j)(5) only until January 1, 2013.

12. For the aforementioned reasons, we grant the NPSTC request in part and deny it in part. We recognize the concerns of NPSTC and some commenters that enforcing certain interim deadlines as of January 1, 2011 could hamper operations during the final two years of the transition and unnecessarily raise equipment costs. Consequently, we:

- Waive until January 1, 2013 the deadline for ceasing manufacture or import of equipment that includes a 25 kHz mode, but deny the request to stay the deadline for prohibiting certification applications for 25 kHz-capable equipment;

- Decline to waive the deadline for seeking new or expanded 25 kHz operations; and

- Waive until January 1, 2013 the deadline for certifying equipment that is not capable of operating in 6.25 kHz mode.

We emphasize our commitment to the January 1, 2013 deadline for migrating to narrowband technology, which the Commission first adopted in 2003 and subsequently affirmed, in order to promote the efficient use of PLMR spectrum and facilitate the introduction of advanced technologies.

13. Accordingly, *it is ordered* pursuant to sections 4(i), 11, 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), and 303(r), that the Request for Stay filed by the National Public Safety Telecommunications Council on September 29, 2009 *is granted in part* and *denied in part*, to the extent set forth above.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. 2010-17422 Filed 7-15-10; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 090428799-9802-01]

RIN 0648-BA05

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Inseason Adjustments to Fishery Management Measures

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

ACTION: Final rule; inseason adjustments to biennial groundfish management measures; request for comments.

SUMMARY: This final rule makes inseason adjustments to trawl fishery management measures for petrale sole taken with selective flatfish and multiple trawl gears in the U.S. exclusive economic zone (EEZ) off the coasts of Washington, Oregon, and California, North of 40° 10.00' N. lat. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), is intended to prevent exceeding the 2010 OY for petrale sole.

DATES: Effective at 0001 hours local time on July 16, 2010. Comments on this

final rule must be received no later than 5 p.m., local time on August 16, 2010.

ADDRESSES: You may submit comments, identified by RIN 0648-BA05, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal: <http://www.regulations.gov>.
- Fax: 206-526-6736, Attn: Gretchen Hanshew
- Mail: William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070, Attn: Gretchen Hanshew.

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Gretchen Hanshew (Northwest Region, NMFS), 206-526-6147, fax: 206-526-6736, gretchen.hanshew@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is accessible via the Internet at the Office of the **Federal Register**'s Web site at <http://www.gpoaccess.gov/fr/index.html>. Background information and documents are available at the Pacific Fishery Management Council's (the Council or PFMC) Web site at <http://www.pcouncil.org/>.

Background

On December 31, 2008, NMFS published a proposed rule to implement the 2009–2010 specifications and management measures for the Pacific Coast groundfish fishery (73 FR 80516). The final rule to implement the 2009–2010 specifications and management measures for the Pacific Coast Groundfish Fishery was published on March 6, 2009 (74 FR 9874). This final rule was subsequently amended by inseason actions on April 27, 2009 (74 FR 19011), July 6, 2009 (74 FR 31874), October 28, 2009 (74 FR 55468),

February 26, 2010 (75 FR 8820), May 4, 2010 (75 FR 23620), July 1, 2010 (75 FR 38030). Additional changes to the 2009–2010 specifications and management measures for petrale sole were made in two final rules: on November 4, 2009 (74 FR 57117), and December 10, 2009 (74 FR 65480). NMFS issued a final rule in response to a duly issued court order on July 8, 2010 (75 FR 39178). These specifications and management measures are at 50 CFR part 660, subpart G.

Limited Entry Non-whiting Trawl Fishery Management Measures

Changes to the groundfish management measures implemented by this action were recommended by the Council, in consultation with Pacific Coast Treaty Indian Tribes and the States of Washington, Oregon, and California, at its June 11–17, 2010, meeting in Foster City, CA. Among other actions, the Council recommended reducing the bi-monthly cumulative limits for petrale sole in the limited entry non-whiting trawl commercial fisheries to respond to updated fishery information and other inseason management needs. On July 1, 2010, NMFS published a rule (75 FR 38030) that reduced the bi-monthly trip limits for petrale sole coastwide, effective July 1, 2010. The reductions to trip limits are intended to slow catch of petrale sole and stay below the 2010 petrale sole OY, and are described in more detail in the preamble to the July 1, 2010 rule.

The July 1, 2010, rule mistakenly omitted reductions to the bi-monthly cumulative limits for petrale sole for vessels using selective flatfish trawl gears and multiple trawl gears North of 40° 10.00' N. lat. This rule reduces the petrale sole bi-monthly trip limits for these gear types, as were recommended by the Council, to keep the projected catch of petrale sole below the 2010 petrale sole OY.

These reductions to petrale sole trip limits must be implemented as quickly as possible. Even a short delay in implementation could allow vessels to take the entire two-month limit for period 4 (July–August). These changes are intended to reduce the catch of petrale sole in order to keep the total mortality of petrale sole within its 2010 OY. The reduction to trip limits also slightly reduces the projected impacts to co-occurring overfished species.

Estimated mortality of overfished and target species are the result of management measures designed to meet the Pacific Coast Groundfish FMP objective of achieving, to the extent possible, but not exceeding, OYs of target species, while fostering the

rebuilding of overfished stocks by remaining within their rebuilding OYs.

Based on the considerations outlined above, the Council recommended and NMFS is implementing the following changes to cumulative limits in the limited entry non-whiting trawl fishery North of 40° 10.00' N. lat.: reduce petrale sole cumulative limits caught with selective flatfish trawl gear and multiple trawl gears from “9,500 lb (4,309 kg) per 2 months” to “6,300 lb (2,858 kg) per 2 months” in July–December.

The lower bi-monthly cumulative limit for petrale sole taken with selective flatfish and multiple trawl gears is being implemented during a bi-monthly period (See the DATES section). Vessels fishing with selective flatfish or multiple trawl gears that have taken more than 6,300 lb of petrale sole since July 1, 2010, must have begun their landing by the effective date of this rule. Land or landing means “to begin transfer of fish, offloading fish, or to offload fish from any vessel. Once transfer of fish begins, all fish aboard the vessel are counted as part of the landing.” Vessels fishing with selective flatfish or multiple trawl gears that have not already taken at least 6,300 lb of petrale sole since July 1, 2010 may land no more than 6,300 lb of petrale sole (including the amount that has been taken prior to the effective date of this rule) during this two-month period (July–August).

Classification

This rule makes routine inseason adjustments to groundfish fishery management measures based on the best available information and is taken pursuant to the regulations implementing the Pacific Coast Groundfish FMP.

These actions are taken under the authority of 50 CFR 660.370(c) and are exempt from review under Executive Order 12866.

These inseason adjustments are taken under the authority of the Magnuson–Stevens Fishery Conservation and Management Act (Magnuson–Stevens Act), and are in accordance with 50 CFR part 660, the regulations implementing the FMP. These actions are based on the most recent data available. The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, Northwest Region, NMFS, (see **ADDRESSES**) during business hours.

For the following reasons, NMFS finds good cause to waive prior public notice and comment on the revisions to groundfish management measures under

5 U.S.C. 553(b)(B) because notice and comment would be impracticable and contrary to the public interest. Also, for the same reasons, NMFS finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective as quickly as possible.

The recently available data upon which these recommendations were based was provided to the Council, and the Council made its recommendations, at its June 11–17, 2010, meeting in Foster City, CA. The Council recommended that these changes be implemented on or as close as possible to July 1, 2010. There was not sufficient time after that meeting to draft this document and undergo proposed and final rulemaking before these actions need to be in effect. For the actions to be implemented in this final rule, affording the time necessary for prior notice and opportunity for public comment would prevent the Agency from managing fisheries using the best available science to approach, without exceeding, the OYs for federally

managed species in accordance with the FMP and applicable laws. The adjustments to management measures in this document affect commercial fisheries off Washington, Oregon, and California.

These decreases to bi-monthly cumulative limits for petrale sole in the limited entry trawl fishery must be implemented in a timely manner to prevent exceeding the 2010 petrale sole OY, and prevent premature closure of fisheries that impact petrale sole. These measures are intended to reduce impacts to petrale sole, a species for which a severely reduced OY was implemented for 2010 (74 FR 65480). These changes must be implemented in a timely manner, as quickly as possible. Bi-monthly cumulative limits cover a two-month period, so if implementation is delayed, then fishermen could harvest the prior higher limit before the revised lower limit is effective. Decreases to cumulative limits for other flatfish and Dover sole in the limited entry trawl fishery have already been implemented.

Delaying these changes would keep management measures in place that are

not based on the best available data, which could lead to exceeding OYs or early closures of the fishery if harvest of groundfish exceeds levels projected for 2010. Such delay would impair achievement of the Pacific Coast Groundfish FMP objective of approaching, but not exceeding, OYs.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: July 13, 2010.

Carrie Selberg,

Acting Director, Office of Sustainable Fisheries, 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.*

- 2. Table 3 (North) to part 660, subpart G, is revised to read as follows:

BILLING CODE 3510-22-S

Table 3 (North) to Part 660, Subpart G -- 2010 Trip Limits for Limited Entry Trawl Gear North of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.399 before using this table

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	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)^{6/}:						
1 North of 48°10' N. lat.	shore - modified ^{7/} 200 fm line ^{6/}	shore - 200 fm line ^{6/}	shore - 150 fm line ^{6/}	shore - 200 fm line ^{6/}	shore - 200 fm line ^{6/}	shore - modified ^{7/} 200 fm line ^{6/}
2 48°10' N. lat. - 45°46' N. lat.	75 fm line ^{6/} - modified ^{7/} 200 fm line ^{6/}	75 fm line ^{6/} - 200 fm line ^{6/}	75 fm line ^{6/} - 150 fm line ^{6/}	100 fm line ^{6/} - 150 fm line ^{6/}	75 fm line ^{6/} - 200 fm line ^{6/}	75 fm line ^{6/} - modified ^{7/} 200 fm line ^{6/}
3 45°46' N. lat. - 40°10' N. lat.			75 fm line ^{6/} - 200 fm line ^{6/}	100 fm line ^{6/} - 200 fm line ^{6/}		
Selective flatfish trawl gear is required shoreward of the RCA; all trawl gear (large footrope, selective flatfish trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope and small footrope trawl gears (except for selective flatfish trawl gear) are prohibited shoreward of the RCA. Midwater trawl gear is permitted only for vessels participating in the primary whiting season.						
See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 and §§ 660.396-660.399 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
4 Minor slope rockfish^{2/} & Darkblotched rockfish		6,000 lb/ 2 months		2,000 lb/ 2 months		
5 Pacific ocean perch			1,500 lb/ 2 months			
6 DTS complex						
7 Sablefish						
8 large & small footrope gear		20,000 lb/ 2 months	24,000 lb/ 2 months	21,000 lb/ 2 months		
9 selective flatfish trawl gear			9,000 lb/ 2 months			
10 multiple bottom trawl gear ^{8/}			9,000 lb/ 2 months			
11 Longspine thornyhead						
12 large & small footrope gear			24,000 lb/ 2 months			
13 selective flatfish trawl gear			5,000 lb/ 2 months			
14 multiple bottom trawl gear ^{8/}			5,000 lb/ 2 months			
15 Shortspine thornyhead						
16 large & small footrope gear			18,000 lb/ 2 months			
17 selective flatfish trawl gear			5,000 lb/ 2 months			
18 multiple bottom trawl gear ^{8/}			5,000 lb/ 2 months			
19 Dover sole						
20 large & small footrope gear		110,000 lb/ 2 months		100,000 lb/ 2 months		
21 selective flatfish trawl gear			65,000 lb/ 2 months			
22 multiple bottom trawl gear ^{8/}			65,000 lb/ 2 months			

TABLE 3 (North)

Table 3 (North). *Continued*

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
23	Whiting						
24	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.373 for season and trip limit details. -- After the primary whiting season: CLOSED.					
25	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
26	Flatfish (except Dover sole)						
27	Arrowtooth flounder						
28	large & small footrope gear		150,000 lb/ 2 months				
29	selective flatfish trawl gear			90,000 lb/ 2 months			
30	multiple bottom trawl gear ^{8/}				90,000 lb/ 2 months		
31	Other flatfish ^{3/} , English sole, starry flounder, & Petrale sole						
32	large & small footrope gear for Other flatfish ^{3/} , English sole, & starry flounder	110,000 lb/ 2 months	110,000 lb/ 2 months, no more than 9,500 lb/ 2 months of which may be petrale sole.	100,000 lb/ 2 months, no more than 6,300 lb/ 2 months of which may be petrale sole.		100,000 lb/ 2 months	
33	large & small footrope gear for Petrale sole	9,500 lb/ 2 months					6,300 lb/ 2 months
34	selective flatfish trawl gear for Other flatfish ^{3/} , English sole, & starry flounder	90,000 lb/ 2 months, no more than 9,500 lb/ 2 months of which may be petrale sole.	60,000 lb/ 2 months, no more than 9,500 lb/ 2 months of which may be petrale sole.	60,000 lb/ 2 months, no more than 6,300 lb/ 2 months of which may be petrale sole.			
35	selective flatfish trawl gear for Petrale sole						
36	multiple bottom trawl gear ^{8/}	90,000 lb/ 2 months, no more than 9,500 lb/ 2 months of which may be petrale sole.	60,000 lb/ 2 months, no more than 9,500 lb/ 2 months of which may be petrale sole.	60,000 lb/ 2 months, no more than 6,300 lb/ 2 months of which may be petrale sole.			
37	Minor shelf rockfish ^{1/}, Shortbelly, Widow & Yelloweye rockfish						
38	midwater trawl for Widow rockfish	Before the primary whiting season: CLOSED. -- During primary whiting season: In trips of at least 10,000 lb of whiting, combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month. Mid-water trawl permitted in the RCA. See §660.373 for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED.					
39	large & small footrope gear		300 lb/ 2 months				
40	selective flatfish trawl gear		300 lb/ month	1,000 lb/ month, no more than 200 lb/ month of which may be yelloweye rockfish		300 lb/ month	
41	multiple bottom trawl gear ^{8/}		300 lb/ month	300 lb/ 2 months, no more than 200 lb/ month of which may be yelloweye rockfish		300 lb/ month	

TABLE 3 (North) con't

Table 3 (North). Continued

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
42	Canary rockfish						
43	large & small footrope gear			CLOSED			
44	selective flatfish trawl gear	100 lb/ month		300 lb/ month		100 lb/ month	
45	multiple bottom trawl gear ^{8/}			CLOSED			
46	Yellowtail						
47	midwater trawl	Before the primary whiting season: CLOSED. -- During primary whiting season: In trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative yellowtail limit of 2,000 lb/ month. Mid-water trawl permitted in the RCA. See §660.373 for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED.					
48	large & small footrope gear	300 lb/ 2 months					
49	selective flatfish trawl gear	2,000 lb/ 2 months					
50	multiple bottom trawl gear ^{8/}	300 lb/ 2 months					
51	Minor nearshore rockfish & Black rockfish						
52	large & small footrope gear		CLOSED				
53	selective flatfish trawl gear		300 lb/ month				
54	multiple bottom trawl gear ^{8/}		CLOSED				
55	Lingcod ^{4/}						
56	large & small footrope gear	1,200 lb/ 2 months	4,000 lb/ 2 months				
57	selective flatfish trawl gear		1,200 lb/ 2 months				
58	multiple bottom trawl gear ^{8/}						
59	Pacific cod	30,000 lb/ 2 months		70,000 lb/ 2 months		30,000 lb/ 2 months	
60	Spiny dogfish	200,000 lb/ 2 months	150,000 lb/ 2 months	100,000 lb/ 2 months			
61	Other Fish ^{5/}		Not limited				

1/ Bocaccio, chilipepper and cowcod are included in the trip limits for minor shelf rockfish.

2/ Splitnose rockfish is included in the trip limits for minor slope rockfish.

3/ "Other flatfish" are defined at § 660.302 and include butter sole, curfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

4/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.

5/ "Other fish" are defined at § 660.302 and include sharks, skates (including longnose skate), ratfish, morids, grenadiers, and kelp greenling.

Cabezon is included in the trip limits for "other fish."

6/ 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 §§ 660.391-660.394. This RCA is not defined by depth contours, 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 the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

7/ The "modified" fathom lines are modified to exclude certain petrale sole areas from the RCA.

8/ If a vessel has both selective flatfish gear and large or small footrope gear on board during a cumulative limit period (either simultaneously or successively), the most restrictive cumulative limit for any gear on board during the cumulative limit period applies for the entire cumulative limit period.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.