

GROUND FISH MANAGEMENT TEAM REPORT ON EMERGENCY ACTION TO
CONSIDER A SEASON EXTENSION FOR THE 2020 LIMITED ENTRY FIXED GEAR
PRIMARY SABLEFISH FISHERY – FINAL ACTION

Under Agenda Item D.2 at this meeting (September 2020), the Pacific Fishery Management Council (Council) added an agenda item to consider an emergency action to change the primary tier sablefish fishery end date from October 31 to December 31. The Groundfish Management Team (GMT) provided background information on this issue in [Agenda Item D.2.a, Supplemental REVISED GMT Report 4, September 2020](#). This report provides some additional information for the Council to consider in determining if an emergency rule is warranted.

Use of Emergency Rules

Under National Marine Fisheries Service (NMFS) Policy Guidelines for the Use of Emergency Rules ([62 FR 44421, August 21, 1997](#)), the phrase “an emergency exists involving any fishery” is defined as a situation that meets the following three criteria:

1. Results from recent, unforeseen events or recently discovered circumstances; and
2. Presents serious conservation or management problems in the fishery; and
3. Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process.

Our analysis below suggests that the current situation involving the tier fishery meets the criteria of an emergency in a fishery. Current fishery conditions have resulted in vessels delaying the start of their primary season and would likely prevent them from fully attaining their tier limits by the October 31 season end date. Given the limited time remaining in the primary fishery season and significant management differences between the primary and daily trip limit (DTL) fisheries, no other mechanism, such as a routine inseason action or rulemaking process, would be sufficient to provide participants access to their quota in the remaining status quo season.

Current Status of the Tier Fishery

As described in [Agenda Item D.2.a, Supplemental REVISED GMT Report 4, September 2020](#), the primary sablefish fishery averaged 93.4 percent attainment of their allocation, with 65 percent of the landed share taken through September 13 from 2011-2019. In comparison, the fishery in 2020 has only landed 519.66 mt out of the 1,578 mt landed share (32.9 percent attainment) in the same period. Since 2011, approximately 35 percent of the catch is taken between mid-September and the end of the season (October 31). However, as described in public comment, many vessels have been delayed in Alaska due to ongoing local travel restrictions, postponed season start, and quarantine requirements. It is unlikely that participants will be able to harvest their full tiers before the end of the season.

In the last three years, from the start of the season through September 14, between 36 and 52 vessels have harvested 99 percent of their sablefish tier limits, with an average of 69 vessels making at least one landing. In 2020, only 18 vessels have harvested their full limits to date, and 53

vessels have made landings against their tiers (Table 1). Additionally, 40 vessels with assigned tier limits have made zero landings thus far in 2020 compared to an average of 26 from 2017-2019.

Table 1. Number of vessels achieving given percent attainment of tiers through September 14 from 2017 to 2020. Years with less than three vessels in an attainment bin were grouped to protect confidential data.

Percent Attainment through September 14	Number of Vessels			
	2017	2018	2019	2020
99-100	44	35	30	18
90-98	8	8	6	4
80-89	6	8	0	
70-79		3	4	4
60-69	0	5	5	
50-59	4		3	3
<50	12	10	18	24
Zero Landings	25	25	27	40
Total Vessels Participating through 9/14	74	69	66	53
Total Vessels With Tier Permits ^{a/}	99	94	93	93

a/ Note that this number could include vessels harvesting against the same tier permit in a given year.

Table 2. Annual total primary sablefish fishery mortality (mt), allocation (mt), percent attainment, and number of active vessels, as well as the landings (mt), landed catch share (mt), percent attainment, and the number of vessels that have landed catch through September 13 of each year.

Year	Annual Total				Through September 13			
	Mortality	Allocation	Percent	Vessels	Landings	Landed Catch Share	Percent Attainment	Vessels
2011	1,571.06	1,598	98.3	98	1,142.17	1,547	73.8	92
2012	1,405.64	1,549	90.7	95	931.41	1,500	62.1	88
2013	1,057.99	1,156	91.5	89	631.68	1,119	56.5	77
2014	1,100.46	1,254	87.8	84	742.57	1,214	61.2	69
2015	1,366.53	1,385	98.7	86	920.10	1,339	68.7	74
2016	1,470.68	1,515	97.1	85	991.76	1,466	67.6	72
2017	1,470.04	1,518	96.8	85	1,059.10	1,463	72.4	74
2018	1,463.71	1,583	92.5	85	963.28	1,526	63.1	68
2019	1,414.19	1,620	87.3	83	838.27	1,545	54.3	66
2020					519.66	1,578	32.9	53

The total vessels with tier permits declined in 2018 and 2019 relative to 2017, due to consolidation of stacked permits on a smaller number of vessels. The percent attainment distribution to date in 2020 is almost the reverse of prior years, with about half the vessels close to full attainment and about twice the vessels with zero landings to date. There are 19 additional vessels with less than 50 percent attainment to date than in the previous year, the GMT believes these vessels may be the most likely to benefit from this rule.

Table 3 shows the number of vessels associated with the number of stacked tier permits, for those vessels that have made less than 50 percent of their tiers (including those with zero landings to date). As a reminder, in 2020, a Tier 1 permit is allocated 48,642 pounds, a Tier 2 permit is allocated 22,110 pounds, and a Tier 3 permit is allocated 12,634 pounds. Therefore, there may be up to eight vessels that still have more than 100,000 lbs to harvest by the end of the season.

Table 3. Stacked tiers on vessels where less than 50 percent of the tiers have been harvested through September 14, 2020.

Tier 1 Permits	Tier 2 Permits	Tier 3 Permits	Number of Vessels
2-3	0-1		8
1	0-2		5
0	2-3	0	3
	1	2	3
		1	3
		0	8
	0	3	4
		2	8
		1	22

Economic Impacts

In the first two weeks of September 2020, the average round weight price for sablefish landed in the primary fishery was \$2,505 per mt, and vessels caught approximately 66.7 mt.

The GMT discussed general market challenges for sablefish in our statement under Agenda Item D.1. Price has declined for sablefish caught by all fisheries and gear types, primary prices summarized by month over Table 4 below. Even if landings stay flat through a surge of late season effort and possible season extension, revenues and associated community impacts will be a fraction relative to recent years, based on the approximately 50 percent decrease in price relative to 2017-2019.

West Coast primary fishery sablefish prices generally increase in the fall relative to the spring, trends in year-round DTL prices indicate that sablefish prices typically do not fall in November and December relative to the fall months, so the September price is a reasonable estimate for the remainder of the year, barring unforeseen changes in market demand relative to the status quo.

Table 4. Primary Sablefish Fishery price per pound by month (2019\$/lb), through September 14, 2020.

Year	Apr	May	Jun	Jul	Aug	Sep	Oct	Apr-Oct
2011	\$3.91	\$4.79	\$4.88	\$5.00	\$4.75	\$4.75	\$4.49	\$4.70
2012	\$3.51	\$3.57	\$3.65	\$3.45	\$3.25	\$3.18	\$2.91	\$3.30
2013	\$2.40	\$2.69	\$2.72	\$2.63	\$2.62	\$2.57	\$2.83	\$2.66
2014	\$2.41	\$2.92	\$3.88	\$3.46	\$3.10	\$3.21	\$3.43	\$3.15
2015	\$2.47	\$3.21	\$3.16	\$2.91	\$2.58	\$3.39	\$4.19	\$3.16
2016	\$2.86	\$3.35	\$3.14	\$3.90	\$3.27	\$3.58	\$3.67	\$3.38
2017	\$3.35	\$3.04	\$3.52	\$4.01	\$3.90	\$3.83	\$3.74	\$3.63
2018	\$2.00	\$2.08	\$2.87	\$2.86	\$2.91	\$3.00	\$3.00	\$2.77
2019	\$1.81	\$2.02	\$2.18	\$2.42	\$2.41	\$2.41	\$2.23	\$2.28
2020	\$1.43	\$1.22	\$1.45	\$1.52	\$1.60	\$1.51		\$1.48*

*2020 average calculated through mid-September.

If the fleet maintains that catch rate through the end of October and assuming a constant price at \$3,329 per mt, approximately 858 mt of the sablefish primary allocation, an estimated value of \$2.8 million, would remain unharvested. Table 5 compares the distribution of primary fishery revenue to date in 2020 compared to the past five years in West Coast port communities.

Table 5. 2015-2019 average revenue (2019\$), associated income impacts (2019\$), and number of jobs associated with the primary sablefish fishery, stratified by IOPAC (input-output model for Pacific Coast fisheries) port group.

Port Group	2020 Revenue to Date	Average 2015-2019		
		Revenue (2019\$)	Income Impacts (2019\$)	Jobs
Puget Sound	\$512,301	\$2,003,598	\$3,765,183	43
Washington Coast	Conf.	\$1,449,940	\$2,090,660	39
Astoria- Tillamook	\$38,370	\$616,801	\$1,113,586	14
Newport	\$800,552	\$2,417,512	\$3,359,362	48
Coos Bay- Brookings	\$274,461	\$1,504,786	\$2,167,490	37
Crescent City- Eureka	\$285,137	\$436,394	\$488,217	10
Fort Bragg	\$185,670	\$559,499	\$697,256	26
San Francisco (incl. Bodega Bay)	Conf.	\$407,163	\$659,775	13
Monterey	\$181,198	\$177,131	\$184,697	3
Total	\$2,551,090	\$9,572,823	\$14,526,227	233

Comments from the public at this meeting indicated that the inability to harvest up to the sablefish tier limits on permits may cause a financial hardship on vessel operators, especially those that either lease permits or have financed the purchase of permits. Based on publicly available data, 42 vessels leased a total of 60 permits in 2019 (Jim Seger, personal communication). As of September 16th, 2020, Dock Street Brokers lists the price of Tier 3 permits between \$165,000 and \$200,000, and Tier 2 between \$325,000 and \$375,000 (no Tier 1 permits are currently listed). In addition to the short-term drastic financial hardship to individuals, the cumulative impact of multiple borrowers defaulting on loans could decrease future financing options and negatively impact the fishery as a whole.

In the past three crab seasons (2017/2018-2019/2020), an average of 32 vessels participated in both the Dungeness crab and primary tier fishery. In order to participate in the Dungeness crab fishery, vessels generally cease their effort in other fisheries several weeks prior to ready the vessel and gear. With a season extension, vessels that elect to participate in the Dungeness crab fishery could recoup some of the losses in the tier fishery through leasing tier permits to other operators not active in the Dungeness crab fishery. The level of demand for leasing permits is unclear, as there has not been an option to participate in the tier fishery in November-December in the past. There is also overlap between tier fishery participants and the Individual Fishing Quota (IFQ) program and DTL fisheries in the last two months of the year. Public testimony and available evidence indicate that the DTL fishery, even with expanded trip limits considered under Agenda Item D.6 at this meeting, would not offer sufficient harvest opportunity to tier vessels to make payments on leased or mortgaged permits. Between 2015 and 2019, eight vessels participated in the IFQ fixed gear fishery in November and December (after the close of the primary fishery

season). Less than three of these vessels seem poised to achieve their primary catch before the October 31 season end date. Whether these participants will elect to fish in the primary or IFQ fishery in the final months of the year is unclear. The IFQ fishery has buyback fees, cost recovery, and monitoring expenses not incurred by primary fishery participants, which amount to about 10 percent of revenue according to [Economic Data Collection data](#). However, the IFQ program may offer additional opportunity compared to the tier program (as discussed under Agenda Item D.1).

Community Impacts

Of the 64 vessels that have yet to take at least 50 percent of their sablefish tier limits to date, 21 are from California, 20 are from Oregon, and 23 are from Washington. The permits on these vessels are owned by entities across all three states (30 permits from California, 37 from Oregon, and 45 from Washington). A small number of additional permits are currently not registered to any vessel or are owned by entities outside the West Coast. If the primary tier allocation is not fully landed, impacts would extend beyond potential individual revenue loss to negatively affect communities along the West Coast. For example, in 2019, the limited entry fixed gear fishery (of which the tier fishery is the main contributor) was estimated to bring in \$4.1 million in wages to fishing crews and captains ([Agenda Item F.1., Attachment 8, June 2020](#)). Table 5 above shows the recent five-year average of ex-vessel revenue and associated income impacts and jobs supported by the primary sablefish fishery by port group. Note that these are the sum of the local community income impacts and do not reflect the impact of one community on another or on the larger state and regional economies. In other words, these values may be seen as the lower bounds of expected impacts. With the decline in prices (Table Price above), and decrease in landings, related to declining prices as well as unique barriers to fishing with local travel restrictions and health guidance, revenue to date is substantially below annual averages in the prior five years with six weeks left in the season.

Potential Bycatch Impacts

Groundfish Species

Yelloweye Rockfish

In 2020, the non-nearshore fishery (of which the tier season is a part) has an annual catch target (ACT) of 1.7 mt and a harvest guideline (HG) of 2.1 mt for yelloweye rockfish. The fishery is currently estimated to take 0.8 mt of that allocation under the current season structure to take the full allocation of sablefish. The amount of yelloweye rockfish bycatch mortality that would occur from extending the season is uncertain. However, the fishery would need to take double the projected attainment for the entire season in the remaining two months to risk exceeding the ACT and the HG. This magnitude of bycatch seems unlikely, so the GMT believes the risk of exceeding either yelloweye rockfish specification or the annual catch limit (ACL) is very low.

Other Groundfish and Non Groundfish Species

From 2017 through 2019, the stocks (besides sablefish) with the highest estimated discard in the primary tier fishery were Pacific spiny dogfish, blue shark, arrowtooth flounder, and Pacific halibut (Table 6).

In addition to providing a very rough estimate of in-season bycatch, the stocks (besides sablefish) with the highest landings through September 14, 2020 are shown in Table 6. If the primary tier

fishery continues to catch the stocks in Table 6 at a similar rate, the mortality impacts could be higher than originally projected, whether or not the season is extended.

As of September 16, 2020, all stocks listed in Table 6 are under 18 percent of their respective ACLs, and therefore, additional bycatch in the primary sablefish tier fishery resulting from a season extension is not expected to pose any risk of exceeding their ACLs.

Table 6. Bycatch of the stocks with the highest landings and/or mortality in the primary tier fishery through September 14, 2020 with estimated mortality from all sectors compared to the ACL. Data source: GEMM and PacFIN APEX GMT007 Report

Stock	Estimated discard (mt) a/	Primary tier fishery landings (mt)	Estimated total mort (all sectors; mt)	ACL (mt)	% of ACL (to date)
Shortspine thornyhead (North of 34° 27' N. lat.)	3.1	11.1	257	1,669	15
Lingcod (North of 40° 10' N. lat.)	0.7	7.7	502.4	4,541	11
Longnose skate	26.6	6.1	344.2	2000	17
Rougheye rockfish (North of 40° 10' N. lat.)	13.9	5.1	220.6 b/	1,732 b/	13 b/
Spiny Dogfish Shark	114.5	0.0	155.9	2,059	8
Blue Shark	54.4	--	N/A	N/A	N/A
Arrowtooth Flounder	32.9	0.9	211.8	12,750	2

a/ Estimated discard based on the 2017-2019 average discard with mortality rates applied.

b/ Estimated mortality, ACL and percent of ACL values are for the slope rockfish complex north of 40° 10' N. lat.

Pacific Halibut

In the primary tier sablefish fishery in areas north of Point Chehalis, Washington, there is an allowance for incidental retention of Pacific halibut. Currently 200 pounds of Pacific halibut are allowed for every 1,000 pounds of sablefish, plus two additional fish. The incidental Pacific halibut fishery is currently scheduled to close on October 31, with the closure of the sablefish fishery. If the sablefish fishery season were extended, the incidental Pacific halibut retention is required to close by noon local time on November 15, as specified in International Pacific Halibut Commission (IPHC) regulations¹. However, as discussed under Agenda Item D.2, the Council would need to specify if the incidental retention could last beyond October 31 (up until November 15 or if the quota is taken, whichever comes first).

As discussed in [Agenda Item D.5.a, Supplemental GMT Report 1](#) of this meeting, there was a request to raise the landing ratio to 250 pounds of Pacific halibut, and, although under this landing ratio option attainment is projected to be 99 percent (Table 7), the model likely overestimates actual 2020 attainment through October 31, and the GMT sees no risk of exceeding the allocation. However, the risk of exceeding the allocation may be slightly higher under the proposed Option 1 landing ratio if the Council decides to extend incidental halibut retention allowances beyond the

¹ <https://iphc.int/uploads/pdf/regs/iphc-2020-regs.pdf>

current October 31 season end date, but an extension would only provide 14.5 additional days to land Pacific halibut. If this expanded tier sablefish fishery exceeded the 70,000 pound allocation, the overage would come from the allocation for Washington recreational fisheries, which are currently tracking well below full attainment. Therefore, there is minimal risk to exceeding the Washington allocation, and no risk to the Area 2A Fishery Constant Exploitable Yield (FCEY). The GMT discusses mechanisms used to closely monitor incidental Pacific halibut landings and to quickly close the fishery if needed in [Agenda Item D.5.a, Supplemental GMT Report 1, September 2020](#).

Table 7. Projected incidental Pacific halibut landings in the primary sablefish fishery north of Point Chehalis under the status quo landing ratio and the proposed alternative, assuming implementation on October 1.

Option	Landing Ratio	Projected Landings (net wt. lbs.) through October 31	Allocation (net wt. lbs.)	Attainment (percent)
SQ	200 lbs. halibut per 1,000 lbs. sablefish landed and up to 2 halibut in excess of limit	64,783	70,000 lbs.	92.5
1	250 lbs. halibut per 1,000 lbs. sablefish landed and up to 2 halibut in excess of limit	69,315		99

If the season were extended, it is uncertain how much Pacific halibut bycatch, and associated discard mortality, would occur both after the incidental closure north of Point Chehalis, as well as during the additional two months of the sablefish fishery in areas south of Point Chehalis.

The GMT would like to remind the Council that all bycatch of Pacific halibut outside of directed or incidental Pacific halibut fisheries are accounted for in the reduction of the total constant exploitable yield to calculate the FCEY (see [Agenda Item I.1, Attachment 2, September 2020](#)). The FCEY is the value that the allocations outlined in the Pacific Halibut Catch Sharing Plan are calculated from. The value for all non-directed or incidental Pacific halibut commercial groundfish hook and line fisheries used in the 2020 calculations is 38,000 pounds ([Agenda Item I.1, Attachment 2, September 2020](#)). While it is difficult to assess potential bycatch, there appear to be little seasonal differences in the bycatch rates throughout the regular tier season suggesting that the bycatch would likely not be higher than assumed by IPHC. The GMT notes that the 2019 estimated mortality in the hook-and-line fisheries was approximately 65,000 pounds ([Agenda Item C.1.a, NWFSC Report 1, September 2020](#)), and expects the 2020 mortality to be within that range.

Endangered Species

Impacts to Endangered Species Act (ESA) listed species under this action item would likely vary by gear-type with more sablefish caught by hook-and-line gear than by pot gear. Therefore, impacts by species are discussed in terms of interactions with these two gears. Table 8 below shows the amount of sablefish caught by pot gear and other hook-and-line gears in the primary sablefish fishery from 2011-2020 to date.

Table 8. Percent of sablefish caught by hook-and-line and pot gears in the primary sablefish fishery from 2011-2020.

Year	Hook-and-Line	Pot
2011	75.32%	24.68%
2012	79.41%	20.59%
2013	71.82%	28.18%
2014	68.41%	31.59%
2015	72.77%	27.23%
2016	73.87%	26.13%
2017	73.44%	26.56%
2018	71.59%	28.41%
2019	69.59%	30.41%
2020*	86.12%	13.88%

*through 9/16/2020

Seabirds

Potential impacts to seabirds, especially the short-tailed albatross, from extending the season are difficult to predict. Short-tailed albatross can occur off of the U.S. West coast year-round. Observed interactions in the winter have been relatively lower than average (Section 2.5 in [Agenda Item I.5, Attachment 1, June 2019](#)), but this pattern could be due to decreased abundance during those months or simply an artifact of low coverage rate and effort. The GMT notes that between 2011-2020, on average approximately 75 percent of the tier fishery was harvested using hook-and-line gear (Table Gear) however, as of 2020 (see [84 FR 67674](#)), streamer lines used as a mitigation measure are in effect year-round and could be expected to minimize interactions. As there are no expected gear configuration changes or changes to fishing methods that would impact seabirds, it is expected that encounter rates and take will remain similar to those noted in [Agenda Item I.4.a, NMFS Report 6, June 2020](#),

Humpback Whales

Incidental take of humpback whales occurs as a result of entanglement with fishing gear, as a consequence of fishing activity. This take is expected to occur in the sablefish pot/trap fishery (NMFS 2012). The incidental take statement specifies a take limit for humpback whales as a five-year average of one humpback whale injury or mortality per year and up to three humpback whale injuries or mortalities in any single year² (NMFS 2012). There have been two documented takes since 2012, one in the limited entry (LE) fixed gear sablefish pot sector in 2014 and one in the open access (OA) fixed gear sablefish pot fishery in 2016 ([Agenda Item I.4.a, NMFS Report 4, June 2019](#)). As noted in the Groundfish Endangered Species Workgroup report ([Agenda Item I.4.a, June 2019](#)), estimation methodologies used to calculate incidental take showed the LE sector was consistently below the five-year running average threshold, while the OA was consistently above

² [June 2019 Groundfish ESA Workgroup \(Workgroup\) report](#)

five-year running average threshold over the time period examined (2002-2017). These results indicated the incidental take amount had been exceeded.

While the timing and distribution of humpback whales during their migration periods, as well as locations of resident animals, varies, some distinct population segments (DPS) are known to travel south to their over-wintering grounds during November and December along the Pacific West Coast. Additionally, it should be noted that the marine heatwave of 2014-2016 disrupted the typical migratory pattern, and significant numbers of whales remained off the coast through the winter.³ As this fishery has not been prosecuted previously during these months, it is unclear how increasing the tier season could potentially affect interactions. As stated above, in the last ten years the only groundfish fishery related entanglements were attributed to pot gear however, based on the 10-year average between 2011-2020, the tier fishery operates using 25 percent pot gear versus 75 percent line gears (Table Gear). Considering anecdotal information from Washington industry participants who are utilizing a gear modification commonly used in the Alaska sablefish fishery (slinky pots), off the West Coast to avoid sperm and killer whale depredation, impacts could potentially be lower than those under the traditionally used longline and pot gear.

There may be interactions between sablefish and crab pot (or other fishery) gear that impact whales, where whales get entangled in an initial gear followed by secondary gear caused by trailing debris/gear, however these interactions are not typically observed in the primary fishery as the season does not typically overlap with the Dungeness crab fishery. Dungeness crab fishing can open in early November (for tribal fisheries, pending shell condition), and generally opens in December, but may be delayed to January due to meat fill requirements and/or biotoxin issues for state fisheries.

While incidental take of humpback whales from this action is a possibility, the past performance of the fishery suggests that the likelihood of take will remain low. However, due to the inherent stochastic nature of humpback whale interactions with this fishery and the unknowns related to potential fishery effort in these months, it is important to note that while expectations of incidental take are low, they could occur. Additionally, as no new gear or fishing practices that would negatively impact whales are expected, the fishery will operate in the extended season as it does in the regular season; thus no new mechanisms, other than potential increases in effort, should create new risks to humpback whales.

Salmon

The groundfish fishery operates under specific bycatch guidelines for salmon and the threshold for fixed gear is 5,500 Chinook salmon. Historically, the fixed gear fishery has had low Chinook salmon bycatch rates ([Agenda Item H.9, Attachment 1, November 2019](#)). As of this writing, the total Chinook salmon bycatch count for the fixed gear fishery is zero ([IFQ21](#)). While the possibility of salmon bycatch exists, based on the count of salmon to-date, it is highly unlikely the fishery will exceed its guideline threshold.

Observer Availability

The majority of observers employed by the West Coast Groundfish Observer Program (WCGOP) end their contracts at the end of October. From November to March, the WCGOP contracts only

³ Personal communication Karin Forney, NMFS SWFSC, September 16, 2020

about one-third the number of federally-funded observers contracted the rest of the year. Given the reduced number of observers for the November to March period, coverage during this season extension would almost definitely be lower than the average of 44 percent annually from 2015 to 2019 and possibly lower than the average 25 percent observed from 2002 to 2014. Low coverage during a potential season extension would increase uncertainty in 2020 mortality estimates, above and beyond the already reduced coverage rates resulting from protocols to minimize risk of COVID-19 spread ([85 FR 17285](#)), as discussed in the recent [public notice](#).

If the sablefish tier season was extended, observer coverage would likely predominate in California relative to coverage rates in Oregon and Washington, reflecting the typical distribution of observers and fishery effort, as well as coverage priorities in November to March. Coverage in the primary fishery could be prioritized above other sectors, such as California halibut trawl and pink shrimp trawl, but this would increase uncertainty in estimates for those sectors. North of California, where effort could be highest, coverage rates would likely be very low. If vessels or permits that have not yet made landings in 2020 enter the fishery, these coverage rates could be even lower coastwide.

The degree to which NMFS has funds for additional observers, and the feasibility of retaining or recruiting observers on this short timeline, is unknown. If this rule moves forward, NMFS should work with industry to identify the vessels that plan to continue fishing after October 31st as soon as possible to allow the maximum time for WCGOP to plan for and deploy observers.

Assessment of Emergency Rule Criteria⁴

1. Results from recent, unforeseen events or recently discovered circumstances

Historically, the primary tier fishery has succeeded in attaining more than 90 percent of their allocation between April 1 and October 31 (Table 1). Based on public comment at the September 2020 Council meeting, for the first time in almost 20 years, participants forecast not being able to obtain a significant portion of their allocation, and have requested a season extension. Many vessels experienced two- to three-week delays in prosecuting Alaska fisheries due to state and local quarantine restrictions, as well as quarantine requirements on returning to some West Coast communities. These delays hindered prosecution of higher than typical allocations in Alaska fisheries, which then jeopardized the ability of vessels that participated in both to obtain their allocation in the later West Coast primary fishery.

2. Presents serious conservation or management problems in the fishery; and

Notice-and-comment rulemaking is estimated to take a minimum of six months, which is not enough time to implement the changes before the end of the 2020 season. By implementing an emergency action, participants in the primary sablefish fishery may be able to realize their economic potential without causing additional impacts to the physical or biological environment, beyond what was projected during development of the 2021-22 harvest specifications and management measures. If the Council chooses not to recommend an emergency action at this time, it is clear that participants in the primary sablefish fishery could leave about 858 mt of sablefish in the water based on recent harvest rates, which could affect up to 126 jobs (based on recent five-year trends) and a loss of \$2.8 million in ex-vessel revenue. Not providing this opportunity, when

⁴ [62 FR 44421, August 21, 1997](#)

there is no known conservation issue, would result in economic harm to the fishing industry and the communities that rely on the revenue from these fisheries.

3. *Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process.*

The analysis shows that there are immediate benefits with extending the season from October 31 to December 31 for participants in the primary sablefish fishery and the communities that rely on these fisheries. As described above, the ex-vessel revenue with the remaining quota could be ~\$2.8 million, affecting participants in all West Coast states.

Furthermore, given the current season end date in six weeks and the inability for the Council to address the issue in a meaningful way through a routine inseason action, an emergency regulation is the only mechanism to implement changes to the season end date and address this management problem.

PFMC
09/16/20