

specifications and management measures process responds to a court ruling in *Natural Resources Defense Council, Inc. v. Evans*, 316 F.3d 904 (9th Cir. 2002), to make the Council's development process for specifications and management measures more efficient in order to allow time for other management activities, and to streamline the NMFS regulatory process for implementing the specifications and management measures.

The comment period on this proposed rule (68 FR 35354, June 13, 2003) for this action ended on July 28, 2003. The agency received 2 letters of comment on the proposed rule, but none of the comments received addressed the IRFA. Comments on the proposed rule are addressed in the "Comments and Responses" section of this final rule.

This final rule will affect all participants in the West Coast groundfish fisheries. Approximately 2,000 vessels participate in the West Coast groundfish fisheries. Of those, about 500 vessels are registered to limited entry permits issued for either trawl, longline, or pot gear. About 1,500 vessels land groundfish against open access limits while either directly targeting groundfish or taking groundfish incidentally in fisheries directed at non-groundfish species. All but 10–20 of those vessels are considered small businesses by the Small Business Administration. There are also about 450 groundfish buyers on the West Coast, approximately 5 percent of which are responsible for about 80 percent of West Coast groundfish purchases. In the 2001 recreational fisheries, there were 106 Washington charter vessels engaged in salt water fishing outside of Puget Sound, 232 charter vessels active on the Oregon coast and 415 charter vessels active on the California coast.

This final rule does not impose any new reporting or recordkeeping requirements.

This rule is administrative in nature and is expected to have only a minimal economic impact on small entities. The action would maximize time for stock assessment scientists, Council staff, and NMFS staff to prepare documentation needed to implement specifications and management measures without disrupting the historic January 1 season start date. Under the proposed measure, vessel operators should be able to take advantage of whichever seasonal markets best fit their needs. Small vessel operators should not be forced to fish during inclement weather because of concerns about fishery closures during spring and summer months. Vessel operators afforded the privilege of

fishing for both Dungeness crab and groundfish, or groundfish and shrimp, should be able to time their fishing trips based on the migratory patterns of their target species and the needs of their own marketing strategies and those of their associated processors. While implementing multi-year groundfish management will not alleviate all season-related management problems for fisheries participants, it should be a positive step toward improving the stability and certainty of seasonal groundfish allocations for participating harvesters. The improved science and management made possible with multi-year planning will help mitigate the closure cycle by stabilizing groundfish allocations and landings throughout the season.

The Council considered 4 alternatives to the proposed measure including a status quo alternative. All alternatives, with the exception of the status quo, would implement biennial specifications. Two of these alternatives considered a March 1 start date with different Council meeting schedules, and one alternative considered a May 1 start date. Given closure trends under the status quo, a March 1 start date would likely result in early allocation attainment and closures during December-February. The negative effects of this closed period would primarily be felt by vessels and processors that rely on the mid-winter flatfish fishery. Many West Coast flatfish species aggregate more closely during the winter months, lowering the bycatch rates of non-flatfish species in flatfish-directed fisheries. As with the status quo, recreational fishing tends to be slow during the winter months. Given closure trends under the status quo, a May 1 start date would likely result in early allocation attainment and closures during February-April period. This schedule would keep the fisheries open through stronger flatfish months and allow participants to switch between flatfish and Dungeness crab at will. A February-April groundfish closure could also have the negative effect of a very lean 3-month period between Dungeness crab fishing/processing season and the shrimp, salmon and albacore seasons. For some of the small boat fishers, this alternative could also mean a lack of fishing opportunity in their traditional start-up fishing months. Early spring recreational fishing opportunities could also be curtailed under this schedule.

The economic effects of changing the fishing year start date vary with each option and vary by which fishery sectors they affect. In general, the difference between the economic effects

of a January 1 start date and a March 1 start date are neutral. A May 1 start date, however, would notably shift fishing effort and could result in small businesses having to reconsider their business practices and reschedule their fishing operations.

The Council will retain a 1-year specification of ABC and OY. This represents no change and will have no economic impact to vessels affected by the proposed rule. The Council also considered a two-year specification period. However, since early attainment of OY could lengthen closure periods under a 2-year specification of these targets, this alternative would be expected to have a potentially adverse economic impact on vessel profitability. With 2-year OYs, management measures would need to be more conservative at the start of the 2-year fishing period to hedge against early closures during the second year in the fishing period. The Council also considered a mixture of 1-year and 2-year specifications for different groundfish species. This approach could also have a potentially adverse economic impact on vessel profitability for vessels fishing under two-year specifications for the reasons listed above.

Compliance requirements do not go beyond general compliance requirements for operating in the Pacific Coast groundfish fishery.

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.

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■ For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

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 § 660.302, a new definition for "Biennial fishing period" is added and the definitions for "Fishing year," and "Reserve," are revised to read as follows:

§ 660.302 Definitions.

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Biennial fishing period means a 24-month period beginning at 0001 local