DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 950209046-5051-02; I.D. 011295D]

RIN 0648-AG82

Pacific Coast Groundfish Fishery; Modification of Nontrawl Sablefish Season

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is publishing proposed regulations that would establish a new season structure for the nontrawl sablefish component of the Pacific Coast Groundfish limited entry fishery. The new regular season for the limited entry fishery would begin at noon August 6, each year, and both the limited entry and open-access fisheries would be required to remove all nontrawl gear from the water 72 hours prior to the start of the regular season. This rule is intended to promote the goals and objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP) by providing an equitable opportunity for different types of nontrawl gear to harvest the limited entry nontrawl allocation for sablefish, to enhance vessel safety by avoiding a winter opening, to keep the fishery within the annual management target, and to minimize gear conflicts.

DATES: Comments must be submitted in writing by April 17, 1995.

ADDRESSES: Comments may be mailed to William Stelle, Jr., Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070; or Hilda Diaz-Soltero, Director, Southwest Region, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. Information relevant to this proposed rule is available for public review during business hours at the Office of the Director, Northwest Region, NMFS, and at the Office of the Director, Southwest Region, NMFS. Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) can be obtained from the Pacific Fishery Management Council (Council), 2000 SW First Avenue, Suite 420, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, or Rodney R. McInnis at 310–980–4030. **SUPPLEMENTARY INFORMATION:** NMFS is proposing this rule based on a recommendation of the Council, under the authority of the FMP and the Magnuson Fishery Conservation and Management Act (Magnuson Act). At its October 1994 meeting in San Francisco, CA, the Council recommended changes to the management of this fishery that are implemented by this rule. The background and rationale for the Council's recommendations are summarized below. More detail appears in the EA/RIR prepared by the Council for this action.

Background

Sablefish is one of the most valuable species in the groundfish fishery off Washington, Oregon, and California (WOC). Since 1987, the annual sablefish harvest guideline has been allocated between the trawl-gear and nontrawlgear fisheries. Historically, the trawl fishery has been managed with trip limits, which means the amount of fish that may be harvested during a fishing trip or set time period. Trip limits are imposed primarily in order to extend the fishery throughout most of the year. The nontrawl fishery, in contrast, has taken most of its allocation in an intense, open competition called the "regular season," during which it operates without trip limits, except for limits on small sablefish (in 1995, trip limits are applicable to sablefish less than 22 inches (56 cm) total length). For 72 hours before and after the regular season, it is illegal to take and retain, possess or land groundfish caught with nontrawl gear. In recent years, the nontrawl fleet has operated under very restrictive trip limits (250-500 lb (113-227 kg) per day) outside of the ''regular season." The limited entry nontrawl fishery for sablefish involves two main gear types, pot (or trap) and longline, that compete for the nontrawl allocation. Although the pot and longline fisheries are operationally different, they do not have separate allocations.

The first problem addressed by the Council was the increasing competition in the fishery. The sablefish resource is believed to be stable and close to the level that produces maximum sustainable yield (MSY), however, fishing effort, and thus competition, are increasing. The season length off WOC has declined from almost 5 months in 1990 to about 3 weeks in 1993 and 1994, and the industry is concerned about an even shorter season in 1995. Implementation of the limited entry program for groundfish off WOC in 1994 has not diminished the problem of increasing effort, because more vessels

currently have limited entry permits than operated in the fishery in 1994. Also, in recent years fishermen have had to choose between concurrent fisheries off Alaska or off WOC. However, with the implementation of an Individual Fishing Quota (IFQ) system off Alaska in 1995, fishermen will be able to fish over a longer period in Alaska, and thus those with a limited entry permit for WOC will be able to operate in both the Alaska and WOC fisheries. Fishermen that operate more slowly than others, generally those with smaller vessels, or that do not also fish in Alaska, fear that they are losing opportunity during such short, intense seasons off WOC. In addition, in 1994, the nontrawl fishery exceeded its limited entry allocation by 28 percent, because of the difficulty of monitoring such an intense fishery during the season. If fishing effort increases as expected, it will be increasingly difficult to project landings accurately and keep them from exceeding the nontrawl allocation.

A second problem is the starting date of the regular season. Under the current regulations (50 CFR 663.23(b)(2)(i)) (temporarily suspended, through September 1, 1995), the opening of the WOC season is linked to the first nontrawl sablefish season opening in the Gulf of Alaska under 50 CFR part 672, which occurs in May. Under the new IFQ program, governed by 50 CFR part 676, the Alaska season could start as early as March 1, 1995, which would cause the WOC fishery to open on February 26, 1995, preceded by a 72hour closure on February 23. (50 CFR part 672 is expected to be revised to clarify that the nontrawl sablefish opening date in the Gulf of Alaska is governed by part 676.) This early season is unacceptable to the industry for a number of reasons, particularly safety, but also because of price, quality of the fish, and alternative fishing opportunities. By separate rule, NMFS has temporarily amended 50 CFR 663.23(b)(2) to prevent the opening of the regular season in February, pending completion of this rulemaking to establish a new season structure.

A third problem results from competition within the nontrawl fishery, between fishermen using pot and longline gear. Approximately 21 pot vessels and 88 longline vessels operated in the limited entry sablefish fishery in 1994. The proportion of pot landings in the nontrawl sablefish fishery has varied widely in the last 12 years, from over 80 percent in 1983 to only 21 percent in 1992, and back up to about 40 percent in 1994. Increased production by the small pot fleet in recent years has been