



Aperture in pressure chamber for light source made to dimensions listed for aperture for light source in response to Part 564.5(a).

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Issued on: November 13, 1995.

Howard M. Smolkin,

Executive Director.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 663**

[Docket No. 941265-4365; I.D. 111795A]

Pacific Coast Groundfish Fishery; Closure and Trip Limit Reduction

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

ACTION: Closure; fishing restrictions; request for comments.

SUMMARY: NMFS announces the closure of the commercial fishery for thornyheads and trawl-caught sablefish, and a reduction in the trip limit for Dover sole in the groundfish fishery off Washington, Oregon, and California. This action is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP). The closure and trip limit are designed to keep landings as close as possible to the 1995 harvest guidelines for these species which are caught together, while extending the fisheries as long as possible during the year.

DATES: Effective from 0001 hours (local time) December 1, 1995, until the effective date of the 1996 annual specifications and management measures for the Pacific Coast groundfish fishery, as published in the Federal Register. Comments will be accepted through December 13, 1995.

ADDRESSES: Submit comments to William Stelle, Jr., Director, Northwest Region (Regional Director), National Marine Fisheries Service, 7600 Sand Point Way NE., BIN-C15700, Seattle, WA 98115-0070; or Hilda Diaz-Soltero, Regional Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140; or Rodney McInnis at 310-980-4040.

SUPPLEMENTARY INFORMATION: Dover sole, thornyheads (shortspine and longspine), and trawl-caught sablefish are managed together as the DTS complex. Trip landing and frequency limits (hereafter referred to as trip limits) for the complex, and the species which it includes, are designated as routine management measures at 50 CFR 663.23(c). Routine management measures may be adjusted after consideration at a single meeting of the Pacific Fishery Management Council (Council). At its October 1995 meeting

in Portland, OR, the Council recommended that the following actions take effect on December 1, 1995, for the reasons stated below.

In 1995, the 1,500 metric ton (mt) harvest guideline for shortspine thornyheads was set higher than the 1,000-mt acceptable biological catch (ABC), largely because of uncertainty in the stock assessment. The harvest guideline for shortspine thornyheads is near the level that would produce the maximum sustainable yield (MSY) and the overfishing level is about 1,800 mt. The longspine thornyhead population remains at or above the level that would produce MSY. However, in 1995, longspine thornyheads have a 6,000-mt harvest guideline, which is below its ABC of 7,000 mt, primarily to protect the fully exploited shortspine thornyheads.

On January 4, 1995, (60 FR 2331, January 9, 1995), the cumulative trip limit for both thornyhead species combined was set at 20,000 lb (9,072 kg) per vessel per month, of which no more than 4,000 lb (1,814 kg) could be shortspine thornyheads. The catch of thornyheads is counted toward the cumulative trip limit for the DTS complex (35,000 lb (15,876 kg) per vessel per month north of Cape Mendocino (40°30'00" N. lat.) and 50,000 lb (22,680 kg) per vessel per month south of Cape Mendocino). A cumulative trip limit is the maximum amount that may be taken and retained, possessed or landed per vessel in a specified period of time, without a limit on the number of landings or trips.

The cumulative monthly trip limit for thornyheads was reduced by 25 percent on April 1, 1995, to 15,000 lb (6,804 kg) for thornyheads combined, of which no more than 3,000 lb (1,361 kg) could be shortspine thornyheads (60 FR 16811, April 3, 1995). At its August meeting, the Council stated that, if landings of shortspine thornyheads were not drastically reduced, the entire DTS fishery could be closed before the end of the year. The trip limit for thornyheads combined was reduced again, by almost half, on September 1, 1995, to 8,000 lb (3,629 kg), of which no more than 1,500 lb (680 kg) could be shortspine thornyheads (60 FR 46538, September 7, 1995). At that time, the Council expected that, if the fishery continued to the end of November, the harvest guideline would be exceeded by about 10 percent, but the overfishing level would not be reached.

The best available information at the October 1995 Council meeting indicated that, although 1995 landings of shortspine thornyheads through September were 39 percent lower than

in 1994, the 1,500 mt harvest guideline had been reached by September 20, 1995, and would be exceeded by 24 percent by the end of the year if landings were not slowed. The overfishing level of about 1,800 mt was projected to be reached in mid- to late November, but could have been reached earlier depending on assumptions made about trip-limit induced discards.

The best available information at the October Council meeting also indicated that the other species in the DTS complex were approaching their harvest guidelines: The harvest guideline for longspine thornyheads would be reached on December 20, 1995, the limited entry trawl allocation for sablefish would be reached on November 29, 1995, and the harvest guideline for Dover sole in the Columbia Subarea would be reached in late December, although only 76 percent of the coastwide harvest guideline for Dover sole would be taken by the end of the year.

After considerable deliberation, the Council recommended closing the limited entry and open access fisheries for thornyheads and trawl-caught sablefish on December 1, 1995, while allowing a small 3,000-lb (1,361-kg) monthly cumulative limit for Dover sole, because it is caught incidentally in rockfish and Petrale sole fisheries. The overfishing level of shortspine thornyheads will be exceeded by as much as 170 mt and the trawl allocation for sablefish will be reached but not exceeded. However, the harvest guidelines for longspine thornyheads and Dover sole will not be reached in 1995, resulting in a loss to the industry of at least 200 mt of longspine thornyheads and an undetermined amount of Dover sole (possibly as high as 1,000 mt, although catch under the 3,000 lb (1,361 kg) cumulative limit is not known). The overall trip limit for the DTS complex no longer has meaning and is removed.

Other actions were considered by the Council. Further reduction of the cumulative trip limit for shortspine thornyheads was not recommended because it was believed it would only result in increased discards. Closing the thornyhead and trawl-caught sablefish fisheries immediately on November 1, rather than December 1, was not recommended for the following reasons: (1) This was the first year that the two thornyhead species had been managed separately, and landings of shortspine have been reduced considerably, from 3,700 mt in 1993 to 2,700 mt in 1994, to 1,900 mt in 1995 (if landings are not slowed); (2) only about 130 mt of shortspine thornyheads would be saved

by closing the fishery on November 1 rather than December 1, resulting in a loss to the industry of an additional 400 mt of longspine thornyheads, 400 mt of trawl-caught sablefish, and an undetermined amount of Dover sole (since landing rates under the 3,000-lb (1,361-kg) monthly cumulative limit are not known); (3) the harvest guideline for longspine thornyheads already is lower than its ABC to protect shortspine thornyheads; (4) uncertainty in the thornyhead stock assessments also applies to the overfishing level; and (5) aggressive action to further reduce landings of shortspine thornyheads will be taken in January 1996, starting the year with a cumulative trip limit at half the level in 1995. Even with this reduction, the Council agreed that the DTS fishery is unlikely to last longer than 10 months in 1996, and may be shorter.

As stated in the annual management measures (60 FR 2331, January 9, 1995) at paragraph IV.I., a vessel operating in the open access fishery must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery or for the same gear and/or subarea in the limited entry fishery. Therefore, landings of shortspine or longspine thornyheads or trawl-caught sablefish in the open access fishery are prohibited, and the cumulative trip limit for Dover sole may not be exceeded. (The only legal trawls in the open access fishery are non-groundfish trawls used to fish for shrimp or prawns, California halibut or sea cucumbers.)

NMFS Action

For the reasons above, the Regional Director concurs with the Council's recommendations and hereby announces the following changes to the management measures for Dover sole, thornyheads, and trawl-caught sablefish. Paragraph IV.E(3)(b) of the annual management measures (60 FR 2331, January 9, 1995, as amended) is replaced with the following:

“(b) *Dover sole, thornyheads, and trawl-caught sablefish.* These provisions apply to Dover sole (*Microstomus pacificus*), shortspine thornyhead (*Sebastolobus alascanus*), longspine thornyhead (*S. altivelis*), and trawl-caught sablefish (*Anoplopoma fimbria*). Sablefish are also called blackcod. Thornyheads are also called idiots, channel rockfish, or hardheads.

(i) *Closure.* It is unlawful for any person to take and retain, possess or land shortspine or longspine thornyheads or trawl-caught sablefish. This applies to limited entry and open access fisheries.

(ii) *Trip limits.* No more than 3,000 lb (1,361 kg) cumulative of Dover sole may be taken and retained, possessed, or landed per vessel per calendar month. This limit may not be exceeded by any vessel fishing in the limited entry or open access fishery.”

Classification

These actions are authorized by the FMP, which governs the harvest of groundfish in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California. The determination to take these actions is based on the most recent data available. The aggregate data upon which the determinations are based are available for public inspection at the office of the Regional Director (see **ADDRESSES**) during business hours. Because of the need for immediate action to reduce the harvest of shortspine thornyheads, and because the public had advance opportunity to comment on these actions at the August and October 1995 Council meetings and was notified that a fishery closure could occur before the end of the year, NMFS has determined that good cause exists for this document to be published without affording a prior opportunity for public comment or a 30-day delayed effectiveness period. These actions are taken under the authority of 50 CFR 663.23(c)(1)(i)(E), (F), and (G), and are exempt from review under E.O. 12866.

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

Dated: November 21, 1995.

Richard H. Schaefer,

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

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50 CFR Part 676

[Docket No. 951116269-5269-01; I.D. 110795C]

RIN 0648-AD19

Limited Access Management of Federal Fisheries In and Off of Alaska; Interpretation

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

ACTION: Interpretive rule.

SUMMARY: NMFS issues an interpretive rule to clarify the definitions of “qualified person” that are published in regulations implementing the Individual Fishing Quota (IFQ) Program for the Pacific halibut and sablefish fixed gear

fisheries in and off of Alaska. This action is necessary to restate NMFS' consistent practice in applying the definitions to determine a person's qualification for the IFQ Program. This interpretive rule is intended to restate clearly the regulatory language defining the qualifications necessary for entry into the IFQ Program.

EFFECTIVE DATE: November 28, 1995.

FOR FURTHER INFORMATION CONTACT: James Hale, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The IFQ Program is a regulatory regime designed to promote the conservation and management of the Pacific halibut and sablefish stocks in and off of Alaska, in accordance with the objectives of the Magnuson Fishery Conservation and Management Act (Magnuson Act) and the Northern Pacific Halibut Act. The IFQ Program manages the fishing effort for these species by limiting access to halibut and sablefish fixed gear fisheries. The North Pacific Fishery Management Council (Council) developed the IFQ Program and in 1992, under authority of the Magnuson Act, recommended it to NMFS, which approved the program the following year. Further information about the origins and elements of the IFQ Program can be found in the preambles to the proposed and final implementing regulations published December 3, 1992 (57 FR 57130) and November 9, 1993 (58 FR 59375), respectively.

The IFQ Program for fixed gear Pacific halibut and sablefish fisheries in and off of Alaska implements essentially two separate limited access systems, one for the fixed gear fishery of Pacific halibut (*Hypoglossus stenolepis*) and one for the fixed gear fishery of sablefish (*Anoplopoma fimbria*). The IFQ Program limits access to the fixed gear halibut fishery to persons who qualify for an initial allocation of halibut quota share (QS) or who receive an approved transfer of halibut QS. Similarly, the fixed gear sablefish fishery is limited by the IFQ Program to persons who qualify for an initial allocation of sablefish QS or who receive an approved transfer of sablefish QS.

Qualification for Initial Allocation of QS

To qualify for an initial allocation of halibut QS, a person had to have owned or leased a vessel that made legal landings of halibut during the qualifying years (1988, 1989, and 1990); to qualify for an initial allocation of sablefish QS, a person had to have owned or leased