

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 051014263-5263-01; I.D. 093005A]

RIN 0648 AU00

Magnuson-Stevens Act Provisions; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Specifications and Management Measures; Inseason Adjustments; Correction

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

ACTION: Final rule; correcting amendment.

SUMMARY: This document contains corrections to the inseason adjustments that became effective on October 1, 2005. The inseason adjustment contained an error in the limited entry trawl trip limit table, Table 3 (South), on page 58076. The trip limit for petrale sole on line 16 should have been closed only south of 38° N. lat., as stated in the preamble, rather than south of 40°10' N. lat. as depicted in the table. These regulations implemented changes to the 2005–2006 fishery specifications and management measures for groundfish taken in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California.

DATES: Effective 0001 hours (local time) October 1, 2005.

FOR FURTHER INFORMATION CONTACT: Jamie Goen (Northwest Region, NMFS), phone: 206–526–4646; fax: 206–526–6736 and; e-mail: jamie.goen@noaa.gov.

SUPPLEMENTARY INFORMATION:**Electronic Access**

This correcting notification also is accessible via the Internet at the Office of the Federal Register's website at <http://www.gpoaccess.gov/fr/index.html>. Background information and documents are available at the NMFS Northwest Region website <http://www.nwr.noaa.gov/sustfsh/gdfsh01.htm> and at the Council's website at <http://www.pcouncil.org>.

Background

The regulations that are the subject of this correction are at 50 CFR 660, subpart G. These regulations affect persons operating in the limited entry trawl fishery for groundfish species off the U.S. West Coast.

Need for Correction

As published, the inseason adjustment contained an error which needs to be corrected. This action provides one correction to the inseason adjustment. The inseason adjustment published in the **Federal Register** on October 5, 2005 (70 FR 58066), contained an error in the limited entry trawl trip limit table, Table 3 (South), on page 58076. The trip limit for petrale sole on line 16 should have been closed only south of 38° N. lat., as stated in the preamble, rather than south of 40°10' N. lat. as depicted in the table.

As stated in the preamble to the inseason adjustment (70 FR 58066, October 5, 2005), the Pacific Fishery Management Council (Pacific Council) recommended at its September 18–23, 2005, meeting in Portland, OR, that NMFS implement a seaward limited entry trawl Rockfish Conservation Area (RCA) boundary line approximating the 250–fm (457-m) depth contour coastwide in order to nearly eliminate the catch of petrale sole. However, NMFS was not able to implement this line south of 38° N. lat. to the U.S./Mexico border because there are no coordinates for this line in Federal regulations. In order to be used as boundary lines for inseason groundfish management, coordinates must be published in Federal regulations at 50 CFR Part 660. Therefore, in order to implement the intent of the Pacific Council recommendation as much as possible, NMFS implemented a boundary line approximating the 200–fm (366-m) depth contour and a prohibition on the retention of petrale sole in this area during October. Because there is catch of petrale between 200–fm (366-m) and 250–fm (457-m), including some targeting on petrale sole, moving the RCA boundary line from 150–fm (274-m) to 200–fm (366-m) for October through December would likely not keep total catch of petrale sole within its ABC/OY for the year. A reduction of the petrale sole trip limit during the middle of a cumulative trip limit period (in this case, September through October) would make enforcement of such limits difficult. Mid-cumulative trip limit reductions are difficult to enforce because some fishers may have already achieved the higher limits earlier in the period while others who have not achieved their limit previously are restricted to the lower limits. It is difficult to query a paper-based fish landing ticket system mid-cumulative limit period to see if a fisher is in violation. Thus, NMFS determined that a closure is the best method for achieving the goals of this action.

Therefore, in addition to the line change, NMFS also implemented a prohibition on the retention of petrale sole between 38° N. lat. and the U.S./Mexico border during the month of October in order to prevent targeting on petrale sole. During November and December, the Pacific Council recommendation of decreasing the trip limit for petrale sole to 2,000 lb (0.9 mt) per 2 months was determined to be sufficient to allow retention of incidentally caught petrale sole while not encouraging targeting. Therefore, while the analysis suggested a prohibition on the retention of petrale sole between 38° N. lat. and the U.S./Mexico border during the month of October, the trip limit table, Table 3 (South), mistakenly showed the prohibition on the retention of petrale sole between 40°10' N. lat. and the U.S./Mexico border during the month of October. This was an inadvertent mistake resulting from the design of the trip limit table (i.e., trip limits for a species in Table 3 (South) apply between 40°10' N. lat. and the U.S./Mexico border unless otherwise stated). The prohibition on retention of petrale sole should have been stated within that table as applying south of 38° N. lat.

Without a correction to Federal regulations, this fishery would be closed between 38° N. lat. and 40°10' N. lat., which is inconsistent with the intent of the Pacific Council and NMFS. Between 38° N. lat. and 40°10' N. lat., the limited entry trawl RCA, which extends from the shoreline to 250–fm (457-m), as well as the reduced petrale sole trip limits for November and December, are expected to sufficiently reduce the take of petrale sole to near zero through the end of the year.

For these reasons, NMFS is amending Federal regulations to correctly prohibit the retention of petrale sole between 38° N. lat. and the U.S./Mexico border during the month of October in the trip limit table, Table 3 (South).

Classification

The Assistant Administrator (AA) for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment on this action pursuant to 5 U.S.C. 553(b)(B), because providing prior notice and opportunity for comment would be contrary to the public interest. The correction is to indicate that participants in the limited entry trawl fishery are prohibited from retaining petrale sole between 38° N. lat. and the U.S./Mexico border during the month of October in the trip limit table, Table 3 (South). NMFS had mis-published this closure in its inseason

adjustment for this action (70 FR 58066, October 5, 2005). Prior notice and opportunity for comment would contravene the intent of this action, which was to allow fishing for petrale sole between 40°10' N. lat. and 38° N. lat. during October 2005. Providing prior notice and opportunity for comment would cost fishermen in lost fishing opportunity during October and to compound this loss by going through prior notice and opportunity for comment would in effect make the action meaningless. Therefore, it is contrary to the public interest to provide prior notice and an opportunity for public comment on this correction.

For these reasons, the AA finds also finds good cause to waive the 30-day

delay in effectiveness requirement under 5 U.S.C. 553(d)(3).

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: October 17, 2005.

James W. Balsiger,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ Accordingly, 50 CFR part 660 is corrected by making the following correcting amendments:

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.*

■ 2. In part 660, subpart G, Table 3 (South) is revised to read as follows:

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Table 3 (South) to Part 660, Subpart G -- 2005-2006 Trip Limits for Limited Entry Trawl Gear South of 40°10' N. Lat.
Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table

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	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)^{6f}:						
40°10' - 38° N. lat.	75 fm - modified 200 fm ⁷ⁱ	100 fm - 200 fm	100 fm - 150 fm		shoreline - 250 fm	
38° - 36° N. lat.	75 fm - 150 fm	100 fm - 150 fm			shoreline - 200 fm	
36° - 34°27' N. lat.	75 fm - 150 fm	100 fm - 150 fm			50 fm - 200 fm	
South of 34°27' N. lat.	75 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands	100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands			50 fm - 200 fm along the mainland coast; shoreline - 200 fm around islands	

Small footrope gear is required shoreward of the RCA; all trawl gear (large footrope, midwater trawl, and small footrope gear) is permitted seaward of the RCA.

See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions.
 See §§ 660.390-660.394 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, and Cordell Banks).

State trip limits may be more restrictive than federal trip limits, particularly in waters off Oregon and California.

1	Minor slope rockfish^{2j} & Darkblotched rockfish					
2	40°10' - 38° N. lat.	4,000 lb/ 2 months	8,000 lb/ 2 months	20,000 lb/ 2 months	8,000 lb/ 2 months	6,000 lb/ 2 months
3	South of 38° N. lat.	40,000 lb/ 2 months				
4	Splitnose					
5	40°10' - 38° N. lat.	4,000 lb/ 2 months	8,000 lb/ 2 months	20,000 lb/ 2 months	8,000 lb/ 2 months	6,000 lb/ 2 months
6	South of 38° N. lat.	40,000 lb/ 2 months				
7	DTS complex					
8	Sablefish	14,000 lb/ 2 months		16,000 lb/ 2 months		9,000 lb/ 2 months
9	Longspine thornyhead	19,000 lb / 2 months				11,000 lb/ 2 months
10	Shortspine thornyhead	4,200 lb/ 2 months		4,600 lb/ 2 months		3,500 lb/ 2 months
11	Dover sole	50,000 lb/ 2 months	40,000 lb/ 2 months			30,000 lb/ 2 months
12	Flatfish (except Dover sole)					
13	Other flatfish^{3j} & English sole					
14	40°10' - 38° N. lat.	110,000 lb/ 2 months	Other flatfish, English sole & Petrale sole: 110,000 lb/ 2 months, no more than 42,000 lb/ 2 months of which may be petrale sole. South of 38° N. lat. during October, retention of petrale sole is prohibited.			30,000 lb/ 2 months
15	South of 38° N. lat.					40,000 lb/ 2 months
16	Petrable sole					No limit

TABLE 3 (South)

Table 3 (South). Continued

17	Arrowtooth flounder				
18	40°10' - 38° N. lat.	No limit	10,000 lb/ 2 months		10,000 lb/ 2 months
19	South of 38° N. lat.				5,000 lb/ 2 months
20	Whiting				
21	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			
22	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			
23	Minor shelf rockfish^{1/}, Chilipepper, Shortbelly, Widow, & Yelloweye rockfish				
24	large footrope or midwater trawl for Minor shelf rockfish & Shortbelly	300 lb/ month			
25	large footrope or midwater trawl for Chilipepper	2,000 lb/ 2 months	12,000 lb/ 2 months	8,000 lb/ 2 months	
26	large footrope or midwater trawl for Widow & Yelloweye	CLOSED			
27	small footrope trawl	300 lb/ month			
28	Bocaccio				
29	large footrope or midwater trawl	300 lb/ 2 months			
30	small footrope trawl	CLOSED			
31	Canary rockfish				
32	large footrope or midwater trawl	CLOSED			
33	small footrope trawl	100 lb/ month	300 lb/ month	100 lb/ month	
34	Cowcod	CLOSED			
35	Minor nearshore rockfish & Black rockfish				
36	large footrope or midwater trawl	CLOSED			
37	small footrope trawl	300 lb/ month			
38	Lingcod^{4/}				
39	large footrope or midwater trawl	500 lb/ 2 months			
40	small footrope trawl	800 lb/ 2 months	1,000 lb/ 2 months	800 lb/ 2 months	
41	Other Fish^{5/} & Cabezon	Not limited			

TABLE 3 (South) cont

1/ Yellowtail is included in the trip limits for minor shelf rockfish.
 2/ POP is included in the trip limits for minor slope rockfish
 3/ "Other flatfish" are defined at § 660.302 and include butter sole, curffin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.
 4/ The minimum size limit for lingcod is 24 inches (61 cm) total length.
 5/ Other fish are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Pacific cod is included in the trip limits for "other fish."
 6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.
 7/ The "modified 200 fm" line is modified to exclude certain petrale sole areas from the RCA.
 To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.