

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

[Docket No. 010108-006-1006-01; I.D.; 120700A]

RIN 0648-AO97

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Advanced Notice of Proposed Rulemaking including a Control Date

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

ACTION: Advanced notice of proposed rulemaking regarding fixed-gear sablefish harvest; notice of control date; request for comments.

SUMMARY: The Pacific Fishery Management Council (Council) has recommended to the Secretary of Commerce (Secretary), management measures which would allow permit owners to register multiple limited entry fixed-gear permits with sablefish endorsements to a single vessel (permit stacking), beginning with the 2001 regular nontrawl sablefish fishery.

As part of a permit stacking program, the Council proposes to restrict persons from owning more than three limited entry permits with sablefish endorsements; to allow limited entry permits with sablefish endorsements to be owned only by individuals, not corporations or other business entities; and to require permit owners to be on board a vessel to which a sablefish permit is registered when it is participating in the fishery. However, owners of permits as of November 1, 2000, are proposed to be exempt from these restrictions. Persons holding more than three permits on November 1, 2000, would not be allowed to accumulate more permits, but neither would they be required to sell their excess permits.

To inform the industry that it was proposing permit restrictions applicable to permits acquired after November 1, 2000, the Council recommended that NMFS announce November 1, 2000, as a control date. This control date is intended to provide notification of the Council's intent and to discourage: persons from accumulating permits above the limit; individual permit owners from incorporating or becoming partnerships; and increases in absentee permit ownership, before the permit stacking regulations become effective.

DATES: Comments may be submitted in writing by May 3, 2001.

ADDRESSES: Comments may be mailed to Jim Lone, Chairman, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: The Pacific Fishery Management Council at 503-326-6352; or William Robinson at 206-526-6140; or Svein Fougner at 562-980-4000.

SUPPLEMENTARY INFORMATION: The U.S. groundfish fisheries off the Washington, Oregon, and California coasts are managed pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801-1883) and the Pacific Coast Groundfish Fishery Management Plan (FMP). Regulations implementing the FMP appear at 50 CFR part 660 subpart G.

Overcapitalization in the groundfish fishery has undermined the effectiveness of some existing management measures. Reducing capacity in the fishery is necessary to reduce overfishing, minimize bycatch and improve the economic outlook for the West Coast fishing industry. The recommended management scheme is designed to reduce capacity in the limited entry fixed-gear sablefish portion of the groundfish fishery.

The primary limited entry fixed-gear sablefish fishery includes the regular season during which most of the limited entry fixed-gear sablefish harvest is taken, and the mop-up fishery. Each fixed-gear permit with a sablefish endorsement is assigned to one of three tiers for the regular nontrawl limited entry sablefish season. The tier that a permit is assigned to determines the amount of catch that may landed from the vessel to which it is registered. If multiple permits are registered to a single vessel, fishers would be allowed to harvest the full amount allocated to each of the permits registered to the vessel.

Fixed-gear permit stacking was recommended as a capacity reduction measure in the Groundfish Strategic Plan which the Council adopted at its September 2000 meeting. The Council distributed preliminary analysis on permit stacking to the public at the Council's September 2000 meeting and encouraged the public to provide comments. A more detailed regulatory analysis was available to the public and the Council prior to the Council's November 2000 meeting. The Council reviewed permit stacking and held a public hearing during the Council's November meeting. Following public testimony and discussion, the Council

adopted a permit stacking program with the intention of having a program in place for the 2001 regular nontrawl sablefish fishery.

As part of the permit stacking program, the Council proposes to restrict persons from owning more than three limited entry permits with sablefish endorsements; to allow limited entry permits with sablefish endorsements to be owned only by individuals, not corporations or other business entities; and to require permit owners to be on board a vessel to which a sablefish permit is registered when it is fishing. However, owners of permits as of November 1, 2000, are proposed to be exempt from these restrictions.

To inform the industry that it proposing future ownership restrictions, applicable to permits assigned after November 1, 2000, the Council recommended that NMFS announce a control date of November 1, 2000. This control date is intended to provide notification of the Council's intent, discourage persons from accumulating permits above the limit; and individual permit owners from incorporating or becoming partnerships, increases in absentee permit ownership, before the permit stacking regulations become effective. The Council also proposes to restrict at-sea processing of sablefish except for vessels that can demonstrate fixed-gear landings of at least 2,000 lb (907 kg) of frozen sablefish from Council-managed fisheries in 1998, 1999, or 2000.

To limit the concentration of permit ownership, and thus harvest privileges, in the fishery, no person would be allowed to accumulate more than three limited entry fixed-gear permits with sablefish endorsements unless that person owned them on November 1, 2000. Persons holding more than three limited entry fixed-gear permits with sablefish endorsements on November 1, 2000, would not be allowed to accumulate more permits, but neither would they be required to sell their excess permits.

Corporations and partnerships owning limited entry fixed-gear permits with sablefish endorsements on November 1, 2000, could continue to own the permits as corporations and partnerships. However, corporations or partnership that acquire permits after November 1, 2000, would likely be restricted from participating in the fishery when a permit stacking program is implemented. Exemptions for a particular corporation or partnership that owned permits on November 1, 2000, would cease with a change in the identity of that corporation or partnership.

Owners of limited entry fixed-gear permits with sablefish endorsements on November 1, 2000, would be allowed to operate without the owner of the permit on board the vessel during the regular nontrawl sablefish fishery. However, individuals acquiring permits after November 1, 2000, would be required to have the permit owner on board the vessel while participating in the fishery when a permit stacking program is implemented.

The Council will soon submit the program and the supporting documents to the Secretary for review, approval, and implementation under the Magnuson-Stevens Act. Once the Secretary has received the documents from the Council, he will publish a notice of availability of an FMP amendment and proposed regulations in the **Federal Register**, and seek public comment, before deciding whether to approve or disapprove the program.

This advanced notice of proposed rulemaking has been determined to be not significant for the purpose of Executive Order 12866.

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

Dated: March 28, 2001.

Clarence Pautzke,

*Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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