

performed under, or claims made under, warranties; service reports or similar documents, including electronic transmissions, from dealers or manufacturer's field personnel; and any lists, compilations, analyses, or discussions of such malfunctions contained in internal or external correspondence of the manufacturer, including communications transmitted electronically.

#### **PART 577—DEFECT AND NONCOMPLIANCE NOTIFICATION**

7. The authority citation for part 577 continues to read as follows:

Authority: 49 U.S.C. 30102–30103, 30112, 30115, 30117–30121, 30166–30167; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

##### **§ 577.5 [Amended]**

8. Section 577.5 is amended by removing paragraph (h) and redesignating paragraph (i) as paragraph (h).

Issued on: December 21, 1995.

Ricardo Martinez,

*Administrator.*

[FR Doc. 95–31583 Filed 12–29–95; 10:49 am]

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#### **DEPARTMENT OF COMMERCE**

##### **National Oceanic and Atmospheric Administration**

##### **50 CFR Parts 611 and 663**

[Docket No. 951227306–5306–01; I.D. 121295C]

##### **Foreign Fishing; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures**

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

**ACTION:** 1996 groundfish fishery specifications and management measures; 1996 preliminary fishery specifications for Pacific whiting; receipt of applications for experimental fishing permits; request for comments.

**SUMMARY:** NMFS announces the 1996 fishery specifications and management measures for groundfish taken in the U.S. exclusive economic zone (EEZ) and state waters off the coasts of Washington, Oregon, and California as authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP). The specifications include the level of the acceptable biological catch (ABC) and harvest guidelines including the distribution between domestic and foreign fishing operations. The harvest guidelines are allocated between the limited entry and open access fisheries. The management measures for 1996 are designed to keep landings within the harvest guidelines, for those species for which there are harvest guidelines, and to achieve the goals and objectives of the FMP and its implementing regulations. The intended effect of these actions is to establish allowable harvest levels of Pacific Coast groundfish and to implement management measures designed to achieve but not exceed those harvest levels, while extending fishing and processing opportunities as long as possible during the year.

**DATES:** Effective 0001 hours (local time) January 1, 1996, until the 1997 annual specifications and management measures are effective, unless modified, superseded, or rescinded. The 1997 annual specifications and management measures will be published in the Federal Register. Comments will be accepted until February 5, 1996.

**ADDRESSES:** Comments on these specifications should be sent to Mr. William Stelle, Jr., Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Bldg. 1, Seattle, WA 98115–0070; or Ms. Hilda Diaz-Soltero, Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. Information relevant to these specifications and management measures, including the stock assessment and fishery evaluation (SAFE) report, has been compiled in aggregate form and is available for public review during business hours at the office of the Director, Northwest Region, NMFS (Regional Director), or may be obtained from the Pacific

Fishery Management Council (Council), by writing the Council at 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson (Northwest Region, NMFS) 206–526–6140; or Rodney R. McInnis (Southwest Region, NMFS) 310–980–4040.

**SUPPLEMENTARY INFORMATION:** The FMP requires that fishery specifications for groundfish be evaluated each calendar year, that harvest guidelines or quotas be specified for species or species groups in need of additional protection, and that management measures designed to achieve the harvest guidelines or quotas be published in the Federal Register and made effective by January 1, the beginning of the fishing year. This action announces and makes effective the final 1996 fishery specifications and the management measures designed to achieve them. These specifications and measures were considered by the Council at two meetings and were recommended to NMFS by the Council at its October 1995 meeting.

**I. Final Specifications: ABCs and Harvest Guidelines; Apportionments to Foreign and Joint Venture Fisheries; Open Access and Limited Entry Allocations**

The fishery specifications include ABCs, the designation of harvest guidelines or quotas for species that need individual management, the apportionment of the harvest guidelines or quotas between domestic and foreign fisheries, and allocation between the open access and limited entry segments of the domestic fishery.

The final 1996 specifications for ABCs, harvest guidelines, and limited entry and open access allocations are listed in Table 1, followed by a discussion of each 1996 specification that differs from 1995. The apportionment between foreign and domestic fisheries is explained separately at the end of this section. As in the past, the specifications include fish caught in state ocean waters (0–3 nautical miles (nm) offshore) as well as fish caught in the EEZ (3–200 nm offshore).

TABLE 1.—1996 SPECIFICATIONS OF ACCEPTABLE BIOLOGICAL CATCH (ABC), HARVEST GUIDELINES, AND LIMITED ENTRY AND OPEN ACCESS ALLOCATIONS, BY INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION (INPFC) SUBAREAS

Species	Acceptable biological catch (ABC) (x 1,000 mt)						Harvest guideline (x 1,000 mt)	Allocations (x 1,000 mt)			
	Van-couver <sup>a</sup>	Columbia	Eureka	Monterey	Concep-tion	Total ABC		Limited entry		Open access	
								1000 mt	Percent	1000 mt	Percent
<b>Roundfish:</b>											
Lingcod <sup>b</sup>	1.3		0.3	0.7	0.1	2.4	2.4	1.21	80.9	0.29	19.1
Pacific cod	3.2		(c)	(c)	(c)	3.2					
Pacific whiting <sup>d</sup>			Preliminary 123.0			123.0	98.4				
Sablefish <sup>e,f</sup>			8.7		0.425	9.1	7.8	6.557	93.4	0.463	6.6
Jack mackerel <sup>g</sup>			52.6			52.6	52.6				
<b>Rockfish:</b>											
POP <sup>h</sup>	0.0	0.0	(c)	(c)	(c)	0.0	0.75				
Shortbelly			23.5			23.5	23.5				
Widow <sup>i</sup>			7.7			7.7	6.5	6.26	96.3	0.24	3.7
<b>Thornyheads:</b>											
Shortspine <sup>e,j</sup>			8.0			8.0				0.00	
Longspine <sup>e,j</sup>			1.0			1.0	1.5	1.496	99.75	0.004	0.25
Longspine <sup>e,j</sup>			7.0			7.0	6.0				
<i>Sebastes</i> complex <sup>k</sup>	11.9			13.2		11.9 N	11.2 N	10.12	90.4	1.08	9.6
						13.2 S	13.2 S	8.76	67.4	4.24	32.6
Bocaccio <sup>l</sup>	(G5c)	(c)		1.7		1.7	1.7	1.01	67.4	0.49	32.6
Canary <sup>m</sup>	1.0		0.25	(c)	(c)	1.25	0.85	0.78	91.2	0.07	8.8
Chilipepper	(c)	(c)		4.0		4.0					
Yellowtail <sup>n</sup>	1.19	2.9	2.58	(c)	(c)	6.74	3.59 N	3.25	90.4	0.35	9.6
		7					2.58 S	2.33	90.4	0.25	9.6
Remaining rockfish	0.8	3.7		7.0		11.5					
<b>Flatfish:</b>											
Dover sole <sup>o</sup>	0.82–1.57	3.0	2.9	3.16–4.36	1.0	10.88–12.83	11.05 WOC 2.85 Col				
English sole	2.0			1.1		3.1					
Petrale sole	1.2		0.5	0.8	0.2	2.7					
Arrowtooth flounder			5.8			5.8					
Other flatfish	0.7	3.0	1.7	1.8	0.5	7.7					
Other fish <sup>p</sup>	2.5	7.0	1.2	2.0	2.0	14.7					

<sup>a</sup>U.S. Vancouver only, except for Pacific whiting.  
<sup>b</sup>The lingcod stock assessment covers the entire Vancouver INPFC area, including Canada, and the Columbia subarea north of Cape Falcon. The U.S. ABC is based on 50 percent of the ABC for this assessment area plus 400 mt for the Columbia subarea south of Cape Falcon. The coastwide harvest guideline equals the sum of the ABCs and includes a recreational harvest of 900 mt. The limited entry and open-access percentages are applied only to the commercial portion of the harvest guideline, which is 1,500 mt (the 2,400 mt harvest guideline minus 900 mt for estimated recreational harvest).  
<sup>c</sup>These species are not common nor important in the areas footnoted. Accordingly, for convenience, Pacific cod is included in the "other fish" category for the areas footnoted, and rockfish species are included in the "remaining rockfish" category for the areas footnoted only.  
<sup>d</sup>Whiting specifications are preliminary. The ABC is coastwide, including Canadian waters. The U.S. harvest guideline is preliminarily set at 80 percent of the U.S./Canada ABC. The allocation to Washington coastal treaty tribes will be determined in a separate rulemaking. The 40 percent reserve for shore-based processing will be based on the commercial portion of the harvest guideline (the U.S. harvest guideline minus the tribal allocation).  
<sup>e</sup>Dover sole, thornyheads, and trawl-caught sablefish are managed together as the "DTS complex" (formerly called the deepwater complex). There is no harvest guideline for the DTS complex.  
<sup>f</sup>The 7,800 mt sablefish harvest guideline is the 8,700 mt ABC north of the Conception subarea (north of 36° N. latitude) reduced by 900 mt for estimated discards. The 7,800-mt harvest guideline is reduced by 780 mt for the treaty tribes before dividing the remaining 7,020 mt between the limited entry (6,557 mt) and open-access (463 mt) fisheries. The limited entry allocation is further allocated 58 percent (3,803 mt) to the trawl fishery, and 42 percent (2,754 mt) to the nontrawl fishery, both of which are harvest guidelines.  
<sup>g</sup>Only jack mackerel north of 39°00' N. latitude are managed by the FMP. The ABC and harvest guideline include area beyond 200 nm.  
<sup>h</sup>The POP harvest guideline for landed catch applies to the Vancouver/Columbia subareas combined.  
<sup>i</sup>The 6,500 mt harvest guideline for widow rockfish is derived by subtracting 16 percent for estimated discards (1,200 mt) from the ABC (7,700 mt).  
<sup>j</sup>The thornyhead ABCs and harvest guidelines apply north of Point Conception, CA. The harvest guideline represents landed catch. Limited entry and open-access allocations are set for the first time for shortspine thornyheads because open-access harvest has exceeded traditional levels during the 1984–1988 window period.  
<sup>k</sup>The *Sebastes*-North harvest guideline (11,200 mt) applies to the Vancouver and Columbia subareas and equals the sum of the ABCs as follows: canary (1,000 mt), yellowtail rockfish (6,740 mt coastwide minus 300 mt for the Eureka subarea), and remaining rockfish (4,500 mt), minus 720 mt for estimated discards (150 mt for canary rockfish and 570 mt for yellowtail rockfish north of Cape Lookout). Within the *Sebastes*-North harvest guideline are two small harvest guidelines for commercial harvest of black rockfish by the Makah, Quileute, Hoh, and Quinalt Indian tribes: 20,000 pounds (9,072 kg) for the EEZ north of Cape Alava (48°09'30" N. latitude) and 10,000 pounds (4,536 kg) between Destruction Island (47°40'00" N. latitude) and Leadbetter Point 46°38'10" N. latitude). The *Sebastes*-South harvest guideline is the sum of the ABCs for the species in the Eureka/Monterey/Conception subareas: bocaccio (1,700 mt), canary (250 mt), chilipepper (4,000 mt), yellowtail rockfish (300 mt), and remaining rockfish (7,000 mt).  
<sup>l</sup>The bocaccio harvest guideline applies to the Eureka, Monterey, and Conception subareas; as trip-limit induced discards are believed to be minimal, there is no deduction for discards. The open-access and limited entry allocation percentages for bocaccio are applied only to the commercial portion of the harvest guideline, which is 1,500 mt in 1995 (1,700 mt harvest guideline minus 200 mt estimated recreational harvest).  
<sup>m</sup>The canary rockfish harvest guideline for the Vancouver/Columbia area is the sum of the ABCs minus 150 mt for estimated discards.  
<sup>n</sup>The 1993 yellowtail rockfish assessment addressed three separate areas: U.S. Vancouver; Columbia north of Cape Falcon; and Columbia south of Cape Falcon plus Eureka. For this table, the 2,970 mt Columbia ABC is for north Columbia only, and the Eureka ABC is for the Eureka subarea plus south Columbia. The total ABC for yellowtail rockfish is divided into two harvest guidelines: 3,600 mt for the northern area (4,160 mt for Vancouver plus Columbia north of Cape Lookout, close to Cape Falcon minus 570 mt for discards) and 2,580 mt for the southern area (Eureka plus Columbia area south of Cape Lookout). The harvest guidelines for the *Sebastes* complex apply to different areas, north and south of the Columbia/Eureka border at 43°00'00" N. latitude. For calculating the *Sebastes* complex harvest guidelines, 300 mt of yellowtail rockfish is estimated for the Eureka subarea. Therefore, 300 mt of the yellowtail rockfish southern harvest guideline is included in the southern *Sebastes* complex harvest guideline, and the remainder of the yellowtail rockfish southern harvest guideline is included in the northern *Sebastes* complex harvest guideline.)  
<sup>o</sup>The 11,050 mt coastwide harvest guideline for Dover sole (the upper end of the ABC range for the Vancouver subarea and the lower end of the ABC for the Monterey subarea (which are the recent average catches in those two subareas), plus the ABCs for the Columbia, Eureka and Conception subareas, minus 580 mt for estimated discards. The coastwide harvest guideline includes a 2,850 mt harvest guideline for the Columbia subarea (3,000 mt ABC minus 150 mt estimated discards).  
<sup>p</sup>Includes sharks, skates, rays, ratfish, morids, grenadiers, and other groundfish species noted above in footnote c.

### *Changes to the ABCs and Harvest Guidelines*

The ABCs represent the total catch—amounts that are discarded as well as retained. Information considered in determining the ABCs is available from the Council and was made available to the public, before the Council's October 1995 meeting, in the Council's SAFE document (see **ADDRESSES**). The 1996 final ABCs are changed from the 1995 ABCs only for Dover sole, as explained below. The preliminary whiting ABC for 1996 also differs from the 1995 ABC. These changes are based on the best available scientific information. Changes that result only from rounding are not explained.

Those species or species groups managed with harvest guidelines in 1995 will continue to be managed with harvest guidelines in 1996. As in 1995, no quotas are established. The 1996 harvest guidelines differ from those in 1995 for: Pacific ocean perch (POP), the *Sebastes* complex in the Vancouver/Columbia subareas (north of 43°00' N. lat.), yellowtail rockfish north of Cape Lookout (45°20'15" N. lat.), and Dover sole coastwide. The preliminary harvest guideline for Pacific whiting (whiting) in 1996 also differs from the 1995 harvest guideline. Where information is available, a discard factor is subtracted from the ABC to determine the harvest guideline. Therefore, except for whiting, the 1996 harvest guidelines represent only that portion of the catch that is landed.

The changes to the ABCs and harvest guidelines are described briefly below. All other ABC and annual harvest guideline specifications announced for 1995 (Table 1 at 60 FR 2331, January 9, 1995) will apply again in 1996 and are included in Table 1. More detailed information appears in the Council's SAFE document (September 1995), the "Final Groundfish Management Team Acceptable Biological Catch and Harvest Guideline Recommendations for 1996" (GMT Report C.1.) from the October 1995 Council meeting, and the Council's newsletters for its August and October 1995 meetings (see **ADDRESSES**).

#### *POP*

Since 1981, POP has been managed under a schedule intended to rebuild POP to a level that would annually support removals of 1,000 metric tons (mt). Landings were higher than this as recently as 1993. To achieve an annual harvest of about 1,000 mt while maintaining a biologically sound harvest rate, the current biomass would have to double. This would be a slow process unless there is a fortuitous

sequence of large recruitments. The harvest guideline for POP is meant to accommodate only small, incidental catches and, therefore, is not a target to be achieved deliberately. Trip limits for POP will not be increased to achieve the harvest guideline, and may be reduced if landings are too high. The harvest guideline for POP is reduced from 1,300 mt in 1995 to 750 mt in 1996, close to the projected landings in 1995.

#### *Yellowtail Rockfish—North*

The 1996 harvest guideline for yellowtail rockfish north of Cape Lookout is reduced by 570 mt, from 4,160 mt in 1995 to 3,590 mt in 1996, to account for trip-limit induced discards in that area. The harvest guideline in 1996 represents landings rather than total catch. Before 1996, the harvest guideline represented total catch, and estimates of discards were added to landings during the season.

#### *Sebastes Complex—North*

The harvest guideline for the *Sebastes* complex in the Vancouver and Columbia subareas, which consists of the sum of the ABCs of the different species that make up the complex minus estimated discards, is reduced by 570 mt, from 11,800 mt in 1995 to 11,200 mt in 1996 (rounded to the nearest hundred mt). This amount represents the difference after subtracting the estimate of discards for yellowtail rockfish.

As in 1995, the 1996 ABCs and harvest guidelines for the *Sebastes* complex and yellowtail rockfish apply to different areas due to differences in stock assessment areas. The ABCs and harvest guidelines for the *Sebastes* complex apply north and south of 43°00'00" N. lat. (the Columbia/Eureka subarea boundary). The yellowtail rockfish ABCs in the Columbia area are divided at Cape Falcon (45°46'00" N. lat.), which is the boundary used in the stock assessment, and the harvest guidelines are divided at Cape Lookout (45°20'15" N. lat.), about 26 nm to the south, for management purposes.

#### *Dover Sole*

New stock assessments were conducted for Dover sole in the Vancouver and Monterey subareas. However, uncertainty in the stock assessments and the surveys on which they are based prompted the Council to recommend ranges of ABCs for these two subareas in 1996. In the Vancouver subarea, the lower end of the ABC range (820 mt) is the ABC recommended in the recent stock assessment, and the upper end (1,570 mt) is based on the 1990–94 average landings. In the

Monterey subarea, the lower end of the ABC range (3,160 mt) is based on the 1990–94 average landings and the upper end (4,360 mt) is the level proposed in the recent stock assessment. The 1996 coastwide ABC is the sum of the area ABCs, which ranges from 10,880 mt to 12,830 mt.

The 1996 coastwide harvest guideline for Dover sole is based on the recent average catch in the Vancouver and Monterey subareas (the upper end of the Vancouver ABC range and the lower end of the Monterey ABC range), plus the ABCs for the Columbia, Eureka, and Conception subareas, which are the same as in 1995. The total is then reduced by 5 percent (580 mt) for expected discards. The 1996 coastwide harvest guideline is 11,050 mt, which is reduced from 13,600 mt in 1995. The harvest guideline for Dover sole in the Columbia subarea is the same as in 1995.

#### *Whiting—Preliminary*

In order to consider the results of a new stock assessment, the Council has recommended only the preliminary whiting ABC and harvest guideline at this time, and will recommend the final ABC and harvest guideline in March 1996.

In 1994, the ABC for whiting was substantially higher than in previous years, primarily because it was based on data from the 1992 hydroacoustic survey that utilized new, more sensitive equipment, and extended farther offshore and farther north to encompass the species' range. To provide for cautious exploitation until the 1992 survey results could be confirmed, a conservative harvest rate policy was adopted in 1994 and 1995 to minimize the risk to the resource if the ABC were later found to be too high. The most recent stock assessment, prepared in 1995, supported resumption of the moderate exploitation rate, and the Council recommended a preliminary 1996 whiting ABC (for the U.S. and Canada combined) of 123,000 mt, assuming large recruitment from the 1994 year class. This continues the decline in ABC from 325,000 mt in 1994 and 223,000 mt in 1995, as the strong 1980 and 1984 year classes become less abundant. As in recent years, the preliminary U.S. harvest guideline is 80 percent of the U.S.-Canada ABC (98,400 mt). An update to the 1995 stock assessment based on the results of the summer/fall 1995 hydroacoustic survey is expected to be completed early in 1996. The Council will review the results of the new stock assessment at its March 1996 meeting and will recommend the final ABC and harvest

guideline at that time. The final ABC may be higher or lower than the preliminary ABC.

The recent overages have not caused a biological problem, particularly given the large increase in the ABC in 1994 and use of a conservative exploitation rate in 1994 and 1995. Even though the preliminary ABC and harvest guideline return to a higher, moderate exploitation rate, the total harvest in 1996 is expected to be lower than the overfishing level. Bilateral discussions with Canada are expected to continue.

The regulations at 50 CFR 663.23(b)(4) set aside 40 percent of the U.S. harvest guideline in 1994-96 for priority use by vessels delivering whiting to shoreside processors. The amount available for this shoreside reserve in 1996 depends on the level of the final U.S. harvest guideline and the amount set aside for tribal fisheries, which are not yet determined.

#### *Setting Harvest Guidelines Greater Than ABC*

In most cases, harvest guidelines are less than or equal to the ABCs, or prorated ABCs, for specific areas. However, for 1996 as in 1995, the Council recommended harvest guidelines that exceed the ABCs for two species, POP and shortspine thornyheads. The FMP requires that the Council consider certain factors when setting a harvest guideline above an ABC. These factors were analyzed by the Council's groundfish management team (GMT) and considered at the Council's October 1995 meeting before the Council recommended the 1996 harvest guidelines. These factors also were considered when establishing the 20-year rebuilding schedule for POP in the 1981 FMP, in the most recent stock assessments for POP (in the September 1995 SAFE document) and shortspine thornyheads (in the October 1994 SAFE document), and in the GMT's recommendations for 1996 (GMT Report C.1., October 1995).

#### *Overfishing*

The FMP defines "overfishing" as a fishing mortality rate that would, in the long term, reduce the spawning biomass per recruit below 20 percent of what it would have been if the stock had never been exploited (unless the species is above the level that would produce maximum sustainable yield (MSY)). The rate is defined in terms of the percentage of the stock removed per year.

Therefore, high catch rates can cause overfishing at any stock abundance level. Conversely, overfishing does not necessarily occur for stocks at low

abundance levels if the catch can be kept to a sufficiently small fraction of that stock level. The target rate of exploitation for Pacific Coast groundfish typically is the rate that would reduce spawning biomass per recruit to 35 percent of its unfished level. This desired rate of fishing will always be less than the overfishing rate, so there is a buffer between the management target and the level that could harm the stock's long-term potential productivity. If the overfishing level is reached, the Guidelines for Fishery Management Plans at 50 CFR part 602 require the Council to identify actions to be undertaken to alleviate overfishing.

None of the ABCs for 1996 reaches or exceeds the level of overfishing. However, for those species whose harvest guidelines exceed ABC (POP and shortspine thornyheads), the harvest guideline approaches the overfishing level. In addition, the overfishing level for POP and shortspine thornyheads was projected to be reached in 1995. Landings of POP were projected at 857 mt in 1995, very close to the 852 mt overfishing level for landed catch. Landings of shortspine thornyheads were projected at about 1,800 mt through November 1995, but total catch may have exceeded the 1,757 mt overfishing level (for total catch) by as much as 170 mt (10 percent), depending on assumptions made about the level of trip-limit induced discards. Further discussion appears in the GMT Supplemental Report C.1. (October 1995). Overfishing in 1996 will be avoided by establishment or reduction of harvest guidelines and by more restrictive management of the fisheries for these species.

#### *Discards*

In 1996, the ABCs represent total catch, and the harvest guidelines, except for whiting, represent only that portion of the catch that is landed. Stock assessments and inseason catch monitoring are designed to account for all fishing mortality, including that resulting from fish discarded at sea. Discards of rockfish and sablefish in the fishery for whiting are well monitored and are accounted for inseason as they occur. In the other fisheries, discards caused by trip limits have not been monitored, so discard factors have been developed to account for this extra catch. A level previously measured for widow rockfish (about 16 percent of the total catch) in a scientific study is assumed to be appropriate for the commercial fisheries for widow rockfish, yellowtail rockfish (in the northern area), canary rockfish, and POP. A discard level of 8 percent is

used for the deepwater thornyhead fishery, 5 percent for Dover sole, and 20 percent for sablefish. The discard factors are typically applied by setting the harvest guideline for landed catch at a level that is equal to the ABC minus expected discard. More detailed information is found in the Council's SAFE document.

#### *Foreign and Joint Venture Fisheries*

For those species needing individual management that will not be fully utilized by domestic processors or harvesters, and that can be caught without severely affecting species that are fully utilized by domestic processors or harvesters, foreign or joint venture operations may occur. A joint venture occurs when U.S. vessels deliver their catch to foreign processing vessels in the EEZ. The harvest guidelines or quotas for these species may be apportioned to domestic annual harvest (DAH, which includes domestic annual processing (DAP) and joint venture processing (JVP)) and to the total allowable level of foreign fishing (TALFF). In January 1996, no surplus groundfish are available for joint venture or foreign fishing operations. Consequently, all the harvest guidelines in 1996 are designated entirely for DAP (which also equals DAH), and JVP and TALFF are set at zero.

In the unlikely event that fish are reallocated inseason and a foreign or joint venture fishery should occur, the incidental catch levels would be as follows: For a whiting fishery, the same as announced at Table 2, footnote 1 of 58 FR 2990 (January 7, 1993); for a jack mackerel joint venture, initially the same as those suggested in section 12.5.2 of the FMP but subject to change during the year.

#### *II. The Limited Entry Program*

Amendment 6 to the FMP established a limited entry program that, on January 1, 1994, divided the commercial groundfish fishery into two components, the limited entry fishery and the open access fishery, each of which has its own allocations and management measures. The limited entry and open access allocations are calculated according to a formula specified at section II.E. of the appendix to 50 CFR part 663, which takes into account the relative amounts of a species taken by each component of the fishery during the 1984-88 limited entry window period. At its October 1995 meeting, the Council recommended the species and areas subject to open access and limited entry allocations in 1996, and the Regional Director calculated the amounts of the allocations that are

presented in Table 1. Unless otherwise specified, the limited entry and open access allocations are treated as harvest guidelines in 1996.

#### *Open Access Allocations*

The open access fishery is composed of vessels using (1) exempt gear, or (2) longline or pot (trap) gear used pursuant to the harvest guidelines, quotas, and other management measures governing the open access fishery. Exempt gear means all types of legal groundfish fishing gear except groundfish trawl, longline, and pots. (Exempt gear includes trawls used to harvest pink shrimp or spot or ridgeback prawns (shrimp trawls), and, south of Point Arena, CA (38°57'30" N. lat.), California halibut or sea cucumbers.)

The open access allocation is derived by applying the open access allocation percentage to the annual harvest guideline or quota after subtracting any set-asides for recreational fishing or treaty Indians (see sections II.E.(b) and (c) of the Appendix to 50 CFR part 663). For those species in which the open access share would have been less than 1 percent, no open access allocation is specified unless significant open access effort is anticipated. At the time the calculations were made, the status of some vessels (whether they would receive a limited entry permit) was not certain. These amounts are minor and would not affect the level of trip limits for the limited entry or open access fisheries.

At its October 1995 meeting, the Council learned that the harvest of shortspine thornyheads in 1995 had increased from the level of harvest during the 1984–88 limited entry window period. More than 150 mt of shortspine thornyheads were landed in California alone in 1995, whereas the coastwide harvest by open access gear during the 1984–88 window period was less than one percent (15 mt) of the harvest guideline. Consequently, the Council recommended that an open access allocation for shortspine thornyheads be set in 1996 and that management measures be implemented to keep landings within that harvest guideline. The open access allocation percentage for shortspine thornyheads subsequently was determined to be 0.25 percent of the harvest guideline, which is 4 mt in 1996.

#### *Limited Entry Allocations*

The limited entry fishery means the fishery composed of vessels using limited entry gear fished pursuant to the harvest guidelines, quotas, and other management measures governing the limited entry fishery. Limited entry gear

means longline, pot, or groundfish trawl gear used under the authority of a valid limited entry permit, issued under 50 CFR part 663, affixed with an endorsement for that gear. (Groundfish trawl gear excludes shrimp trawls used to harvest pink shrimp, spot prawns, or ridgeback prawns, and other trawls used to fish for California halibut or sea cucumbers south of Point Arena, CA.)

The limited entry allocation is the allowable catch (harvest guideline or quota) reduced by: (1) Set-asides, if any, for treaty Indian fisheries or recreational fisheries; and (2) the open access allocation.

#### *Recreational Harvest*

Before calculating limited entry and open access allocations, estimates of recreational fishing currently are subtracted for two species, 200 mt for bocaccio (which also is reflected in the allocations for the *Sebastes* complex in the Eureka, Monterey, and Conception subareas), and 900 mt for lingcod.

#### *Washington Coastal Tribal Fisheries*

The treaty Indian fisheries will be managed by the tribes. The treaty Indian fisheries for sablefish and whiting are not governed by the limited entry or open access regulations or allocations.

#### *Sablefish*

From 1991 through 1994, the Washington Coastal Treaty Tribes conducted a tribal sablefish fishery of 300 mt that was recognized in these annual management measures. In 1994, the U.S. Government formally recognized the treaty right to fish for groundfish of the four Washington Coastal Treaty Tribes (the Makah, Hoh, Quileute, and Quinault) and concluded that, in general terms, the quantification of the right is 50 percent of the harvestable surplus of groundfish available in the tribes' usual and accustomed fishing areas (marine waters under U.S. jurisdiction north of 46°53'18" N. lat. and east of 125°44'00" W. long.). For 1996 as in 1995, the tribes' treaty right to sablefish is 10 percent of the sablefish harvest guideline, or 780 mt in 1996.

#### *Whiting*

The Washington Coastal Treaty Tribes have requested that whiting be set aside for tribal fishing in 1996. The amount of the tribal allocation for 1996 has not yet been determined, and will be announced in a separate rulemaking that will provide a procedure for implementing tribal treaty rights for groundfish.

#### *Rockfish*

The tribes continue to have a small harvest guideline, the same as in 1995, for black rockfish off Washington State, to which the non-tribal trip limits do not apply (50 CFR 663.23(b)). For other rockfish, the open access trip limits will apply for fixed gear. The limited entry trip limits will apply for trawl-caught rockfish, and this will be implemented with a separate rule governing tribal groundfish.

#### III. 1996 Management Measures

Projections of landings in 1995 are based on the information available to the Council at its October 1995 meeting (GMT Supplemental Report C.3.a., October 1995).

#### *A. Limited Entry Fishery*

The following management measures apply to vessels operating in the limited entry fishery after January 1, 1996, and are designed to keep landings within the harvest guidelines or limited entry allocations. Cumulative trip limits continue to be used for most of the limited entry fishery, which allows fishers to accumulate fish over a period of time without limit on the number of landings. However, in response to the industry's concerns about discards and the difficulty of accurately weighing small amounts of fish at sea to assure compliance with trip limits, 2-month rather than 1-month cumulative limits will be used for the limited entry fishery in 1996. However, no more than 60 percent of the 2-month limit may be taken in either calendar month, resulting in a variable monthly trip limit within the 2-month limit. This enables the limited entry fleet to maintain its current monthly fishing pattern, target on 50 percent of the 2-month cumulative limit in a month, and have the protection of a buffer equivalent to 10 percent of the 2-month cumulative limit to account for inaccuracies in weighing fish at sea or for small amounts caught above the target level. The 2-month periods are: January-February, March-April, May-June, July-August, September-October, November-December.

#### *Widow rockfish*

In 1995, the cumulative trip limit for widow rockfish continued at 30,000 lb (13,608 kg) per month until July 14, when it was increased to 45,000 lb (20,412 kg) per month. Landings are projected to exceed the 6,500-mt harvest guideline by about 1 percent in 1995. In 1996, a 2-month cumulative limit of 70,000 lb (31,752 kg) will be implemented, which is intended to

reduce the need for abrupt adjustment during the year.

*The Sebastes complex (including yellowtail rockfish, canary rockfish, and bocaccio).* In 1995, three different cumulative monthly trip limits were set for the *Sebastes* complex, which continued throughout the year: 35,000 lb (15,876 kg) north of Cape Lookout, 50,000 lb (22,680 kg) between Cape Lookout and Cape Mendocino, and 100,000 lb (45,359 kg) south of Cape Mendocino. The monthly cumulative trip limit for yellowtail rockfish was 18,000 lb (8,165 kg) north of Cape Lookout and 30,000 lb (13,608 kg) between Cape Lookout and Cape Mendocino until May 1, when it was increased to 18,000 lb (8,165 kg) north of Cape Lookout and 40,000 lb (18,144 kg) between Cape Lookout and Cape Mendocino. The cumulative monthly trip limit for canary rockfish was 6,000 lb (2,722 kg) coastwide until August 1, when it was increased to 9,000 lb (4,082 kg). By the end of 1995, landings are projected as follows: *Sebastes* complex in the Vancouver/Columbia subarea—6,825 mt (30 percent below the harvest guideline); yellowtail rockfish north of Cape Lookout—3,416 mt (5 percent over the harvest guideline); yellowtail rockfish south of Cape Lookout—1,489 mt (27 percent below the harvest guideline); canary rockfish—627 mt (26 percent below the harvest guideline); and bocaccio—741 mt (39 percent below the harvest guideline).

In January 1996, the 2-month cumulative trip limits for the *Sebastes* complex will be: 70,000 lb (31,752 kg) north of Cape Lookout, 100,000 lb (45,359 kg) between Cape Lookout and Cape Mendocino, and 200,000 lb (90,719 kg) south of Cape Mendocino. Two-month cumulative limits also apply to yellowtail rockfish, canary rockfish and bocaccio, which also count toward the limits for the *Sebastes* complex. These 2-month cumulative limits are: Yellowtail rockfish—32,000 lb (14,515 kg) north of Cape Lookout or 70,000 lb (31,752 kg) between Cape Lookout and Cape Mendocino; canary rockfish—18,000 lb (8,165 kg); bocaccio south of Cape Mendocino—60,000 lb (27,216 kg).

The declaration procedures implemented by the States of Washington and Oregon for vessels operating north and south of Cape Lookout remain in effect for the *Sebastes* complex and yellowtail rockfish. The declarations enable a vessel to operate both north and south of Cape Lookout during the trip limit period, and to take and retain the more liberal, southern limits of the *Sebastes* complex and yellowtail rockfish, but

only if the appropriate state is notified, as required by state law. In 1996, the trip limit period is changed to 2 months for most limited entry fisheries, and remains at 1 month for most open access fisheries.

#### POP

In 1995, the cumulative trip limit for POP of 6,000 lb (2,722 kg) per month continued throughout the year. Landings were projected to be 785 mt at the end of 1995, 36 percent below the harvest guideline. The 1996 harvest guideline was reduced close to the level of 1995 landings, and the cumulative trip limit is changed to 10,000 lb (4,536 kg) per 2-month period. POP is managed to achieve a rebuilding schedule, so trip limits will not be increased to achieve the harvest guideline.

#### Sablefish

The sablefish harvest guideline is subdivided among several fisheries. The tribal fishery allocation is set aside prior to dividing the balance of the harvest guideline between the commercial limited entry and open access fisheries. These three fisheries are managed differently. The limited entry allocation is further subdivided into trawl (58 percent) and nontrawl (42 percent) allocations. Trawl-caught sablefish are managed together with Dover sole and thornyheads as the DTS complex because they often are caught together. Landings of sablefish are expected to be close to the 7,800 mt harvest guideline in 1995.

*DTS complex (Dover sole, thornyheads, and trawl-caught sablefish).* In 1995, the two cumulative monthly trip limits for the DTS complex remained in effect until December 1: 35,000 lb (15,876 kg) north of Cape Mendocino and 50,000 lb (22,680 kg) south of Cape Mendocino. This differential trip limit was intended to provide additional protection for shortspine thornyheads, the most valuable and least abundant species in the DTS complex, while encouraging the harvest of Dover sole in more southern areas. In 1996, the trip limit will be doubled to accommodate the 2-month periods: 70,000 lb (31,752 kg) north of Cape Mendocino, and 100,000 lb (45,359 kg) south of Cape Mendocino.

Further protection for shortspine thornyheads was provided by managing the two thornyhead species separately in 1995. On January 1, a cumulative trip limit was set for shortspine and longspine thornyheads combined of 20,000 lb (9,072 kg) per month, containing no more than 4,000 lb (1,814 kg) of shortspine thornyheads. On April 1, the monthly cumulative limit was

reduced to 15,000 lb (6,804 kg) of thornyheads, containing no more than 3,000 lb (1,361 kg) of shortspine thornyheads. On September 1, the cumulative monthly limit was reduced further to 8,000 lb (3,629 kg) of thornyheads, of which no more than 1,500 lb (680 kg) could be shortspines. Even so, landings of shortspine thornyheads reached the harvest guideline on September 20, and are projected to exceed the overfishing level by as much as 170 mt, even with the fishery closure in December. Landings of longspine thornyheads are projected to be about 5,800 mt in 1995, 200 mt below its harvest guideline. Landings of both thornyhead species were prohibited on December 1, since the two species often are caught together. In January 1996, the trip limits for thornyheads are half the amount of limits in effect at the beginning of 1995: 20,000 lb (9,072 kg) of thornyheads in a 2-month period, of which no more than 4,000 lb (1,814 kg) may be shortspine thornyheads.

The monthly cumulative trip limit for trawl-caught sablefish remained at 6,000 lb (2,722 kg) cumulative per month from July 1994 until it was raised to 7,000 lb (3,175 kg) on May 1, 1995. The "per trip" limit for sablefish smaller than 22 inches (56 cm) remained at 500 lb (227 kg). Landings of trawl-caught sablefish were projected to exceed the limited entry trawl allocation by the end of 1995. Therefore, to keep landings within the trawl allocation, and because shortspine thornyheads often are caught with sablefish, the trawl fishery for sablefish also was closed on December 1. In 1995, landings are projected to be very close to the limited entry trawl allocation of 3,803 mt. In 1996, the cumulative trip limit is doubled to 12,000 lb (5,443 kg) to accommodate the new, 2-month cumulative trip limit period. The 500-lb (227-kg) per-trip limit for sablefish smaller than 22 inches (56 cm) remains in effect.

Dover sole were managed somewhat indirectly in 1995, as in previous years. Until December 1, the amount of the DTS limit that was not comprised of thornyheads or trawl-caught sablefish could be Dover sole. A "per trip" limit of 3,000 lb (1,361 kg) was implemented on December 1, concurrent with the closure of the limited entry and open access fisheries for thornyheads and trawl-caught sablefish, to accommodate bycatch in the petrale sole fishery. Landings of Dover sole are expected to be far below its harvest guidelines in 1995 (projected at 42 percent below the coastwide harvest guideline and 30 percent below the Columbia subarea harvest guideline, even before the

reduction to 3,000 lb (1,361 kg) cumulative in December 1995). These "underages" were not addressed by increasing the trip limits in 1995 because of the close association of Dover sole, sablefish, and thornyheads, and new information supporting more cautious management of Dover sole. In 1996, Dover sole will be managed the same as in 1995; the trip limit will be the amount of the DTS limit remaining after subtracting landings of sablefish and thornyheads.

#### *Nontrawl sablefish*

Small daily trip limits were applied to the nontrawl fishery again in 1995 before and after the August 6–13, 1995, "regular" and September 1–31, 1995, "mop-up" seasons. A 300-lb (136-kg) daily trip limit was applied only north of the Conception subarea (36°00'00" N. lat.), the same area covered by the harvest guideline. In the Conception area, where there is no harvest guideline and landings had been below the 425-mt ABC, the daily trip limit was 350 lb (159 kg) to accommodate most landings without encouraging excessive effort shifts into that area. The trip limit for sablefish smaller than 22 inches (56 cm) of 1,500 lb (680 kg) or 3 percent of all legal sablefish on board, whichever is greater, remained in effect during the regular and mop-up seasons. In 1995, the regular (derby) season was preceded by a 72-hour closure for all limited entry and open access fixed gear used to take and retain groundfish, with one exception. Pot gear could be set 24 hours before the regular season because this gear takes longer to deploy. Landings in 1995 are expected to be just below the limited entry nontrawl allocation for sablefish of 2,754 mt.

In 1996, the same daily trip limits for the limited entry fishery will apply outside the regular and mop-up seasons and any closure. The "per trip" limit for nontrawl sablefish smaller than 22 inches (56 cm) will remain in effect during the regular and mop-up fisheries, but, for ease of calculation, the percentage is modified to apply only to legal sablefish 22 inches (56 cm) or larger (total length). The Council recommended that the date of the regular season be changed to September 1 in 1996. This change has not yet been approved by NMFS. The Council also is considering different management strategies for 1997 and beyond, but has not yet submitted a recommendation to NMFS.

#### *Whiting*

Approximately 176,600 mt of whiting was harvested in 1995, 74,000 mt by the shore-based fleet and 102,600 mt by the

at-sea processing sector (which includes deliveries to motherships). The 10,000-lb (4,536-kg) trip limit for whiting taken before and after the regular whiting season and inside the 100-fathom (183-m) contour in the Eureka subarea (40°30'00"-43°00'00" N. lat.) continues in effect in 1996. Additional regulations, including the allocation of whiting to vessels that deliver shoreside and those that deliver at-sea, are found at 50 CFR 663.23(b) (3) and (4). The Council has recommended that the start of the regular season north of 42° N. lat. be changed from April 15 to May 15, but this recommendation has not yet been approved by NMFS.

#### *Lingcod*

Throughout 1995, lingcod was managed under a monthly cumulative trip limit of 20,000 lb (9,072 kg). Lingcod smaller than 22 inches (56 cm) could not be landed in the commercial or recreational fisheries until August 1, 1995, when a 100-lb (45-kg) per trip exception was made for trawl-caught lingcod. Landings of lingcod are projected at 1,431 mt in 1995, 3 percent below the harvest guideline. To maintain similar landing rates in 1996, the cumulative limit is doubled to 40,000 lb (18,144 kg) per 2-month period.

#### *Black Rockfish*

Black rockfish off the State of Washington continue to be managed under the regulations at 50 CFR 663.23(b). The State of Oregon implements trip limits for black rockfish off the Oregon coast. The Council has considered trip limits off Oregon but has not yet submitted its recommendation to NMFS for review.

#### *B. Open Access Fishery*

The trip limits for the open access fishery are designed to keep landings within the open access allocation, while allowing the fisheries to operate for as long as possible during the year. The overall open access limits for rockfish, sablefish and "all groundfish" in 1996 are the same as in 1995 with several exceptions, explained below.

(1) As in 1995, any more restrictive limits imposed on limited entry vessels also apply to open access vessels. However, in 1996, a vessel operating in the open access fishery may not, in any calendar month, exceed 50 percent of any 2-month cumulative trip limit in the limited entry fishery. This is intended to maintain a relatively consistent pattern of landings and to discourage new entry into the open access fishery.

(2) A daily trip limit is added for thornyheads to keep landings within the

new open access allocation (4 mt in 1996). Landings of shortspine thornyheads by open access vessels are estimated at over 150 mt in 1995, much higher than landings during the 1984–88 window period. The best available information at the October 1995 Council meeting indicated that a trip limit of 50 lb (23 kg) per day would accommodate most open access trips, but still may be too liberal to keep landings within the open access allocation in 1996. After the Council made its recommendation, some members of the industry stated that 50 lb (23 kg) per day was too low to sustain current fisheries south of Point Conception CA (34°27' N. lat.). Historical landings by open access vessels were less than 1 percent coastwide during the window period, so they were even smaller south of Pt. Conception, suggesting this is new effort in the area which the FMP seeks to discourage. Nonetheless, the Council may reconsider this issue in the future.

(3) The open access trip limits in 1995 applied to all shrimp and prawn gear. In 1996, they will apply only to shrimp/prawn trawl gear because the open access trip limits for pots already accommodate shrimp gear that conforms with the Federal requirements for groundfish pots: To have biodegradable escape panels constructed with #21 or smaller untreated cotton twine in such a manner that an opening at least 8 inches (20.5 cm) in diameter results when the twine deteriorates (50 CFR 663.22(e)).

#### *C. Operating in Both Limited Entry and Open Access Fisheries*

Vessels using open access gear are subject to the management measures for the open access fishery, whether or not the vessel has a valid limited entry permit endorsed for any other gear. In addition, a vessel operating in the open access fishery must not exceed any trip limit, frequency limit, and/or size limit for the same gear and/or subarea in the limited entry fishery (as announced in this Federal Register document in paragraphs titled "limited entry"). A vessel that operates in both the open access and limited entry fisheries is not entitled to two separate trip limits for the same species. Fish caught with open access gear will also be counted toward the limited entry trip limit. For example: In one month, a trawl vessel catches 6,000 lb (2,722 kg) of sablefish in the limited entry fishery, and in the same month catches 1,500 lb (680 kg) of sablefish with shrimp trawl (open access) gear, for a total of 7,500 lb (3,402 kg) of sablefish. Because the open access landings are counted toward the limited entry limit, the vessel would have

exceeded its limited entry, cumulative limit of 7,200 lb (3,266 kg) (60 percent of the 12,000-lb (5,443-kg) 2-month cumulative limit for the limited entry fishery).

#### D. Operating in Areas with Different Trip Limits

Trip limits may differ for a species or species complex at different locations on the coast. Unless otherwise stated (as for yellowtail rockfish, black rockfish, and the *Sebastes complex*), the same cross-over provisions utilized in 1995 will apply.

#### E. Changes to Trip Limits; Closures

Unless otherwise stated, a vessel must have initiated offloading its catch before the fishery is closed or before a more restrictive trip limit becomes effective. As in the past, all fish on board the vessel when offloading begins are counted toward the landing limits (See 50 CFR 663.2, the definition of "landing").

#### F. Designated Species B Permits

Designated species B permits may be issued if the limited entry fleet will not fully utilize the harvest guideline for Pacific whiting, shortbelly rockfish, or jack mackerel. However, the limited entry fleet has requested the full use of these species in 1996, so issuance of designated species B permits is not expected. If designated species B permits for jack mackerel are issued, the bycatch limits announced in the 1995 annual management measures (60 FR 2331, January 9, 1995) may be used or modified.

#### G. Recreational Fishing

Bag limits in the 1996 recreational fishery remain the same as in 1995.

### IV. NMFS Actions

For the reasons stated above, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), concurs with the Council's recommendations and announces the following management actions for 1996, including those that are the same as in 1995.

#### A. General Definitions and Provisions

The following definitions and provisions apply to the 1996 management measures, unless otherwise specified in a subsequent notice:

(1) *Trip limits*. Trip limits are used in the commercial fishery to specify the amount of fish that may legally be taken and retained, possessed, or landed, per vessel, per fishing trip, or cumulatively per unit of time, or the number of landings that may be made from a vessel

in a given period of time, as explained below.

(a) *A trip limit* is the total allowable amount of a groundfish species or species complex, by weight, or by percentage of fish on board, that may be taken and retained, possessed, or landed per vessel from a single fishing trip.

(b) *A daily trip limit* is the maximum amount that may be taken and retained, possessed, or landed per vessel in 24 consecutive hours, starting at 0001 hours local time. Only one landing of groundfish may be made in that 24-hour period. Daily trip limits may not be accumulated during multiple day trips.

(c) *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.

(i) *Limited entry fishery*. Unless otherwise specified, cumulative trip limits in the limited entry fishery apply to 2-month periods. No more than 60 percent of the applicable 2-month cumulative limit may be taken and retained, possessed or landed in either month of a 2-month period; this is called the "60-percent monthly limit." The 2-month periods are: January–February, March–April, May–June, July–August, September–October, November–December.

(ii) *Open access fishery*. Unless otherwise specified, cumulative trip limits apply to 1-month periods in the open access fishery. Within these limits, in any calendar month, no more than 50 percent of the applicable 2-month cumulative limit for the limited entry fishery may be taken and retained, possessed, or landed from a vessel in the open access fishery; this is called the "50-percent monthly limit."

(2) Unless the fishery is closed, a vessel that has landed its cumulative or daily limit may continue to fish on the limit for the next legal period, so long as no fish (including but not limited to groundfish with no trip limits, shrimp, prawns, or other nongroundfish species or shellfish) are landed (offloaded) until the next legal period. As stated in the regulations at 50 CFR 663.2, once offloading of any species begins, all fish aboard the vessel are counted as part of the landing.

(3) All weights are round weights or round-weight equivalents.

(4) Percentages are based on round weights, and, unless otherwise specified, apply only to legal fish on board.

(5) "Legal fish" means fish legally taken and retained, possessed, or landed in accordance with the provisions of 50 CFR part 663, the Magnuson Fishery

Conservation and Management Act (Magnuson Act), any notice issued under subpart B of part 663, and any other regulation promulgated or permit issued under the Magnuson Act.

(6) *Size limits and length measurement*. Unless otherwise specified, size limits in the commercial and recreational groundfish fisheries apply to the longest measurement of the fish without mutilation of the fish or the use of force to extend the length of the fish. No fish with a size limit may be retained if it is in such condition that its length has been extended or cannot be determined by these methods.

(a) For a whole fish, total length will be measured from the tip of the snout (mouth closed) to the tip of the tail in a natural, relaxed position.

(b) For a fish with the head removed ("headed"), the length will be measured from the origin of the first dorsal fin (where the front dorsal fin meets the dorsal surface of the body closest to the head) to the tip of the upper lobe of the tail; the dorsal fin and tail must be left intact.

(7) "Closure," when referring to closure of a fishery, means that taking and retaining, possessing, or landing the particular species or species group is prohibited. (See the regulations at 50 CFR 663.2.) Unless otherwise announced in the Federal Register, offloading must begin before the time the fishery closes.

(8) The fishery management area for these species is the EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nm offshore, bounded on the north by the Provisional International Boundary between the United States and Canada, and bounded on the south by the International Boundary between the United States and Mexico. All groundfish possessed between 0–200 nm offshore, or landed in, Washington, Oregon, or California are presumed to have been taken and retained from the fishery management area, unless otherwise demonstrated by the person in possession of those fish.

(9) Inseason changes to trip limits are announced in the Federal Register. Most trip and bag limits in the groundfish fishery have been designated "routine," which means they may be changed rapidly after a single Council meeting. Information concerning changes to trip limits is available from the NMFS Northwest and Southwest Regional Offices (see ADDRESSES). Changes to trip limits are effective at the times stated in the Federal Register. Once a change is effective, it is illegal to take and retain, possess, or land more fish than allowed under the new trip limit. This means, unless otherwise

announced in the Federal Register, offloading must begin before the time a fishery closes or a more restrictive trip limit takes effect.

(10) It is unlawful for any person to take and retain, possess, or land groundfish in excess of the landing limit for the open access fishery without having a valid limited entry permit for the vessel affixed with a gear endorsement for the gear used to catch the fish (50 CFR 663.7(t)).

(11) *Operating in both limited entry and open access fisheries.* The open access trip limit applies to any fishing conducted with open access gear, even if the vessel has a valid limited entry permit with an endorsement for another type of gear. A vessel that operates in both the open access and limited entry fisheries is not entitled to two separate trip limits for the same species. Fish caught with open access gear will also be counted toward the limited entry trip limit.

(12) *Operating in areas with different trip limits.* Trip limits for a species or species complex may differ in different geographic areas along the coast. The following "crossover" provisions apply to vessels operating in different geographical areas that have different cumulative or "per trip" trip limits for the same species or species complex. They do not apply to species that are only subject to daily trip limits, or to the trip limits for black rockfish off the State of Washington (see 50 CFR 663.23(b)). They also do not apply to the trip limits for yellowtail rockfish and the *Sebastes* complex when the vessel is in compliance with paragraph IV.C.(2)(c) below.

If a vessel fishes, for any species, in an area where a more restrictive trip limit applies, then that vessel is subject to the more restrictive trip limit for the entire period to which that trip limit applies, no matter where the fish are taken and retained, possessed, or landed. Similarly, if a vessel takes and retains a species (or species complex) in an area where a higher trip limit (or no trip limit) applies, and possesses or lands that species (or species complex) in an area where a more restrictive trip limit applies, then that vessel is subject to the more restrictive trip limit for that trip limit period.

In 1996, the trip limit period for cumulative trip limits is 2 months for the limited entry fishery and 1 month for the open access fishery, unless otherwise specified.

(13) *Sorting.* Regulations at 50 CFR 663.7(l) make it unlawful for any person to "fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for

which there is a trip limit, if the weight of the total delivery exceeds 3,000 lb (1,361 kg) (round weight or round weight equivalent)." This provision applies to both the limited entry and open access fisheries.

[Note: The Council has recommended that this regulation be changed to require all species or species groups with a trip limit, harvest guideline, or quota to be sorted. There would be no exception for landings under 3,000 lb (1,361 kg). The States of Washington and Oregon already have the same or similar requirements. If approved, the regulation is expected to be implemented in 1996, after publication in the Federal Register.]

(14) *Experimental fisheries.* U.S. vessels operating under an experimental fishing permit issued under 50 CFR 663.10 also are subject to these restrictions, unless otherwise provided in the permit.

(15) Paragraphs IV.B. through IV.I. below pertain to the commercial groundfish fishery. The provisions in paragraphs IV.B. through IV.I. that are not covered under the headings "limited entry" or "open access" apply to all vessels in the commercial fishery that take and retain groundfish, unless otherwise stated. Paragraph IV.J. pertains to the recreational fishery.

(16) *Commonly used geographical coordinates.*

- (a) Cape Falcon, OR—45°46' N. lat.
- (b) Cape Lookout, OR—45°20'15" N. lat.
- (c) Cape Mendocino, CA—40°30' N. lat.
- (d) Point Conception, CA—34°27' N. lat.
- (e) International North Pacific Fisheries Commission (INPFC) subareas (for more precise coordinates for the Canadian and Mexican boundaries, see 50 CFR 663.5):
  - (i) Vancouver—U.S.- Canada border to 47°30' N. lat.
  - (ii) Columbia—47°30' to 43°00' N. lat.
  - (iii) Eureka—43°00' to 40°30' N. lat.
  - (iv) Monterey—40°30' to 36°00' N. lat.
  - (v) Conception—36°00' N. lat. to the U.S.-Mexico border.

*B. Widow Rockfish (Widow rockfish are commonly called brownies)*

(1) *Limited entry fishery.* The cumulative trip limit for widow rockfish is 70,000 lb (31,752 kg) per vessel per 2-month period. The 60-percent monthly limit is 42,000 lb (19,051 kg).

(2) *Open access fishery.* Within the limits at paragraph IV.I. below, the 50-percent monthly limit for widow rockfish is 35,000 lb (15,876 kg).

*C. Sebastes Complex (including Bocaccio, Yellowtail, and Canary Rockfish)*

(1) *General.* *Sebastes* complex means all rockfish managed by the FMP except Pacific ocean perch (*Sebastes alutus*), widow rockfish (*S. entomelas*), shortbelly rockfish (*S. jordani*), and *Sebastolobus* spp. (also called thornyheads, idiots, or channel rockfish). Yellowtail rockfish (*S. flavidus*) are commonly called greenies. Bocaccio (*S. paucispinis*) are commonly called rock salmon. Canary rockfish (*S. pinniger*) are commonly called orange rockfish.

(2) *Limited entry fishery*

(a) *Cumulative trip limits*

(i) *North of Cape Lookout.* The cumulative trip limit for the *Sebastes* complex taken and retained north of Cape Lookout is 70,000 lb (31,752 kg) per vessel per 2-month period. Within this cumulative trip limit for the *Sebastes* complex, no more than 32,000 lb (14,515 kg) may be yellowtail rockfish taken and retained north of Cape Lookout, and no more than 18,000 lb (8,165 kg) may be canary rockfish.

(ii) *Cape Lookout to Cape Mendocino.* The cumulative trip limit for the *Sebastes* complex taken and retained between Cape Lookout and Cape Mendocino is 100,000 lb (45,359 kg) per vessel per 2-month period. Within this cumulative trip limit for the *Sebastes* complex, no more than 70,000 lb (31,752 kg) may be yellowtail rockfish taken and retained between Cape Lookout and Cape Mendocino, and no more than 18,000 lb (8,165 kg) may be canary rockfish.

(iii) *South of Cape Mendocino.* The cumulative trip limit for the *Sebastes* complex taken and retained south of Cape Mendocino is 200,000 lb (90,719 kg) per vessel per 2-month period. Within this cumulative trip limit for the *Sebastes* complex, no more than 60,000 lb (27,216 kg) may be bocaccio taken and retained south of Cape Mendocino, and no more than 18,000 lb (8,165 kg) may be canary rockfish.

(iv) The 60-percent monthly limits are: For the *Sebastes* complex, 42,000 lb (19,051 kg) north of Cape Lookout, 60,000 lb (27,216 kg) between Cape Lookout and Cape Mendocino, and 120,000 lb (54,431 kg) south of Cape Mendocino; for yellowtail rockfish, 19,200 lb (8,709 kg) north of Cape Lookout, and 42,000 lb (19,051 kg) between Cape Lookout and Cape Mendocino; for bocaccio, 36,000 lb (16,329 kg) south of Cape Mendocino; and, for canary rockfish, 10,800 lb (4,899 kg) coastwide.

(b) For operating in areas with different trip limits for the same species, see paragraph IV.A.(12) above.

(c) *State declarations.* The provisions of paragraph IV.A.(12) do not apply to vessels fishing in conformance with this paragraph. The States of Oregon and Washington are implementing declaration procedures that enable a vessel that fishes or transits both north and south of Cape Lookout during a trip limit period (2 months for the limited entry fishery, 1 month for the open access fishery) to retain the larger cumulative limit for the *Sebastes* complex and yellowtail rockfish taken and retained south of Cape Lookout.

Declarations must be made, according to state law, to the state where the fish will be landed. To make a declaration or for further information, contact: Washington Department of Fish and Wildlife, Montesano, WA, at 206-249-4628; or Oregon Department of Fish and Wildlife, Newport, OR, at 503-867-4741 or 503-867-0300.

(3) *Open access fishery.*

(a) The state declaration procedures are available to all vessels, whether in the limited entry or open access fishery.

(b) Within the limits at paragraph IV.I. below, the 50-percent monthly limits are: For the *Sebastes* complex, 35,000 lb (15,876 kg) north of Cape Lookout, 50,000 lb (22,680 kg) between Cape Lookout and Cape Mendocino, and 100,000 lb (45,359 kg) south of Cape Mendocino; for yellowtail rockfish, 16,000 lb (7,258 kg) north of Cape Lookout, and 35,000 lb (15,876 kg) between Cape Lookout and Cape Mendocino; for bocaccio, 30,000 lb (13,608 kg) south of Cape Mendocino; and, for canary rockfish, 9,000 lb (4,082 kg) coastwide.

*D. POP*

(1) *Limited entry fishery.* The cumulative trip limit for POP is 10,000 lb (4,536 kg) per vessel per 2-month period. The 60-percent monthly limit is 6,000 lb (2,722 kg).

(2) *Open access fishery.* Within the limits at paragraph IV.I. below, the 50-percent monthly limit for POP is 5,000 lb (2,268 kg).

*E. Sablefish and the DTS Complex (Dover Sole, Thornyheads, and Trawl-Caught Sablefish)*

(1) *1996 Management goal.* The sablefish fishery will be managed to achieve the 7,800-mt harvest guideline in 1996.

(2) *Washington coastal tribal fisheries.* The U.S. Government recognizes that the Makah, Hoh, Quileute, and Quinault tribes have treaty rights to fish for groundfish. Each tribe has such right in

its usual and accustomed fishing grounds. The tribal treaty allocation for sablefish for 1996 is 780 mt. The tribes will regulate their fisheries so as not to exceed this allocation.

(3) *Limited entry fishery*

(a) *Gear allocations.* After subtracting the tribal-imposed catch limit and the open access allocation from the harvest guideline for sablefish, the remainder is allocated 58 percent to the trawl fishery and 42 percent to the nontrawl fishery.

[Note: The 1996 harvest guideline for sablefish north of 36° N. lat. is 7,800 mt. The 780-mt tribal allocation is subtracted, and the limited entry and open access allocations are based on the remaining 7,020 mt. The limited entry allocation of 6,557 mt for 1996 is allocated 3,803 mt (58 percent) to the trawl fishery and 2,754 mt (42 percent) to the nontrawl fishery. The trawl and nontrawl gear allocations are harvest guidelines in 1996, which means the fishery will be managed not to exceed the harvest guidelines, but will not necessarily be closed if they are reached.]

(b) *Limited entry trip and size limits for the DTS complex.* These provisions apply to Dover sole and thornyheads caught with any limited entry gear and to sablefish caught with limited entry trawl gear. "DTS complex" means Dover sole (*Microstomus pacificus*), thornyheads (*Sebastolobus* spp.), and trawl-caught sablefish (*Anoplopoma fimbria*). Sablefish are also called blackcod. Thornyheads, also called idiots, channel rockfish, or hardheads, include two species, shortspine thornyheads (*S. alascanus*) and longspine thornyheads (*S. altivelis*).

(i) *North of Cape Mendocino.* The cumulative trip limit for the DTS complex taken and retained north of Cape Mendocino is 70,000 lb (31,752 kg) per vessel per 2-month period. Within this cumulative trip limit, no more than 12,000 lb (5,443 kg) may be sablefish, and no more than 20,000 lb (9,072 kg) may be thornyheads. No more than 4,000 lb (1,814 kg) of the thornyheads may be shortspine thornyheads.

(ii) *South of Cape Mendocino.* The cumulative trip limit for the DTS complex taken and retained south of Cape Mendocino is 100,000 lb (45,359 kg) per vessel per 2-month period. Within this cumulative trip limit, no more than 12,000 lb (5,443 kg) may be sablefish, and no more than 20,000 lb (9,072 kg) may be thornyheads. No more than 4,000 lb (1,814 kg) of the thornyheads may be shortspine thornyheads.

(iii) The 60-percent monthly limits are: For the DTS complex, 42,000 lb (19,051 kg) north of Cape Mendocino, and 60,000 lb (27,216 kg) south of Cape Mendocino; for trawl-caught sablefish, 7,200 lb (3,266 kg); for both species of

thornyheads combined, 12,000 lb (5,443 kg); and for shortspine thornyheads, 2,400 lb (1,089 kg).

(iv) In any trip, no more than 500 lb (227 kg) may be trawl-caught sablefish smaller than 22 inches (56 cm) total length. (See paragraph IV.A.(6) regarding length measurement.)

(v) For operating in areas with different trip limits for the same species, see paragraph IV. A.(12) above.

(c) *Limited entry trip and size limits for nontrawl sablefish.* These daily trip limits, which apply to sablefish of any size, apply until the closed period before the start of the regular season (as specified at 50 CFR 663.23(b)(2)), between the end of the regular season and the beginning of the mop-up season, and after the mop-up season.

[Note: The Council recommended that the regular season be delayed until September 1, 1996. Before this change can be made effective, it must be approved by NMFS and then implemented by a regulation published in the Federal Register.]

(i) *North of 36°00' N. lat.* The daily trip limit for sablefish taken and retained with nontrawl gear north of 36°00' N. lat. is 300 lb (136 kg).

(ii) *South of 36°00' N. lat.* The daily trip limit for sablefish taken and retained with nontrawl gear south of 36°00' N. lat. is 350 lb (159 kg).

(iii) During the "regular" or "mop-up" seasons, the only trip limit in effect applies to sablefish smaller than 22 inches (56 cm) total length, which may comprise no more than 1,500 lb (680 kg) or 3 percent of all legal sablefish 22 inches (56 cm) (total length) or larger, whichever is greater. (See paragraph IV.A.(6) regarding length measurement.)

(d) For headed and gutted sablefish:

(i) The minimum size limit for headed sablefish, which corresponds to 22 inches (56 cm) total length for whole fish, is 15.5 inches (39 cm).

(ii) The conversion factor established by the state where the fish is or will be landed will be used to convert the processed weight to round weight for purposes of applying the trip limit. (The conversion factor currently is 1.6 in Washington, Oregon, and California. However, the state conversion factors may differ; fishermen should contact fishery enforcement officials in the state where the fish will be landed to determine that state's official conversion factor.)

(4) *Open access fishery.* Within the limits in paragraph IV.I. below, a vessel using exempt trawl gear in the open access fishery is subject to the 50-

percent monthly limits, which are as follows: For the DTS complex, 35,000 lb (15,876 kg) north of Cape Mendocino, and 50,000 lb (22,680 kg) south of Cape Mendocino; for trawl-caught sablefish, 6,000 lb (2,722 kg); for both species of thornyheads combined, 10,000 lb (4,536 kg); and for shortspine thornyheads, 2,000 lb (907 kg).

#### F. Whiting

(1) *Limited entry fishery.* Additional regulations that apply to the whiting fishery are found at 50 CFR 663.7 and 663.23(b)(3) and (4).

(a) No more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed, or landed, per vessel per fishing trip before the regular season for whiting begins, as specified at 50 CFR 663.23(b)(3). This includes any whiting caught shoreward of 100 fathoms (183 m) in the Eureka subarea (see paragraph IV.F.(1)(b)).

(b) No more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100-fathom (183-m) contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka subarea.

(2) *Open access fishery.* See paragraph IV.I. below.

#### G. Lingcod

(1) *Limited entry fishery.* The cumulative trip limit for lingcod is 40,000 lb (18,144 kg) per vessel per 2-month period. The 60-percent monthly limit is 24,000 lb (10,886 kg). No lingcod may be smaller than 22 inches (56 cm) total length, except for a 100-lb (45-kg) trip limit for trawl-caught lingcod smaller than 22 inches (56 cm). Length measurement is explained at paragraph IV.A.(6)

(2) *Open access fishery.* Within the limits in paragraph IV.I. below, the 50-percent monthly limit for lingcod is 20,000 lb (9,072 kg).

##### (3) Conversions

(a) *Size conversion.* For lingcod with the head removed, the minimum size limit, which corresponds to 22 inches (56 cm) total length for whole fish, is 18 inches (46 cm).

(b) *Weight conversion.* The conversion factor established by the state where the fish is or will be landed will be used to convert the processed weight to round weight for purposes of applying the trip limit. (The states' conversion factors may differ and fishers should contact fishery enforcement officials in the state where the fish will be landed to determine that state's official conversion factor.) If a state does not have a conversion factor for lingcod that is

headed and gutted, or only gutted, the following conversion factors will be used. To determine the round weight, multiply the processed weight times the conversion factor.

(i) *Headed and gutted.* The conversion factor for headed and gutted lingcod is 1.5. (The State of Washington currently uses a conversion factor of 1.5.)

(ii) *Gutted, with the head on.* The conversion factor for lingcod that has only been eviscerated is 1.1.

#### H. Black Rockfish

The regulations currently at 50 CFR 663.23(b)(1)(iii) state: "The trip limit for black rockfish (*Sebastes melanops*) for commercial fishing vessels using hook-and-line gear between the U.S.-Canada border and Cape Alava (48°09'30" N. lat.), and between Destruction Island (47°40'00" N. lat.) and Leadbetter Point (46°38'10" N. lat.), is 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel per fishing trip. This trip limit does not apply to coastal treaty Indian fishermen operating under harvest guidelines established under paragraph (b)(1)(ii) of this section [§ 663.23]." The provisions at paragraphs IV.A.(12) and IV.C.(2)(c) do not apply.

#### I. Trip Limits in the Open Access Fishery

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; or, in any calendar month, 50 percent of any 2-month cumulative trip limit for the same gear and/or subarea in the limited entry fishery, called the "50-percent monthly limit." For purposes of this paragraph, exempted trawl gear (that is used to harvest shrimp, prawns, California halibut or sea cucumbers as provided in this paragraph I.) may not exceed any limit for the limited entry trawl fishery, or 50 percent of any 2-month cumulative limit that applies to limited entry trawl gear. No groundfish landing by shrimp or prawn pot (trap) gear may be in excess of the limited entry trip limit for nontrawl gear. The cross-over provisions at paragraph IV.A.(12) that apply to the limited entry fishery apply to the open access fishery as well.

(1) *Rockfish.* Rockfish means all rockfish as defined at 50 CFR 663.2, which includes the *Sebastes* complex (including yellowtail rockfish, bocaccio, and canary rockfish), shortbelly rockfish, widow rockfish, POP, and thornyheads.

(a) *North of Cape Lookout.* The cumulative monthly trip limit for rockfish taken and retained north of Cape Lookout is 35,000 lb (15,876 kg) per vessel per month.

(b) *South of Cape Lookout.* The cumulative monthly trip limit for rockfish taken and retained south of Cape Lookout is 40,000 lb (18,144 kg) per vessel per month.

(c) *Coastwide.* The following trip limits also apply and are counted toward the cumulative monthly limit for rockfish:

(i) 10,000-lb (4,536-kg) of rockfish per vessel per fishing trip, except for vessels using setnet or trammel net gear; and,

(ii) A daily trip limit of 50 lb (23 kg) of thornyheads.

(d) For operating in areas with different trip limits for the same species, see paragraph IV.A.(12) above.

(2) *Sablefish.* [Note: Under current regulations, the closure prior to the "regular season" for the limited entry fishery also applies to the open access fishery.]

(a) *North of 36°00' N. lat.* The daily trip limit for sablefish taken and retained north of 36°00' N. lat. is 300 lb (136 kg).

(b) *South of 36°00' N. lat.* The daily trip limit for sablefish taken and retained south of 36°00' N. lat. is 350 lb (159 kg).

(3) *Groundfish taken by shrimp or prawn trawl*

(a) *Pink shrimp.* The trip limit for a vessel engaged in fishing for pink shrimp is 1,500 lb (680 kg) (multiplied by the number of days of the fishing trip) of groundfish.

(b) *Spot and ridgeback prawns.* The trip limit for a vessel engaged in fishing for spot or ridgeback prawns is 1,000 lb (454 kg) of groundfish species per fishing trip.

(c) This rule is not intended to supersede any more restrictive state law relating to the retention of groundfish taken in shrimp or prawn pots or traps.

(4) *Groundfish taken by California halibut or sea cucumber trawl.* The trip limit for a vessel participating in the California halibut fishery or in the sea cucumber fishery south of Point Arena, CA (38°57'30" N. lat.) is 500 lb (227 kg) of groundfish per vessel per fishing trip.

(a) A trawl vessel will be considered participating in the California halibut fishery if:

(i) It is not fishing under a valid limited entry permit issued under 50 CFR part 663 for trawl gear;

(ii) All fishing on the trip takes place south of Point Arena; and

(iii) The landing includes California halibut of a size required by California Fish and Game Code section 8392(a),

which states: "No California halibut may be taken, possessed or sold which measures less than 22 inches in total length, unless it weighs four pounds or more in the round, three and one-half pounds or more dressed with the head on, or three pounds or more dressed with the head off. Total length means the shortest distance between the tip of the jaw or snout, whichever extends farthest while the mouth is closed, and the tip of the longest lobe of the tail, measured while the halibut is lying flat in natural repose, without resort to any force other than the swinging or fanning of the tail."

(b) A trawl vessel will be considered participating in the sea cucumber fishery if:

(i) It is not fishing under a valid limited entry permit issued under 50 CFR part 663 for trawl gear;

(ii) All fishing on the trip takes place south of Point Arena; and

(iii) The landing includes sea cucumbers taken in accordance with California Fish and Game Code section 8396, which requires a permit issued by the State of California.

#### J. Recreational Fishery

(1) *California*. The bag limits for each person engaged in recreational fishing seaward of the State of California are: five lingcod per day, which may be no smaller than 22 inches (56 cm) total length; and 15 rockfish per day. Multi-day limits are authorized by a valid permit issued by the State of California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(2) *Oregon*. The bag limits for each person engaged in recreational fishing seaward of the State of Oregon are: Three lingcod per day, which may be no smaller than 22 inches (56 cm) total length; and 15 rockfish per day, of which no more than 10 may be black rockfish (*Sebastes melanops*).

(3) *Washington*. The bag limits for each person engaged in recreational fishing seaward of the State of Washington are: three lingcod per day no smaller than 22 inches (56 cm) total length, and either 15 rockfish per day south of Leadbetter Point (46°38'10" N. lat.) or 12 rockfish per day north of Leadbetter Point.

#### V. Issuance of Experimental Fishing Permits (EFPs) in 1995

In 1995, applications were received and approved for three different types of experimental fishing permits (50 CFR 663.10).

(1) The first was from the State of Oregon (representing Washington and California as well) for the purpose of

renewing the EFP to monitor the bycatch of salmon in the shore-based whiting fishery. Under this permit, 35 vessels were issued EFPs that required all salmon caught incidentally in the whiting fishery to be landed shoreside. Almost 15 percent of the shore-based landings were observed, higher than the 10 percent goal.

(2) The second application was a variation of the whiting EFP. The State of California requested that, in addition to the terms and conditions governing the whiting EFP, a small number of fishers be allowed to fish for whiting inside of the 100-fathom (183-m) contour in the Eureka subarea, which currently is prohibited. The purpose was to see if the bycatch rate of salmon could be kept at acceptable levels by this small, shore-based sector of the fleet delivering to Eureka and Crescent City, CA. However, whiting did not appear in fishable concentrations in 1995, so even though this experimental fishery was approved, the EFPs were not issued.

(3) The third application was for a new, enhanced data collection program that applied to other groundfish fisheries. This application was submitted by the State of Oregon, but could include involvement by the States of Washington and California as well. The purpose of the experiment was to monitor trip-limit-induced discards and the bycatch of salmon and non-target species in the groundfish trawl fishery. All participating vessels will be required to land salmon caught incidentally in groundfish trawl gear and to keep enhanced logbooks required by the State of Oregon. Some vessels will carry at-sea observers to monitor trip-limit induced discards, and some vessels will be required to bring virtually their entire catch to shore for additional monitoring. This is intended to be the first of a multi-year cooperative data collection program with the industry and state and Federal governments. This fishery started later than expected. Three EFPs have been issued since early November 1995. The EFP program may continue through 1996.

#### VI. Applications for Experimental Fishing Permits in 1996

Three applications also were received for experimental fishing permits in 1996. Two, the whiting EFPs described in paragraphs (1) and (2) of paragraph V. above, had been approved for 1995. The scope of the experiment and level of participation would be the same as requested for 1995. The third is for a new experiment to obtain biological information on sablefish to confirm or improve data used in the stock

assessment for this species. This experiment would allow one vessel to retain 500 lb (227 kg) in excess of the trawl trip limit for sablefish, and is not expected to exceed 5 mt per year. A state or Federal scientist would be aboard every trip to gather the biological data. These applications were presented at the Council's October 1995 meeting. The Council recommended issuance of all three in 1996. (In addition, the enhanced data collection program discussed as number (3) in the previous paragraph continues in 1996.) Comments on the three applications for 1996 are invited. If approved, the whiting EFPs would be issued by March 1 for vessels delivering in the State of California, and mid-April for vessels delivering in Washington and Oregon; and the EFP for sablefish would be issued early in 1996. The decision on whether to issue EFPs and determinations on appropriate permit conditions will be based on a number of considerations, including the Council's recommendation and comments received from the public.

#### Classification

The final specifications and management measures for 1996 are issued under the authority of and are in accordance with 50 CFR parts 611 and 663, the regulations implementing the FMP.

Much of the data necessary for these specifications and management measures came from the current fishing year. Because of the timing of the receipt, development, review, and analysis of the fishery information necessary for setting the initial specifications and management measures, and the need to have these specifications and management measures in effect at the beginning of the 1996 fishing year, there is good cause under 5 U.S.C. 553(b)(B) to waive prior notice and opportunity for public comment for the specifications and management measures. Amendment 4 to the FMP, implemented on January 1, 1991, recognized these timeliness considerations, and set up a system by which the interested public is notified, through Federal Register publication and Council mailings, of meetings and of the development of these measures, and is provided the opportunity to comment during the Council process. The public participated in GMT, Groundfish Advisory Subpanel, Scientific and Statistical Committee, and Council meetings in August and October 1995 where these recommendations were formulated. Additional public comments will be accepted for 30 days after publication of

this document in the Federal Register. The Assistant Administrator will consider all comments made during the public comment period and may propose modifications as appropriate.

Because prior notice and opportunity for public comment is not required under 5 U.S.C. 553, or under any other public law, preparation of a Regulatory Flexibility Analysis under 5 U.S.C. 603(a) and 604(a) is not required and none has been prepared.

The Administrative Procedure Act requires that publication of an action be made not less than 30 days before its effective date unless the Assistant Administrator finds and publishes with the rule good cause for an earlier effective date (5 U.S.C. 553(d)(3)). These specifications announce the harvest goals and the management measures designed to achieve those harvest goals in 1996. A delay in implementation could compromise the management strategies that are based on the projected landings from these trip limits. Therefore, a delay in effectiveness is contrary to the public interest and these actions are effective on January 1, 1996.

Dated: December 28, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

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**50 CFR Part 625**

[Docket No. 951116270-5308-02; I.D. 110195B]

**Summer Flounder Fishery; Final Specifications for 1996; Technical Amendment**

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

**ACTION:** Final specifications for the 1996 summer flounder fishery; final rule, technical amendment.

**SUMMARY:** NMFS issues the final specifications for the 1996 summer flounder fishery, which include

commercial catch quotas and mesh size requirements, and revises the applicable regulations to accurately reflect the intent of the Mid-Atlantic Fishery Management Council regarding the "cap" on the harvest limit. The intent of this document is to comply with implementing regulations for the fishery that require NMFS to publish measures for the upcoming fishing year that will prevent overfishing of the summer flounder resource, and to modify the language specifying the "cap" on the annual harvest limit.

**EFFECTIVE DATE:** December 29, 1995.

**ADDRESSES:** Copies of the Environmental Assessment and supporting documents used by the Monitoring Committee are available from: Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 S. New Street, Dover, DE 19901-6790.

**FOR FURTHER INFORMATION CONTACT:** Regina Spallone, Fishery Policy Analyst, 508-281-9221.

**SUPPLEMENTARY INFORMATION:** The Fishery Management Plan for the Summer Flounder Fishery (FMP) was developed jointly by the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England and South Atlantic Fishery Management Councils. The management unit for the FMP is summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the Canadian border. Implementing regulations for the fishery are found at 50 CFR part 625.

Section 625.20 of Title 50, Code of Federal Regulations implementing the Fishery Management Plan for the Summer Flounder Fishery (FMP) specifies the process for setting annual management measures in order to achieve the fishing mortality (F) rates specified in the FMP. Under Amendment 7 to the FMP, the schedule of F rates established sets a target fishing mortality rate of 0.41 in 1996, 0.3 in 1997, and 0.23 (F<sub>max</sub>) in 1998 and thereafter, provided the allowable levels

of fishing in 1996 and 1997 may not exceed a "cap" of 18.51 million lb (8.4 million kg), unless such fishing levels had an associated F of 0.23. This "cap" reflected a rounding of the actual poundage. The Council felt that such a rounding, while convenient for the reader, did not accurately reflect the true intent, which was 18,518,830 lb (8,400 mt). Therefore, this action modifies the "cap" to reflect the Council's intent that the maximum allowable harvest level associated with this "cap" is 18,518,830 lb (8,400 mt). This clarification is outlined in the section below, which specifies changes from the proposed specifications.

Pursuant to § 625.20, the Director, Northeast Region, NMFS, implements certain measures for the fishing year to ensure achievement of the appropriate fishing mortality rate. The measures include those that are changed, and those that are not changed, from the proposed 1996 specifications that were published in the Federal Register on November 28, 1995 (60 FR 58593). The unchanged measures include: (1) A minimum commercial fish size of 13 inches (33 cm); and (2) a minimum mesh size restriction of 5.5-inch (14.0-cm) diamond or 6-inch (15.2-cm) square. The changed measures include: (1) A coastwide harvest limit of 18,518,830 lb (8.40 million kg); (2) a coastwide commercial quota of 11,111,298 lb (5.04 million kg); and (3) a coastwide recreational harvest limit of 7,407,532 lb (3.36 million kg).

**Commercial Quota**

The coastwide commercial quota is allocated among the states based on historic catch shares specified in the regulations. Table 1 presents the 1996 commercial quota (11,111,298 lb; 5,040,000 kg) apportioned among the states according to the percentage shares specified in § 625.20(d)(1). These state allocations do not reflect the adjustments required under § 625.20, if 1995 landings exceed the 1995 quota for any state. A notification of allocation adjustment will be published in the Federal Register if such an adjustment is necessary.

TABLE 1.—1996 STATE COMMERCIAL QUOTAS

State	Share (%)	1996 quota (lb)	1996 quota (kg)
ME .....	0.04756	5,284	2,397
NH .....	0.00046	51	23
MA .....	6.82046	757,841	343,751
RI .....	15.68298	1,742,583	790,422
CT .....	2.25708	250,791	113,757
NY .....	7.64699	849,680	385,408
NJ .....	16.72499	1,858,363	842,939