

subject to the Federal Transit Administration's (FTA) drug and alcohol rules.

**EFFECTIVE DATE:** January 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Judy Meade, Director of the Office of Safety and Security (202) 366-2896 (telephone) and (202) 366-7951 (fax). Electronic access to this and other documents concerning FTA's drug and alcohol testing rules may be obtained through FTA's Transit Safety and Security Bulletin Board at 1-800-231-2061 or through the FTA World Wide Web home page at <http://www.fta.dot.gov>; both services are available seven days a week.

**SUPPLEMENTARY INFORMATION:** The Federal Transit Administration (FTA) required large transit employers to begin drug and alcohol testing "safety-sensitive" employees on January 1, 1995, and to report, annually by March 15 of each year beginning in 1996, the number of "safety-sensitive" employees who had a verified positive for the use of prohibited drugs, and the number of safety-sensitive employees who tested positive for the misuse of alcohol. Small employers started testing their "safety-sensitive" employees on January 1, 1996, and began reporting the same information as the large employers beginning on March 15, 1997. Employers are required annually to submit other data, not relevant here, in the same report; these data are available from the FTA as discussed below.

The rules established a random testing rate for prohibited drugs and the misuse of alcohol; specifically, the rules require that employers conduct random drug tests at a rate equivalent to at least 50 percent of their total number of safety-sensitive employees for prohibited drug use and at least 25 percent for the misuse of alcohol. The rules provide that the drug random testing rate may be lowered to 25 percent if the "positive rate" for the entire transit industry is less than one percent for two consecutive years. Once lowered, it may be raised to 50 percent if the positive rate equals or exceeds one percent for any one year. ("Positive rate" means the number of positive results for random drug tests conducted under part 653 plus the number of refusals of random tests required by part 653, divided by the total number of random drug tests, plus the number of refusals of random tests required by part 653.)

Likewise, the alcohol rule provides that the random rate may be lowered to 10 percent if the "violation rate" for the entire transit industry is less than .5 percent for two consecutive years. It

will remain at 25 percent if the "violation rate" is equal to or greater than .5 percent but less than one percent, and it will be raised to 50 percent if the "violation rate" is one percent or greater for any one year. ("Violation rate" means the number of covered employees found during random tests given under part 654 to have an alcohol concentration of .04 or greater, plus the number of employees who refuse a random test required by part 654, divided by the total reported number of random alcohol tests conducted under part 654, plus the total number of refusals of random tests, required by part 654.)

FTA has received and analyzed the 1996 data from large and small transit employers. The "positive rate" for random drug tests was 1.5 percent and the "violation rate" for random alcohol tests was 0.21 percent; therefore, for 1998, transit employers will continue to be required to conduct random drug tests at a rate equivalent to at least 50 percent of the total number of their "safety-sensitive" employees for prohibited drugs. Because the random alcohol violation rate was lower than .5 percent for two consecutive years (0.24 percent for 1995 and 0.21 percent for 1996), the random alcohol testing rate will be lowered to 10 percent for 1998.

FTA will be publishing in December a detailed report on the 1996 data collected from large and small employers. This report may be obtained from the Office of Safety and Security, Federal Transit Administration, 400 Seventh Street, SW, Room 9301, Washington, DC 20590, (202) 366-2896.

Issued: December 31, 1997.

**Gordon J. Linton,**  
*Administrator.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 600 and 660

[Docket No. 971229312-7312-01; I.D. 12167C]

#### Magnuson Act Provisions; Foreign Fishing; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** 1998 groundfish fishery specifications and management measures; tribal whiting allocation; announcement of exempted fishing permits; request for comments.

**SUMMARY:** NMFS announces the 1998 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 levels of the acceptable biological catch (ABC) and harvest guidelines (HGs), including the distribution between domestic and foreign fishing operations. The HGs are allocated between the limited entry and open access fisheries. The management measures for 1998 are designed to keep landings within the HGs, for those species for which there are HGs, 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. This action also announces the approval of applications to renew two exempted fishing permits (EFPs) in 1998.

**DATES:** Effective 0001 hours (local time) January 1, 1998, until the 1999 annual specifications and management measures are effective, unless modified, superseded, or rescinded. The 1999 annual specifications and management measures will be published in the **Federal Register**. Comments on the 1998 annual specifications and management measures, tribal whiting allocation, and EFPs will be accepted until February 5, 1998.

**ADDRESSES:** Comments on these specifications and management measures, tribal whiting allocation, and EFPs should be sent to Mr. William Stelle, Jr., Administrator, Northwest Region (Regional Administrator), National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Bldg. 1, Seattle, WA 98115-0070; or Mr. William Hogarth, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. Information relevant to these specifications and management measures, including an environmental assessment (EA) and 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 Regional NMFS (Regional Administrator), or may be obtained from the Pacific Fishery Management Council (Council), by writing to 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 Svein Fougner (Southwest Region, NMFS) 562-980-4034.

**SUPPLEMENTARY INFORMATION:** The FMP requires that fishery specifications for groundfish be evaluated each calendar year, that HGs or quotas be specified for

species or species groups in need of additional protection, and that management measures designed to achieve the HGs 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 1998 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 November 1997 meeting in Portland, OR.

**I. Final Specifications**

The fishery specifications include ABCs, the designation of HGs or quotas

for species that need individual management, the apportionment of the HGs or quotas between domestic and foreign fisheries, and allocation between the open access and limited entry segments of the domestic fishery. As in the past, the specifications include fish caught in state ocean water (0-3 nautical miles (nm) offshore) as well as fish caught in the EEZ (3-200 nm offshore). Only changes to the specifications between 1997 and 1998 are discussed herein, otherwise they are the same as announced in 1997 (62 FR 700, January 6, 1997).

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Table 1. 1998 Specifications of Acceptable Biological Catch (ABC), Harvest Guidelines (HG), and Limited Entry and Open Access Allocations, by International North Pacific Fisheries Commission (INPFC) subareas

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)										Harvest Guideline (1000 mt)	L or C b/	Commercial Harvest Guideline (1000 mt)	Allocations (x 1000 mt)		
	Vancouver a/	Columbia	Eureka	Montesrey	Conception	Total Catch ABC	Limited Entry		Open Access							
							1000 mt	%								
<b>ROUND FISH:</b>																
Lingcod a/c/	0.450 U.S.		0.139	0.325	0.046	0.960		0.324	80.9	0.076	19.1					
Pacific cod	3.2		d/	d/	d/	3.2		--	--	--	--					
Pacific whiting a/a/	232.0 U.S.						232.0		--	--	--					
Sablefish f/g/	5.2				0.425	5.2 N		3.934	93.4	0.278	6.6					
Jack mackerel h/	52.6				--	0.425 S		--	--	--	--					
<b>FLATFISH:</b>																
Dover sole f/l/	8.373						9.426		--	--	--					
English sole	2.0			1.1	1.053	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	7.7		--	--	--	--					
<b>ROCKFISH:</b>																
POP j/	0.0		0.0	d/	d/	0.0		--	--	--	--					
Shortbelly	23.5						23.5		--	--	--					
Widow k/	5.75						5.75		4.118	96.3	0.158	3.7				
Thornyheads: f/l/									--	--	--					
Shortspine f/m/	1.000						1.000		1.079	99.75	0.003	0.25				
	(Includes 175 mt in Conception area north of P. Conception)								--	--	--	--				
Longspine f/n/	4.102						4.102 N		--	--	--	--				
									--	--	--	--				
									0.390		0.390					

(Table 1. continued)

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)										Harvest Guideline (1000 mt)	L or C b/	Commercial Harvest Guideline (1000 mt)	Allocations (x 1000 mt)		
	Vancouver a/	Columbia	Eureka	Monte- rey	Concep- tion	Total Catch ABC	Limited Entry		Open Access							
							1000 mt	%	1000 mt	%						
Sebastes complex: a/o/	8.647			8.999		8.647 N	7.057 N	C	6.778	6.128	90.4W	0.651	9.6W			
Bocaccio-S p/	t/			0.230 *		0.230	8.439 S	C	6.939	4.677	67.4S	2.262	32.6S			
Canary-N q/	1.045 *			t/		1.045	1.045	C	1.045	0.953	91.2	0.090	8.80			
Chilipepper I/	d/			3.400 *		3.400	--	C	--	--	--	--	--			
Yellowtail-N a/s/	3.465 U.S. *			t/		3.465	3.118	C	3.118	2.819	90.4	0.299	9.6			
REMAINING ROCKFISH t/:	2.295 *			1.401 *		--	--		--	--	--	--	--			
bank	d/			0.081 ✓		0.08	--		--	--	--	--	--			
bocaccio-N	0.424 ✓			u/		0.424	--		--	--	--	--	--			
canary-S	u/			0.085 ✓		0.085	--		--	--	--	--	--			
darkblotched	0.209 ✓			0.047 ✓		0.26	--		--	--	--	--	--			
POP-S	u/			0.020 ✓		0.02	--		--	--	--	--	--			
redstripe	0.768 ✓			d/		0.77	--		--	--	--	--	--			
sharpchin	0.398 ✓			0.071 ✓		0.47	--		--	--	--	--	--			
silvergrey	0.051 ✓			d/		0.05	--		--	--	--	--	--			
splitnose	0.274 ✓			0.868 ✓		1.14	--		--	--	--	--	--			
yelloweye	0.039 ✓			d/		0.04	--		--	--	--	--	--			
yellowmouth	0.132 ✓			d/		0.13	--		--	--	--	--	--			
yellowtail-S	u/			0.074 ✓		0.229	--		--	--	--	--	--			
Other rockfish v/	1.842 *			3.968 *		--	--		--	--	--	--	--			
OTHER FISH w/	2.5	7.0	1.2	2.0	2.0	14.7	--		--	--	--	--	--			

a/ U.S. Vancouver only, even if stock assessments included parts of Canadian waters. Further explanations in footnotes for Pacific whiting, lingcod, yellowtail rockfish, and the Sebastes complex north of Cape Mendocino.

b/ "L or C" indicates whether a HG or commercial HG is based on landed catch (L, for landings only, without an estimate of discards) or total catch (C, landed catch plus estimated discards).

c/ Lingcod. The 1997 assessment addresses the entire Vancouver area, including Canada, and the Columbia area. The ABC for the U.S. portion of the Vancouver-Columbia area is 450 mt, based on the F35% harvest rate and biomass distribution determined by the NMFS surveys (44 percent in US waters). The coastwide ABC, including Canada, would be 1,532 mt, of which 960 mt represents total catch for U.S. only. The 838-mt HG (U.S. only) for total catch is more conservatively set at the sum of the individual F40% values for each area. An estimated 438 mt of recreational harvest in 1998 is subtracted from the HG to derive the 400-mt commercial HG.

d/ Other. 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 "other rockfish" category for the areas footnoted only.

e/ Pacific whiting. The U.S.-Canada ABC of 290,000 mt is prorated 80 percent for the U.S., or 232,000 mt in 1998, the

same as in 1997 (except in 1997 the ABC in the table included Canadian waters). Allocations to catcher/processor, mothership, and shore-based operations are based on the 207,000-mt commercial HG (the U.S. HG minus the tribal allocation of 25,000 mt for 1998).

f/ DTS complex. Dover sole, thornyheads, and trawl-caught sablefish are managed together as the "DTS complex." There is no HG for the DTS complex.

g/ Sablefish. The total catch ABC for sablefish is 5,200 mt north of 36° N. lat. (the Monterey-Conception area border lat.). The 4,680-mt landed catch HG for that area is the 5,200 mt ABC reduced by 10 percent (520 mt) for estimated discards. Ten percent (468 mt) of the HG is set aside for the treaty tribes. The remaining 4,212 mt is the "commercial HG," which is divided between the limited entry (3,934 mt) and open-access (278 mt) fisheries. The limited entry allocation is further allocated 58 percent (2,282 mt) to the trawl fishery, and 42 percent (1,652 mt) to the nontrawl fishery. The allocations are HGs.

The ABC and HG for the Conception area are 425 mt, and are based on estimated landings in that area. There are no limited entry and open access allocations for the Conception area at this time.

h/ Jack mackerel. Only jack mackerel north of 39°00' N. latitude are managed by the FMP. The ABC and HG include waters beyond 200 nm.

i/ Dover sole. The 1997 assessment evaluated the resource north of 36° N. lat. as a unit, and provided an ABC for landed catch based on the F35% harvest rate. The Conception area ABC is at the level established in the original FMP. The ABCs are converted to total catch in Table 1, for consistency with other ABCs, by estimating that 5 percent of the total catch is discarded. The coastwide 9,426 mt total catch ABC corresponds to the 8,955 mt landed catch HG.

j/ Pacific ocean perch. The total catch ABC remains at zero. The landed catch HG applies to the Vancouver/Columbia subareas combined, and is set near the level of 1997 landings. The HG is intended to represent only incidental catches.

k/ Widow rockfish. The 5,750-mt total catch ABC is based on the F40% harvest rate, which is the current MSY proxy for rockfish species. The landed catch HG of 4,276 mt is based on the more precautionary F45%. The total catch expected with this HG is 5,090 mt, estimating that 16 percent of the catch is discarded.

l/ Thornyheads. The treaty tribes estimate that 8,000-10,000 lb (about 3-4 mt ) of thornyheads will be taken in 1998 under a tribal trip limit of 300 lb per trip. This small amount is not subtracted from either of the thornyhead HGs at this time. There is no combined HG for both species in 1998.

m/ Shortspine thornyheads. The 1,000 mt shortspine thornyhead ABC extends to Pt. Conception (34° 27' N. lat.). The landed catch HG is 1,082 mt (revised from the Council's

recommendation of 1,177 mt) north of 36° N. lat. (the Vancouver-Columbia-Eureka-Monterey area), and 113 mt for the Conception area north of Pt. Conception (the north Conception area) (revised from the Council's recommendation of 123 mt). This is equivalent to a HG of 1,195 mt north of Pt. Conception (revised from the Council's recommendation of 1,300 mt). Both HGs assume that 30 percent of the total catch is discarded. Therefore, 1,707 mt is expected to be caught north of Pt. Conception (1,546 mt north of 36° N. lat., and 161 mt from the northern Conception area). For an explanation of the revisions to the Council's recommendations, see the section in the preamble regarding setting HGs greater than ABC.

n/ Longspine thornyheads. The 4,102 mt longspine thornyhead ABC extends only to 36° N. lat. (the northern boundary of the Conception area), not to Pt. Conception, and therefore is smaller than the area covered by the ABC for shortspine thornyheads. However, the HGs apply to the same areas for both species. The landed catch HG of 3,733 mt for the Vancouver-Columbia-Eureka-Monterey area assumes 9 percent of the 4,102 mt ABC is discarded north of the 36° N. lat. The 390-mt landed catch HG for the northern Conception area is the average 1995-1996 landings; the total catch associated with this HG is 428 mt, also assuming 9 percent is discarded.

o/ Sebastes complex. The Sebastes-north ABC of 8,647 mt is the sum of the ABCs for canary, yellowtail, "remaining rockfish," and "other rockfish" in the U.S. Vancouver and



Columbia areas (marked with \*). All Sebastes HGs are for total catch. Species in "remaining rockfish" are marked with ✓.

The Sebastes-north HG of 7,057 mt (for the Vancouver-Columbia area) is the sum of the HGs for canary and yellowtail rockfish; plus the sum of the ABCs or recent catch, whichever is less, for the species in "remaining rockfish" and "other rockfish." The assessment for yellowtail rockfish includes Canadian waters and the Eureka area, but Table 1 lists only the U.S. portion of the yellowtail rockfish ABC, and 74 mt is prorated for the Eureka area. (For further derivation, see GMT Report B.3.(2), November 1997.)

Within the Sebastes-north HG are two small HGs for commercial harvest of black rockfish by the Makah, Quileute, Hoh, and Quinault Indian tribes: 20,000 lb (9,072 kg) for the EEZ north of Cape Alava (48°09'30" N. lat.) and 10,000 lb (4,536 kg) between Destruction Island (47°40'00" N. lat.) and Leadbetter Point (46°38'10" N. lat.), which totals 13.6 mt. The northern HG for the Sebastes complex is reduced by 13.6 mt for tribal fisheries and 265 mt for estimated recreational harvest to derive the 6,778 mt commercial HG.

The Sebastes-south ABC is the sum of the ABCs for bocaccio, chilipepper, "remaining rockfish," and "other rockfish" in the Eureka, Monterey, and Conception areas (marked with \*).

The Sebastes-south HG, which applies to the Eureka/Monterey/Conception area, is the HG for bocaccio plus the sum of the ABCs or recent catch, whichever is less, for

"remaining rockfish" and "other rockfish." (For further derivation, see GMT Report B.3.(2), November 1997.)

The southern HG is reduced by 1,500 mt for estimated recreational harvest of remaining rockfish and bocaccio to derive the 6,939-mt commercial HG for the Eureka-Monterey-Conception area.

Because the HGs for the Sebastes complex, bocaccio, canary rockfish, and yellowtail rockfish are for total catch, estimates of discards will be added to landings during the season as data become available.

p/ Bocaccio. For bocaccio in the Eureka-Monterey-Conception area, the 230-mt ABC and HG for total catch are based on the estimated F40% level. Anticipated 1998 recreational landings are 40 mt, resulting in a commercial HG of 190 mt.

q/ Canary rockfish. The 1,045-mt ABC for the Vancouver-Columbia area is based on the F40% level. The total catch HG equals ABC and estimates 16 percent discards. The landed catch equivalent would be 878 mt.

r/ Chilipepper. The ABC has been reduced to approximate the F40% level in 1998; F35% was used in 1997.

s/ Yellowtail rockfish. The yellowtail rockfish assessment provided a yield of 4,657 mt for the Vancouver-Columbia-Eureka area, including Canada. The U.S. portion is estimated to be 3,539 mt, 76 percent of the U.S.-Canada yield, based on the survey biomass estimate for the portion of the assessment area in U.S. waters. The 3,465-mt ABC for the

Vancouver/Columbia area in the table was derived by subtracting 74 mt for the Eureka area. The 3,118-mt HG for the U.S. Vancouver-Columbia area represents total catch and is set at 90 percent of the ABC as a precautionary measure.

t/ Remaining rockfish. Prior to 1997, this category included all species in the Sebastes complex that did not have an individual ABC, and therefore included species that, starting in 1997, are designated as "other rockfish." Since 1997, "remaining rockfish" includes only those species and areas listed in Table 1. Species included in "remaining rockfish" are marked with ✓.

u/ There is a separate ABC for this species and area which is not included in "remaining rockfish" or "other rockfish."

v/ Other rockfish. "Other rockfish" includes offshore Sebastes species not identified in Table 1. It is based on the Sebastes complex assessment of commercial landings and includes estimates of recreational landings for those species without individual ABCs.

w/ Other fish. Includes sharks, skates, rays, ratfish, morids, grenadiers, and other groundfish species noted above in footnote d/.

### Changes to the ABCs and HGs

The ABCs, which are based on the best available scientific information, represent the total catch, including amounts that are discarded as well as retained. Stock assessment information considered in determining the ABCs is available from the Council and was made available to the public before the Council's November 1997 meeting in the Council's SAFE document (see ADDRESSES). Additional information is found in the EA prepared by the council for this action, the footnotes to Table 1, the SAFE document for the 1998 specifications, and documents available at the November 1997 Council meeting.

#### ABCs

The ABCs are changed from 1997 to 1998 as follows: lingcod (from 2,400 mt to 960 mt, excluding Canadian waters), sablefish (from 8,700 mt to 5,200 north of 36° N. lat., with no change to the 425 mt ABC south of 36° N. lat.), Dover sole (from a range of 10,880–12,830 mt to 9,426 mt coastwide), widow rockfish (from 7,700 mt to 5,740 mt), longspine thornyheads (from 7,000 mt north of Pt. Conception to 4,102 mt in the smaller area north of 36°N. lat.), the *Sebastes* complex (from 7,130 mt to 8,647 mt in the Vancouver-Columbia area, and from 9,664 mt to 8,999 mt in the Eureka-Monterey-Conception area), bocaccio (from 265 mt to 230 mt in the Eureka-Monterey-Conception Area), canary rockfish (from 1,200 mt to 1,045 mt), chilipepper (from 4,000 mt to 3,400 mt in the Eureka-Monterey-Conception area), yellowtail rockfish (from 1,773 mt to 3,465 mt in the Vancouver-Columbia area, excluding Canadian waters, and from 259 mt to 229 mt in the Eureka-Monterey-Conception area), and for "remaining rockfish" (from 1,431 mt to 1,401 mt, reflecting the change to yellowtail rockfish, in the Eureka-Monterey-Conception area). The *Sebastes* complex consists of all rockfish managed by the FMP except Pacific ocean perch (POP), widow rockfish, shortbelly rockfish, and thornyheads. The whiting ABC is changed only to reflect the amount in U.S. waters rather than the amount for the United States and Canada combined.

The sablefish ABC deserves additional discussion as the Council departed from the values recommended by its scientific and industry advisory bodies. In 1997, the assessment model was modified to include, for the first time, an index of abundance from fishery logbook data and to closely examine the slope trawl survey data, per the recommendations of an external review panel. Assessment results ranged

from a biomass of 40,000 mt with an ABC of 2,500 mt if all survey and logbook indexes are included, to a biomass of 117,000 mt with an ABC of 7,300 mt if the pot survey and slope trawl survey data are excluded. The stock assessment review (STAR) panel commissioned by the Council's Scientific and Statistical Committee (SSC) to provide a technical review of the assessment "endorses the model using both pot and slope surveys as being preferable to a sablefish model that excludes both of these sources of information," but also includes strong reservations regarding use of the early slope trawl data. The Council's Groundfish Management Team (GMT) accepted the STAR panel report and recommended an ABC of 2,500 to 3,400 mt. The NMFS assessment document identifies potential weaknesses and biases with each of the indices, but it was not possible for either the assessment document or the report of the STAR panel to quantify fully the uncertainty in the assessment results. With the STAR panel's rejection of the 7,300-mt scenario, the Council was faced with only the most conservative possible recommendation, and had no information on the degree to which intermediate options may be sufficiently conservative.

The Council's recommended ABC of 5,200 mt was based on a model scenario that discounted the 1988 slope survey observation and on the entire pot survey that had been discounted in previous years. The 1988 survey results were unusually high and not consistent with the slow decline observed in subsequent surveys. The results represents continuation of the Council's historical approach, which is to set a compromise harvest level for sablefish until greater assessment certainty can be achieved. A greater reduction would have established the 1998 harvest at a level that has been exceeded every year since 1972 and would have caused severe and unexpected economic dislocation. However, the Council's recommendation is not strictly precautionary, nor is it in accord with the technical process designed to produce and review stock assessments in 1997. The model scenario used by the Council was not endorsed by either the STAR panel or the GMT. It was presented as background material to the GMT to assist in understanding the uncertainty in the assessment results. It can be accepted and approved as a significant step towards a more precautionary approach to sablefish management for 1 year, while NMFS

works to improve the assessment information for the longer term.

NMFS concurs with the Councils' recommendation that the assessment should be updated in 1998 to include new data. Exceeding a more precautionary harvest level in 1998 will slightly increase the current decline in sablefish abundance, but a 1-year harvest of 5,200 mt would not exceed the currently defined F20% overfishing level unless the current biomass is actually at the most conservative estimate of approximately 40,000 mt reported in the SAFE Decision Table for model scenario 1. A catch of 5,200 mt is not overfishing for any of the other model scenarios considered. (F20% means a fishing mortality rate that would, in the long-term, reduce the spawning biomass per recruit to 20 percent of what it would have been if the stock had never been exploited.)

The ABC for shortspine thornyheads remains the same as in 1997, but was also the subject of much discussion at the November 1997 Council meeting. In 1997, a new stock assessment was prepared for shortspine thornyheads and reviewed by the STAR panel. The STAR panel concluded that the assessment was the best that could be done with the stock synthesis approach. However, the new assessment was unable to sufficiently narrow the range of plausible ABC estimates. After the STAR panel had disbanded, the Council's GMT requested additional guidance, which was provided by three of the file original STAR panel members and an industry representative to the panel. This "reduced" STAR panel recommended a simpler analysis, consisting of a biomass estimated from the most recent slope surveys and using the F=M (fishing mortality equals natural mortality) model. This model requires many fewer assumptions and is based on direct measurement of stock abundance, although with some uncertainty in the catchability coefficient of trawl gear. This model has a documented basis and history of use; it was used extensively in the early 1980's when other data were not available to conduct a more rigorous assessment. Even with the "reduced" STAR panel's consensus regarding the model to be used, there are major concerns with the data, as it is very limited and is a major factor in the uncertainties arising from the assessment. Given these uncertainties, the Council recommended maintaining the ABC at its current level of 1,000 mt.

#### HGs

Those species or species groups managed with HGs in 1997 will

continue to be managed with HGs in 1998. However, some of the areas managed with HGs have changed. The sablefish ABC of 425 mt south of 36° N. lat. (the Monterey-Conception border) is set as an HG to be able to respond inseason to potential effort shifts into that area; separate HGs for longspine and shortspine thornyheads are set north of 36° N. lat. and from 36° N. lat. to Pt. Conception (34° 27' N. lat.), whereas in 1997 the single HG for each thornyhead species extended to Pt. Conception; and the separate HG for Dover sole in the Columbia area is removed. The HGs are changed from 1997 to 1998, as follows: lingcod (from 2,400 mt to 838 mt, excluding Canadian waters), sablefish (from 7,800 mt to 4,680 mt north of 36° N. lat.), Dover sole (from 11,050 mt, of which 2,850 mt was in the Columbia area, to 8,955 mt coastwide), POP (from 750 mt and 650 mt), widow rockfish (from 6,500 mt to 4,276 mt), shortspine thornyheads (from 1,380 mt north of Pt. Conception to 1,082 mt north of 26° N. lat. and 113 mt from 36° N. lat. to Pt. Conception), longspine thornyheads (from 6,000 mt north of Pt. Conception to 3,733 mt north of 36° N. lat. and 390 mt for 36° N. lat. to Pt. Conception), the *Sebastes* complex (from 6,656 mt to 7,057 mt in the Vancouver-Columbia area, and from 9,284 to 8,439 mt in the Eureka-Monterey-Conception area), bocaccio (from 387 mt to 230 mt in the Eureka-Monterey-Conception area), canary rockfish (from 1,000 mt to 1,045 mt in the Vancouver-Columbia area), and yellowtail rockfish (from 2,762 mt to 3,118 mt in the Vancouver-Columbia area).

The Council's recommended HG for shortspine thornyheads has been changed to correct an arithmetic error, and conforms with the Council's intent to keep harvest of shortspine thornyheads below the overfishing threshold. This is explained in the next section regarding setting HGs above ABC.

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 consistently, so discard estimates have been developed to account for this extra catch. A discard level of about 16 percent of the total catch, previously measured for widow rockfish in a scientific study, is assumed to be appropriate for the commercial fisheries for widow rockfish, yellowtail

rockfish, canary rockfish, and POP. A discard estimate of 9 percent is used for longspine thornyheads, 30 percent for shortspine thornyheads, 5 percent for Dover sole, and 10 percent for sablefish.

In some cases (e.g., sablefish, widow rockfish, thornyheads, Dover sole), an estimated amount of discards has been subtracted from the ABC to determine the HG for the landed catch. In other cases (e.g., whiting, *Sebastes* complex, lingcod), a HG representing total catch is more appropriate. Discards in the whiting fishery have been well documented and, therefore, the HG for whiting represents total catch, and discards are accounted for during the season. In 1997, the HG for the *Sebastes* complex and its components was changed from landed to total catch for greater management flexibility during the season; estimates of discards are added to the landings during the season as data become available.

#### Setting HGs Greater than ABC

In most cases, HGs are less than or equal to the ABCs. However, the Council recommended HGs that exceed the ABCs for POP and shortspine thornyheads, as in 1996 and 1997. The FMP requires that the Council consider certain factors when setting an HG above an ABC. These factors were analyzed by the Council's GMT and are summarized in the Council's EA for the 1998 specifications.

Both species are caught in association with other species, and, although they can be targeted on to some degree, they also are caught unavoidably while fishing for other species in a mixed-stock complex. The Council believes that requiring closure, or severe cutbacks, of the fishery for the entire complex (the *Sebastes* fishery for POP, and the DTS complex for shortspine thornyheads) in order to protect these two stocks would not provide the overall maximum benefit to the Nation.

#### POP

POP was depleted off Washington, Oregon, and California by foreign fishing during the 1960's and early 1970's. In 1981, a rebuilding program was established for POP in the Vancouver and Columbia areas. POP are not common in the more southern areas. POP are part of multi-species groundfish catches and cannot be completely avoided when harvesting other groundfish species. POP are taken as bycatch in fisheries for other rockfish, arrowtooth flounder, and Dover sole. The ABC for POP has been set at "zero" for many years. Each year, however, a low level of landings has been allowed to avoid the waste of fish that would

otherwise be discarded. The annual HGs are intended only to accommodate the catch of fish that would be discarded, and are not intended to encourage targeting. Even if retention of POP were prohibited, it would not substantially reduce fishing mortality because POP are caught in small amounts in other fisheries, particularly in fisheries for other rockfish species. The stock is estimated to be at about 50 percent of its maximum sustainable yield (MSY) level, and recent harvests have been near the overfishing threshold. Because strong year classes, which are necessary to rebuild the stock, occur infrequently, the lack of rebuilding to date is not unexpected. The Council has recommended annual trip limits that are intended to discourage targeting while allowing unavoidable incidental catches to be landed. Consequently, the HG exceeds the "zero" ABC.

The HG of 650 mt for POP is not intended to be a target but rather is intended to accommodate incidental catches that would otherwise be taken while fishing for other species and discarded. As in past years, trip limits will not be relaxed to enable the HG to be reached.

#### Shortspine Thornyheads

Shortspine thornyheads are part of the mutispecies DTC complex (consisting of Dover sole, shortspine and longspine thornyheads, and trawl-caught sablefish). In 1997, the HG for shortspine thornyheads was reduced to 1,380 mt to be consistent with the policy of using a landed-catch HG. The total catch associated with the 1997 HG was expected to be about 1,500 mt, of which 120 mt (8 percent) was estimated to be discarded. Therefore, the total catch expected to occur in 1997 was 500 mt higher than the 1,000-mt ABC, but well below the overfishing threshold of 1,757 mt. The HG was set above ABC in 1996-97 largely because of the uncertainty in the stock assessment. The HG was intended to result in catch at a level similar to the ABC level that would result from various stock assessment scenarios with higher levels of natural mortality or lower levels of survey catchability. Shortspine thornyheads are unavoidable in a number of fishing strategies, as discussed later. Retention above ABC was allowed to reduce discards of unavoidably caught thornyheads and to realize the benefits of harvesting the other species in the complex.

In 1998, the Council again recommended setting the HG above ABC to allow harvest of the more abundant species in the complex and to reduce discard of shortspine

thornyheads. The Council adopted one major change, however, that would affect the HG for landed catch and the estimate of total catch associated with that HG: The estimated discard rate in the fishery was increased from 8 percent to 30 percent. The Council thought their 1998 recommendation was slightly more conservative than the status quo: An ABC of 1,000 mt, and a landed catch HG of 1,300 mt (divided into 1,177 mt north of 36° N. lat. and 123 mt for the Conception area north of Pt. Conception; 80 mt lower than in 1997). The Council clearly stated its intent to keep catch below the overfishing level (1,757 mt at F20%). However, after the Council meeting, it was discovered that the wrong assumptions had been used in calculating the recommended HG, and that, although landings of 1,300 mt would not have resulted in overfishing based on the assumptions used in 1997, it would in 1998, due to the new estimate that 30 percent of the total catch is discarded, rather than 8 percent. In short, the total catch of 1,857 mt associated with the 1,300 mt landed catch HG recommended by the Council for 1998 would exceed the overfishing level in the current FMP by 100 mt, rather than being 50 mt below, as the Council had expected.

NMFS, Northwest Region, consulted with the Council Chairman and Executive Director, and the states of Washington, Oregon, and California to confirm the Council's intent to stay below the current overfishing level for shortspine thornyheads—all agreed. Therefore, the 1998 landed catch HG for shortspine thornyheads is set at 1,195 mt, which would result in total catch of 1,707 mt (prorated to 1,082 mt north of 36° N. lat. and 113 mt for the Conception area north of Pt. Conception), 50 mt below the 1,757-mt overfishing level. It should be noted that the same uncertainty that involves the data and estimates of ABC also applies to the estimated overfishing level.

Generally, the species in this complex are caught together as fishers target the entire DTS complex. In examining 1995–97 landings greater than 3,000 lb that are more than 95 percent DTS: 7–9 percent are shortspine thornyheads, 30–35 percent are longspine thornyheads, 16–19 percent are sablefish, and 40–44 percent are Dover sole (section 2.1.1 of the EA). These ratios are heavily influenced by the trip limits and other management measures in effect. The nearshore rockfish fishery also can have significant bycatch of shortspine thornyheads, Dover sole, and sablefish. The nearshore flatfish fishery consisting largely of petrale sole, sanddabs, and rex sole also encounters

bycatch of the DTS species, although they can be avoided in certain areas. There also are nearshore Dover sole and sablefish target fisheries in which it is difficult to avoid shortspine thornyheads. Each ex-vessel dollar of shortspine thornyhead revenue in the DTS complex is associated with \$7.82 of other DTS species (section 2.2.1 of the EA). Clearly, shortspine thornyheads make up a small proportion of a much larger and more valuable multispecies complex. Prohibiting retention of shortspine thornyheads does not prevent their harvest in the DTS complex. The value of the fishery for the entire complex justifies fishing shortspine thornyheads above the ABC because more harvest cannot be avoided without drastic reductions in the catch of the overall DTS complex as well as other trawl fisheries.

#### *Foreign and Joint Venture Fisheries*

For those species 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. A portion of the HGs or quotas for these species may be apportioned to domestic annual harvest (DAH), which in turn may be apportioned between domestic annual processing (DAP) and joint venture processing (JVP). The portion of a HG or quota not apportioned to DAH may be set aside as the total allowable level of foreign fishing (TALFF). In January 1998, no surplus groundfish are available for joint venture or foreign fishing operations. Consequently, all the HGs in 1998 are designed entirely for DAH and DAP (which are the same in this case); JVP and TALFF are set at zero.

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

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 in the FMP, 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 November 1997 meeting, the Council recommended no new species and areas to be allocated between open access and limited entry

fisheries in 1998, and the Regional Administrator 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 HGs in 1998.

#### *Open Access Allocations*

The open access fishery is composed of vessels that operate under the HGs, quotas, and other management measures governing the open access fishery, using (1) exempt gear, or (2) longline or pot (trap) gear fished from vessels that do not have permits endorsed for use of that gear. 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 HG, or if there is a set-aside for recreational or tribal fishing, this is first deducted and the percentage is applied to the commercial HG. (The commercial HG or quota is the annual HG or quota after subtracting any set-asides for recreational or tribal fishing.) 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 expected.

#### *Limited Entry Allocations*

The limited entry fishery means the fishery composed of vessels using limited entry gear fished pursuant to the HGs, 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 the FMP, 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 Area, CA.) Beginning in 1997, a sablefish endorsement also is required to operate in the limited entry regular or mop-up seasons for sablefish.

The limited entry allocation is the allowable catch (HG or quota) reduced by: (1) Set-asides, if any, for treaty Indian fisheries or recreational fisheries (which results in the commercial HG or quota); and (2) the open access allocation. Allocations for Washington coastal tribal fisheries are discussed in paragraph V.

### III. 1998 Management Measures

Projections of landings in 1997 are based on the information available to the Council at its November 1997 meeting (Supplemental GMT Report B.6., November 1997), unless otherwise noted.

#### Limited Entry Fishery

The management measures for vessels operating in the 1998 limited entry fishery are designed to keep landings within the HGs 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 a limit on the number of landings. Two-month cumulative limits will continue to be used for most of the limited entry fishery in 1998. As in 1997, no more than 60 percent of a 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. Unless otherwise announced later in the year, the 2-month periods are: January–February, March–April, May–June, July–August, September–October, and November–December. One-month periods may be used later in the year.

[**Note:** NMFS has published a proposed regulation in the **Federal Register** (62 FR 67610, December 29, 1997), with a request for public comments, in which limited entry permit transfers would take effect on the first day of a major cumulative landings limit period, which are the periods described in this paragraph.]

#### Platooning

An optional platooning system was initiated in 1997 which enables the limited entry trawl fleet to provide a more consistent supply of fish to processors. Whereas the cumulative limits normally begin on the first of a month (this is the "A" platoon), a vessel in the "B" platoon operates under limits out of phase by 2 weeks, from the 16th of a month to the 15th of a month. All limited entry trawl vessels are automatically in the "A" platoon, unless the permit owner indicated in the annual permit renewal that the permitted vessel will participate in the "B" platoon. Vessels operating in the "B" platoon will not be able to land any species of groundfish from January 1–

15, 1998. The effective date of changes to the cumulative trip limits for the "B" platoon will occur on the 16th of the month unless otherwise specified. Special provisions will be made to accommodate "B" vessels at the end of the year so that the same amount of fish is made available to both "A" and "B" vessels. For example, a vessel in the "B" platoon could have the same cumulative trip limit for the final period as vessels in the "A" platoon, but the final period may be 2 weeks shorter, so that both the "A" and "B" fishing periods end on December 31, 1998. Alternatively, if the fishery is operating under 1-month cumulative trip limits, the "B" platoon may have 6 weeks to take the final two cumulative limits. The choice of platoon applies to the permit for the entire calendar year, even if the permit is sold, leased, or otherwise transferred. The platoon system is experimental and may not be continued in the future if the Council decides the benefit does not outweigh technical and administrative burdens.

#### 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 1998 are the same as at the end of 1997, with several exceptions: (1) 1998 limits for bocaccio are set at half the 1997 levels; (2) a new, open access trip limit is added for lingcod of 1,000 lb (454 kg) cumulative per 2-month period; and (3) the cumulative trip limit is reduced to 600 lb (272 kg) per 2-month period for sablefish taken under the daily trip limit north of 36° N. lat. with open access net or line gear (but not exempt trawl gear). The lingcod and bocaccio (set/trammel net) 2-month cumulative trip limits are unusual because cumulative trip limits in the open access fishery generally apply to 1-month periods. Also, the 60-percent monthly limits that apply within the 2-month cumulative trip limits for the limited entry fishery (see paragraph IV.A.(1)(c)(i)) do not apply to the open access fishery; the open access cumulative limits for lingcod and sablefish may be taken at any time during the 2-month period.

The thornyhead fishery remains closed to all open access gear north of 36° N. lat., and under a 50 lb (23 kg) daily trip limit south of 36° N. lat.

The groundfish trip limit for exempted trawl gear remains at 500 lb (227 mt) (which for pink shrimp trawls only may be multiplied by the number of days in a trip), and includes the daily

trip limits for sablefish (300 lb (136 kg) coastwide) and thornyheads (the same as for the other open access gear, which may not be multiplied by the number of days in a trip).

As in past years, a vessel operating in the open access fishery, besides being constrained by specific open access limits, must not exceed in any calendar month 50 percent of any 2-month cumulative trip limit for the same area in the limited entry fishery, called the "50-percent monthly limit." In some cases, the 50-percent monthly limit is larger than the open access limit, and so is not an additional constraint. The management measures in paragraph IV. have been reorganized so that the 50-percent monthly limits now appear in one place with all other open access limits.

#### Background and Council Recommendations

The following discussions apply to the limited entry fishery unless otherwise stated.

#### Widow Rockfish

**Limited Entry.** In 1997, the limited entry 2-month cumulative limit of 70,000 lb (31,742 kg) was in effect until May 1, at which time it was reduced to 60,000 lb (27,216 kg), where it remained to the end of the year. Landings were projected to be 6,155 mt in 1997, 1 percent below the HG. The HG is reduced substantially, from 6,500 mt in 1997 to 4,276 mt in 1998, and therefore the 2-month cumulative trip limit also is reduced substantially at the beginning of 1998, to 25,000 lb (11,340 kg). Even at this lower level, there is some concern that further reductions may be needed later in the year.

**Open access.** There is no open access allocation specifically for widow rockfish. Landings in the open access fishery are constrained by the 50-percent monthly limit, which applies toward the open access limit for rockfish.

The *Sebastes* Complex (Including Yellowtail Rockfish, Canary Rockfish, and Bocaccio)

**Limited entry.** On January 1, 1997 (62 FR 700, January 6, 1997), the limited entry fishery for the *Sebastes* complex was managed under a 2-month cumulative trip limit of 30,000 lb (13,608 kg) north of Cape Mendocino (40°30' N. lat.) and 150,000 lb (68,039 kg) south of Cape Mendocino. Within these 2-month cumulative limits for the *Sebastes* complex, no more than 6,000 lb (2,722 kg) could be yellowfish rockfish north of Cape Mendocino, no more than 12,000 lb (5,443 kg) could be

bocaccio south of Cape Mendocino, and no more than 14,000 lb (6,350 kg) could be canary rockfish coastwide. On May 1, 1997 (62 FR 24845, May 7, 1997), the 2-month cumulative trip limit for bocaccio was reduced to 10,000 lb (4,536 kg), so that its HG would not be exceeded. However, landings of yellowtail rockfish and canary rockfish were lower than expected, and on October 1, 1997 (62 FR 51814, October 3, 1997), the 2-month cumulative trip limits were converted to 1-month limits and increased to 5,000 lb (2,268 kg) per month for yellowtail rockfish and 10,000 lb (4,534 kg) per month for canary rockfish. This increased the *Sebastes* complex limits to 20,000 lb (9,072 kg) per month north of Cape Mendocino and 75,000 lb (34,020 kg) per month south of Cape Mendocino. Poor October weather and low limits contributed to reduced effort in the fishery, such that, at the Council's November 1997 meeting, landings were projected to be 14 and 20 percent below the HGs for canary and yellowtail rockfish, respectively. On November 16, 1997 (62 FR 61700, November 19, 1997), in the middle of a cumulative trip limit period, the limits were increased for these two species, resulting in increases to the total *Sebastes* complex cumulative limits as well. The November and December 1997 1-month cumulative trip limits for the *Sebastes* complex were: 40,000 lb (18,144 kg) north of Cape Mendocino and 80,000 lb (36,287 kg) south of Cape Mendocino. Within these 1-month cumulative limits, no more than 20,000 lb (9,072 kg) could be yellowtail rockfish north of Cape Mendocino, no more than 5,000 lb (2,268 kg) could be bocaccio south of Cape Mendocino, and no more than 15,000 lb (6,804 kg) could be canary rockfish coastwide.

The yellowtail rockfish HG increased from 2,762 mt in 1997 to 3,118 mt in 1998, and the canary HG increased slightly, from 1,000 mt in 1997 to 1,045 mt in 1998. The bocaccio HG declined, from 387 mt to 230 mt. As a result, the following changes to the management measures are taken in January 1998, compared to the level in January 1997. The 2-month cumulative trip limit for yellowtail rockfish (north of Cape Mendocino) is increased from 6,000 lb (2,711 kg) to 11,000 lb (4,990 kg), canary rockfish is increased from 14,000 lb (6,350 kg) to 15,000 lb (6,804 kg), and bocaccio (south of Cape Mendocino) is reduced from 12,000 lb (5,443 kg) to 2,000 lb (907 kg). The overall 2-month cumulative trip limit for the *Sebastes* complex north of Cape Mendocino is increased from 30,000 lb (13,608 kg) to

40,000 lb (18,144 kg), but is larger than the increases to the cumulative limits for yellowtail and canary rockfish. If landings of other *Sebastes* species become too high, the trip limit for the complex may be reduced later in the year. South of Cape Mendocino, the *Sebastes* complex 2-month cumulative trip limit is the same as in January 1997, at 150,000 lb (68,039 kg).

**Open access.** Landings in the open access fishery of yellowtail, canary rockfish, bocaccio, and the *Sebastes* complex as a whole are constrained by the 50-percent monthly limit, which applies toward the open access limit for rockfish. However, restrictions, some of them new, are described below for the open access bocaccio fishery.

Both yellowtail rockfish and bocaccio are particularly difficult to manage because of the number of gear types and fishing strategies involved. A substantial portion of the yellowtail HG is taken as bycatch in the whiting and shrimp fisheries. The at-sea processing sector of the whiting fishery reduced its bycatch of yellowtail rockfish approximately in half in 1997 by fishing deeper and more cautiously and using daily satellite transmissions to alert fishers of areas of high bycatch, as has been done to monitor salmon bycatch since 1996. Bycatch of rockfish in the shrimp and prawn trawl fisheries was addressed in 1997 by reducing the groundfish trip limits from a third to a half of their former levels. Management of bocaccio is further complicated by significant recreational and open access harvest. In 1998, a new recreational bag limit (3 fish) is established for bocaccio off California, and the open access 1-month cumulative trip limits for bocaccio south of Cape Mendocino are reduced by half: for hook-and-line gear, from 2,000 lb (907 kg) in 1997 to 1,000 lb (454 kg) in 1998; and for set and trammel nets, from 4,000 lb (1,814 kg) to 2,000 lb (907 kg), of which no more than 250 lb (113 kg) may be taken per trip. The set/trammel net limit is higher than that which may be taken by the limited entry fishery. This limit maintains the historical proportions landed by open access net and hook-and-line gears while enabling the open access allocation for bocaccio to be achieved.

#### POP

**Limited entry.** The limited entry 2-month cumulative trip limit for POP remained the same throughout 1997, at 8,000 lb (3,629 kg) per 2-month period; it has been at this level since July 1, 1996. Landings of POP in 1997 were projected to be from 563 mt to over 600 mt, below its 750-mt HG. The 1998 HG

is set at 650 mt to accommodate incidental catches without encouraging a target fishery on POP; interceptions of POP may increase as the HG for yellowtail rockfish increases in 1998. The 2-month cumulative trip limit remains the same as in 1997, and also is intended to accommodate only unavoidable incidental catches. POP is managed to achieve a rebuilding schedule, so trip limits will not be increased to achieve the HG.

**Open access.** Landings of POP in the open access fishery are constrained by the 50-percent monthly limit, which counts toward the open access cumulative limit for rockfish.

**Sablefish.** The sablefish HG is subdivided among several fisheries. The tribal fishery allocation is set aside prior to dividing the balance of the HG 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.

DTS Complex (Dover Sole, Thornyheads, and Trawl-Caught Sablefish)

**Limited entry.** In January 1997 (62 FR 700, January 6, 1997), the 2-month cumulative trip limit for the DTS complex was 70,000 lb (31,752 kg) north of Cape Mendocino and 100,000 lb (45,359 kg) south of Cape Mendocino. Within this 2-month cumulative limit, no more than 38,000 lb (17,236 kg) could be Dover sole north of Cape Mendocino, and coastwide, no more than 12,000 lb (5,443 kg) could be trawl-caught sablefish and no more than 20,000 lb (9,072 kg) could be thornyheads. No more than 4,000 lb (1,814 kg) of the thornyheads could be shortspine thornyheads. Throughout the year, no more than 500 lb (227 kg) per trip could be sablefish smaller than 22 inches (56 cm).

On May 1, 1997 (62 FR 24845, May 7, 1997), the 2-month cumulative trip limits were reduced for Dover sole north of Cape Mendocino to 30,000 lb (13,608 kg), and for thornyheads coastwide to 15,000 lb (6,804 kg), of which only 3,000 lb (1,361 kg) could be shortspine thornyheads. The 2-month cumulative limit for the DTS complex north of Cape Mendocino decreased by the same amount, to 57,000 lb (25,855 kg), while remaining at 100,000 lb (45,359 kg) south of Cape Mendocino. The coastwide 2-month cumulative trip limit



for sablefish remained at 12,000 lb (5,443 kg).

On September 1 (62 FR 36228, July 7, 1997), the 2-month cumulative trip limits for the DTS complex and its components were converted to 1-month cumulative limits: for the DTS complex, 28,500 lb (12,927 kg) north of Cape Mendocino and 50,000 lb (22,680 kg) south of Cape Mendocino; for sablefish coastwide, 6,000 lb (2,722 kg); for Dover sole north of Cape Mendocino, 15,000 lb (6,804 kg); and for thornyheads coastwide, 7,500 lb (3,402 kg), of which no more than 1,500 lb (680 kg) could be shortspine thornyheads.

On October 1, 1997 (62 FR 51814, October 3, 1997), the 1-month cumulative trip limits were reduced for sablefish coastwide (to 2,000 lb (907 kg)) and Dover sole north of Cape Mendocino (to 1,500 lb (680 kg)), and established for Dover sole south of Cape Mendocino (at 30,000 lb (13,608 kg)). Previously Dover sole could comprise the amount of DTS limit that was left over after taking sablefish and thornyheads. As a result, the 1-month cumulative trip limits for the DTS complex became the sum of the cumulative limits of its components, at 11,000 lb (4,990 kg) north of Cape Mendocino and 39,500 lb (17,917 kg) south of Cape Mendocino. The limits for thornyheads did not change in October.

Reduced effort in October, likely due to bad weather and extremely low cumulative trip limits, resulted in much lower landings than expected. On November 16, 1997 (62 FR 61700, November 19, 1997), the 1-month cumulative trip limits for all three species in the complex were increased to keep landings within the 1997 HGs and allocations without increasing discards. These increases were intended to enable fishers to land fish that otherwise would be caught and discarded. Therefore, on November 16, 1997 (62 FR November 19, 1997), the monthly limits for the DTS complex were raised to 16,000 lb (7,257 kg) north of Cape Mendocino, and 43,000 lb (19,504 kg) south of Cape Mendocino.

Within these limits, 3,000 lb (1,361 kg) could be Dover sole north of Cape Mendocino and 30,000 lb (13,608 kg) south of Cape Mendocino (no change to southern Dover sole); 3,000 lb (1,361 kg) coastwide could be trawl-caught sablefish; and 10,000 lb (4,536 kg) coastwide could be thornyheads. No more than 3,000 lb (1,361 kg) of the thornyheads could be shortspine thornyheads. Landings are intended to be close to the HGs for these species in 1997, although some changes were made so late in the year, final data will not be available until 1998.

The HG for sablefish north of 36° N. lat. is reduced from 7,800 mt 1997 to 4,680 mt in 1998, with proportional reductions in the allocations (see footnote g/ of Table 1). The 1998 trawl allocation was therefore reduced from 3,803 mt in 1997 to 2,282 mt in 1998, and the 2-month cumulative limit for trawl-caught sablefish in January 1998 is 5,000 lb (2,268 kg), less than half the 12,000 lb (5,443 kg) limit in January 1997. The 500-lb (227 kg) trip limit for sablefish smaller than 22 inches (56 cm) remains in effect. A new HG was set at 425 mt for sablefish south of 36° N. lat., equal to the ABC, which is based on historical landings in that area. The DTS limits apply coastwide, including waters south of 36° N. lat.

In 1998, the HG for Dover sole is applied coastwide only, without separate consideration of the Columbia area. The HG is reduced from 11,050 mt in 1997 to 8,995 mt in 1998. At certain times of year, particularly in winter months, it is possible to catch Dover sole in deep water more selectively, without large associations of sablefish and shortspine thornyheads. Therefore, in January-February 1998, the 2-month cumulative trip limit for Dover sole is 40,000 lb (18,144 kg). The 2-month cumulative trip limit is reduced to 18,000 lb (8,165 kg) beginning in March 1998. If adequate amounts remain, the limit may be raised for the more selective fishery at the end of the year. This is done to achieve full utilization of all four species in the complex, without exceeding any HG or allocation, while reducing the need to discard fish in excess of legal limits.

In 1998, the HG for longspine thornyheads is reduced from 6,000 mt north of Pt. Conception (34°27' N. lat.) to 3,733 mt north of 36° N. lat., based on a new stock assessment, and 390 mt for that portion of the Conception area north of Pt. Conception (which is equivalent to 4,123 mt north of Pt. Conception, although there no longer is a single HG for these two areas combined). The 2-month cumulative limit in January 1998 is 10,000 lb (4,536 kg), which for the first time applies only to longspine thornyheads, separate from shortspine thornyheads. In 1997, the trip limit of 20,000 lb (9,072 kg) applied to both species of thornyheads combined, and could consist entirely of longspine thornyheads if no shortspine thornyheads were taken. The trip limits are not linked in 1998 in order to encourage a more selective harvest of each species.

In 1998, the HG for shortspine thornyheads is reduced from 1,500 mt north of 36° N. lat. to 1,082 mt north of the Conception area, and 113 mt for that

portion of the Conception area north of Pt. Conception (which is equivalent to 1,195 mt north of Pt. Conception, although there is not a single HG for the two areas combined). There is no HG south of Pt. Conception. The 2-month cumulative trip limit for shortspine thornyheads in January 1998 is 4,000 lb (1,814 kg), the same as in January 1997.

*Open access.* The open access limits for thornyheads are the same as in 1997: the fishery is closed north of Pt. Conception, and a 50-lb (23 kg) daily trip limit applies south of Pt.

Conception. Open access landings of Dover sole are constrained by the 50-percent monthly limit of 9,000 lb (4,082 kg) starting in March 1998, but not in January-February 1998 when the open access limits for exempted trawl gear are more restrictive. The 300-lb (136 kg) coastwide daily trip limit for exempted trawl gear remains in effect in 1998.

#### Nontrawl Sablefish

*Limited entry north of 36° N. lat.* A number of significant changes were made to management of the limited entry fishery in 1997: (1) A vessel was required to have an endorsement on its limited entry permit in order to participate in the regular or mop-up sablefish seasons (62 FR 34670, August 27, 1997); (2) the regular season was changed from a derby to an equal cumulative trip limit for all participants, which in 1997, was 34,100 lb (15,468 kg); (3) the cumulative trip limit during the regular season was attached to the limited entry permit as well as to the vessel to prevent multiple vessels from taking multiple cumulative trip limits within the same cumulative limit period by transferring a permit; (4) the fishery during the regular season ended at sea rather than dockside; (5) the preseason closure was shortened from 72 to 48 hours, and advance setting of pot gear was no loner allowed; and (6) the post-season closure also was shortened from 72 to 48 hours.

However, a number of provisions remained the same as in 1996. 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. Small daily trip limits were applied to the nontrawl fishery before and after the "regular" and "mop-up" seasons. A 300-lb (136-kg) daily trip limit was applied only north of 36°00' N. lat., the same area covered by the HG. On May 1, a 5,100-lb (2,313 kg) per month cap was placed on the amount of sablefish that could be taken under the daily trip limit north of 36° N. lat. (62 FR 24845, May 7, 1997). This cap was lowered to

600 lb (272 kg) on July 1 (62 FR 36228, July 7, 1997), and increased to 1,500 lb (680 kg) on October 22 after the end of the mop-up season (62 FR 53577, October 15, 1997). The 1997 daily trip limit was intended to result in landings of about 915,000 lb (425 mt) but it appeared they would be as high as 1.1 million lb (499 mt). Overall, limited entry landings of sablefish in 1997 are projected to be about 160 mt below the limited entry nontrawl allocation of 2,754 mt (based on information updated after the November Council meeting).

Due to the decline in the HG in 1998, the limited entry nontrawl allocation for sablefish north of 36° N. lat. is reduced from 2,754 mt in 1997 to 1,652 mt in 1998. In 1998, the same daily trip limits for the limited entry fishery will apply outside the regular and mop-up seasons and any closures, but the cumulative limit is reduced from 1,500 lb (680 kg) per month to 1,500 lb (680 kg) per 2-month period (excluding any harvest in the regular or mop-up seasons). The 60-percent monthly limits described in paragraph IV.A(1)(c)(i) do not apply here for the nontrawl sablefish fishery. The "per trip" limit for nontrawl sablefish smaller than 22 inches (56 cm) remains in effect during the regular and mop-up fisheries. The Council recommended a number of management changes for 1998, including a 3-tier system of assigning cumulative trip limits during the regular season, that has not yet been published for public comment or approved by NMFS.

**1998 Regular Season.** The Council recommended that the limited entry regular season begin on August 1, 1998, to reduce the probability of poor weather (as encountered in the 1997 mop-up season), to take advantage of favorable tidal conditions, to decrease competition with Alaska sablefish fisheries, and to accommodate alternate fishing opportunities. The regular season applies only north of 36° N. lat.

**Limited entry south of 36° N. lat.** In the Conception area, where there was no HG in 1997, and landings had been below the 425-mt ABC in 1996, the limited entry daily trip limit was set at 350 lb (159 kg) to accommodate most landings without encouraging excessive effort shifts into that area. There was no cap on the amount that could be landed under the daily trip limit in the Conception area. In September 1997, an option was provided that enabled a vessel to make one landing a week above 350 lb (159 kg) but less than 1,050 lb (476 kg) (62 FR 46920, September 6, 1997). The same daily trip limit remains in effect in 1998, but the option to make one landing above 350 lb (159 kg) is not

available in January 1998. This option may be reconsidered later in the year.

**Open access.** Landings appear to be close to the open access sablefish allocation in 1997. Therefore, for the open access fishery, the same daily trip limits for sablefish apply in 1998 as in 1997: 300 lb (136 kg) north of 36° N. lat.; 350 lb (159 kg) south of 36° N. lat., except a 2-month cumulative limit of 600 lb (272 kg) also applies north of 36° N. lat.

**Whiting.** The entire whiting HG of 232,000 mt was harvested in 1997: 87,069 mt by the shore-based fleet; 69,947 mt by the catcher/processing sector; 50,395 mt by the motherships sector, and about 25,000 mt by the Makah tribal fishery. 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'–43°00' N. lat.) continues in effect in 1998. Additional regulations, including the percentages used to allocate whiting among non-tribal sectors, are found at 50 CFR 660.323(a)(4).

**Whiting seasons.** The opening dates of the primary seasons for whiting also are announced herein (see paragraph IV.B.(5)(b)). They remain the same as in 1997, except for the shore-based fishery in the Eureka area (42°–40°30' N. lat. off California), which will begin on April 1, 1998.

**Nontribal whiting allocation.** Because the U.S. HG and tribal allocation did not change, the 1998 allocations for the nontribal whiting fishery are the same as in 1997, and are listed at paragraph IV.B. (5)(a).

#### Lingcod

The 2-month cumulative trip limit for lingcod in 1997 was 40,000 lb (18,144 kg) until July 1, when it was reduced to 30,000 lb (13,608 kg) (62 FR 36228, July 7, 1997). Lingcod smaller than 22 inches (56 cm) could not be landed in the commercial or recreational fisheries except for 100-lb (45-kg) per trip for trawl-caught lingcod. Landings of lingcod in 1997 are projected at 2,162 mt (1,462 mt from the commercial fishery and 700 mt from the recreational fishery), 238 mt below the 2,400 mt HG. The trip limit was not increased however, in recognition of the reduced ABC in 1998, and the fear that an increase to trip limits in 1997 would attract additional target opportunities and excessive effort.

Lingcod involves two difficult management issues in 1998: Its transboundary occurrence in U.S. and Canadian waters, and within U.S.

waters, relative harvest levels by commercial and recreational fishers.

The 1998 HG for lingcod is 35 percent of its 1997 level, reduced from 2,400 mt in 1997 to 838 mt in 1998, due primarily to the results of a new stock assessment. (The ABC is set at F35% but the HG is set at a more precautionary F40%) There is no agreement between U.S. and Canadian scientists regarding the appropriate stock structure and distribution. U.S. scientists believe the lingcod population of the Columbia and Vancouver areas (including Canada) to be a single stock, but Canadian scientists believe the Canadian portion of this range is not part of the same stock as that found in northern U.S. waters. Landings in the Canadian portion of the Vancouver area were about 900 mt in 1996. If this level of landings were to continue in 1998, Canadian landings alone would exceed the F40% yield calculated (by U.S. scientists) for the entire assessment area (the Columbia and Vancouver areas, including Canadian waters).

The U.S. industry disagrees as to whether the reduction should or could fall equally on both commercial and recreational sectors. The 838-mt HG is for total U.S. catch, including the recreational sector. Coastwide recreational landings of lingcod in 1997 were estimated at about 700 mt. If that level continued in 1998, recreational harvest would comprise over 80 percent of the U.S. HG, leaving only 138 mt for the commercial fishery. If recreational catch were reduced by 65 percent, the same reduction in the U.S. ABC from 1997 to 1998, the recreational sector would be limited to 245 mt in 1998, leaving 593 mt for the commercial sector.

The Council considered the management options available and decided, after hearing considerable public testimony, to reduce both the commercial and recreational fisheries to absorb the impact of the reduced HG in 1998. The management measures recommended by the Council are intended to divide the HG almost equally between the commercial and recreational sectors, but this results in a proportionately larger decrease for the commercial fishery. The Council recommended increasing the size limit for all fisheries coastwide (commercial limited entry and open access, and recreational) from 22 inches (56 cm) to 24 inches (61 cm) and reducing the recreational bag limit off California from 5 to 3 lingcod, consistent with current bag limits off Washington and Oregon. This would lower the recreational harvest by about 153 mt, resulting in expected recreational harvest of about

430 mt of the 838 mt total in 1998, even with the recommended size and bag limit reductions. Approximately 408 mt would remain for the commercial fishery, a 72 percent decrease since 1997. The Council also recommended reducing the limited entry, 2-month cumulative trip limit to 1,000 lb (454 kg) in January 1998 (compared to 40,000 lb (18,144 kg) in January 1997), and established a new, 1,000-lb (454 kg) 2-month cumulative trip limit for the open access fishery. The new open access cumulative limit is the same as for the limited entry fishery, except the 60-percent monthly limits described in paragraph IV.A.(1)(c)(i) do not apply, and the entire open access cumulative limit may be taken at any time during the 2-month period. The commercial fishery absorbed a greater proportion of the harvest reduction in 1998 because the Council has not yet developed a plan for allocating lingcod between the two fisheries. The Council is expected to initiate discussions in the near future to address more formally the commercial and recreational allocation of lingcod.

#### Black Rockfish

Black rockfish off the State of Washington continue to be managed under the regulations at 50 CFR 660.323(a)(1) for nontribal limited entry and open access fisheries. The State of Oregon implements trip limits for black rockfish off the Oregon coast.

#### *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, regardless of whether 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 area) in the limited entry fishery, unless otherwise authorized.

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 January, a trawl vessel catches 2,700 lb (1,225 kg) of sablefish in the limited entry fishery, and in the same month catches 500 lb (227 kg) of sablefish with shrimp trawl (open access) gear, for a total of 3,200 lb (1,451 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 3,000 lb (1,361 kg) (60 percent

of the 5,000-lb (2,268-kg) 2-month cumulative limit for the limited entry fishery).

#### *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 black rockfish or for species with daily trip limits), the cross-over provisions at paragraph IV.A.(12) apply. In general, a vessel fishing for groundfish in a more restrictive area is subject to the more restrictive limit for the duration of that trip limit period.

#### *Changes to Trip Limits; Closures*

Unless otherwise stated (as for the nontrawl sablefish regular season; see 50 CFR 660.323(a)(2)), 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 660.302 for the definition of "landing").

#### *Designated Species B Permits*

Designated Species B permits may be issued if the limited entry fleet will not fully utilize the HG for Pacific whiting, shorbelly rockfish, or jack mackerel north of 39° N. lat. The limited entry fleet has requested the full use of these species in 1998. In addition, since no applications were received before the November 1 deadline, NMFS does not expect to issue Designated Species B permits in 1998.

#### *Recreational Fishing*

Bag limits for rockfish remain the same in 1998 as in 1997, with one exception; a new 3-fish bag limit is added for bocaccio off California. The bag and size limits for lingcod also are changed in 1998: the size limit is increased from 22 inches (56 cm) to 24 inches (61 cm) total length, and the bag limit is reduced from 5 to 3 fish off California, which is consistent with the 3-fish bag limits off Washington and Oregon.

#### **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 1998, including those that are the same as in 1997.

#### *A. General Definitions and Provisions*

The following definitions and provisions apply to the 1998 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 weight of legal 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, and 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 (the "60-percent monthly limit"). The 2-month periods are: January-February, March-April, May-June, July-August, September-October, and November-December. Different cumulative periods may be announced later in the year.

[**Note:** NMFS has published a proposed regulation in the **Federal Register** (62 FR 67010, December 29, 1997), with a request for public comments, in which limited entry permit transfers would take effect on the first day of a cumulative landings limit period, which are the periods described in this paragraph IV.A.(1)(c)(i).]

(ii) *Open access fishery.* Unless otherwise specified (as for sablefish north of 36° N. Lat. and lingcod), cumulative trip limits in the open access fishery apply to 1-month periods. Within these 1-month cumulative trip 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."

(iii) *Platooning—limited entry trawl vessels.* Limited entry trawl vessels are automatically in the "A" platoon, unless the permit owner indicated in the annual limited entry permit renewal that the permitted vessel will participate in the "B" platoon. If a vessel is in the "A" platoon, its cumulative trip limit periods begin and end on the beginning and end of a calendar month as in the past. If a limited entry trawl permit is authorized for the "B" platoon, then cumulative trip limit periods will begin on the 16th of the month (generally 2 weeks later than for the "A" platoon), unless otherwise specified.

(A) For a vessel in the "B" platoon, cumulative trip limit periods begin on the 16th of the month and end on the 15th of the month. Therefore, the management measures announced herein that are effective on January 1, 1998, for the "A" platoon will be effective on January 16, 1998, for the "B" platoon. The effective date of any inseason changes to the cumulative trip limits also will be delayed for 2 weeks for the "B" platoon.

(B) A vessel authorized to operate in the "B" platoon may take and retain, but may not land, groundfish from January 1, 1998, through January 15, 1998.

(C) Special provisions will be made for "B" platoon vessels later in the year so that the amount of fish made available in 1998 to both "A" and "B" vessels is the same. (For example, a vessel in the "B" platoon could have the same cumulative trip limit for the final period as a vessel in the "A" platoon, but the final period may be 2 weeks shorter so that both fishing periods end on the same date.)

(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 at 50 CFR 660.302 (in the definition of "landing"), 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 unless otherwise specified.

(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 660, the Magnuson-Stevens

Fishery Conservation and Management Act (Magnuson-Stevens Act), any notice issued under part 660, and any other regulation promulgated or permit issued under the Magnuson-Stevens 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 is 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 is 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 50 CFR 660.302.) Unless otherwise announced in the **Federal Register**, offloading must begin before the time the fishery closes.

[**Note:** Special provisions are made for an at-sea closure at the end of the regular season for the sablefish limited entry fishery. See 50 CFR 660.323(a)(2).]

(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 EEZ, unless otherwise demonstrated by the person in possession of those fish.

(9) In season 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 660.306(p)).

(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 660.323(a)(1)). In 1998, 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.

(a) *Going From A More Restrictive To A More Liberal Area:* If a vessel takes and retains any species of groundfish in an area where a more restrictive trip limit applies, before fishing in an area where a more liberal trip limit (or no 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.

(b) *Going From A More Liberal To A More Restrictive Area:* 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 takes and retains, possesses or lands the same species (or special 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.

(13) *Sorting*. 50 CFR 660.306(h) make it unlawful for any person to "fail to sort, prior to the first weighing after off loading, 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. A proposed rule was published in the **Federal Register** at 62 FR 67610, December 29, 1997, with a request for public comments, that would require all species or species groups with a trip limit, size limit, HG, 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.

(14) *Exempted fisheries*. U.S. vessels operating under an exempted (formerly experimental) fishing permit issued under 50 CFR part 600 also are subject to these restrictions, unless otherwise provided in the permit.

(15) Paragraphs IV.B. through IV.C. pertain to the commercial groundfish fishery, but not to Washington coastal tribal fisheries which are described in paragraph V. The provisions in paragraphs IV.B through IV.C. 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.D. 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 Arena, CA—38°57'30" N. lat.
- (e) Point Conception, CA—34°27' N. lat.
- (f) International North Pacific Fisheries Commission (INPFC) subareas (for more precise coordinates for the Canadian and Mexican boundaries, see 50 CFR 660.304):
  - (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. Limited Entry Fishery

(1) *Widow Rockfish* (commonly called brownies). The cumulative trip limit for widow rockfish is 25,000 lb (11,340 kg) per vessel per 2-month period. The 60-

percent monthly limit is 15,000 lb (6,804 kg).

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

(a) *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. This definition also applies the open access fishery.

(b) *Cumulative trip limits*. The cumulative trip limit for the *Sebastes* complex is 40,000 lb (18,144 kg) north of Cape Mendocino or 150,000 lb (68,039 kg) south of Cape Mendocino, per vessel per 2-month period. Within the cumulative trip limit for the *Sebastes* complex, no more than 11,000 lb (4,990 kg) may be yellowtail rockfish taken and retained north of Cape Mendocino, no more than 2,000 lb (907 kg) may be bocaccio taken and retained south of Cape Mendocino, and no more than 15,000 lb (6,804 kg) may be canary rockfish.

(c) The 60-percent monthly limits are: For the *Sebastes* complex, 24,000 lb (10,886 kg) north of Cape Mendocino, and 90,000 lb (40,823 kg) south of Cape Mendocino; for yellowtail rockfish, 6,600 lb (2,994 kg) north of Cape Mendocino; for bocaccio, 1,200 lb (5,443 kg) south of Cape Mendocino; and for canary rockfish coastwide, 9,000 lb (4,082 kg).

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

(3) *POP*. The cumulative trip limit for POP is 8,000 lb (3,629 kg) per vessel per 2-month period. The 60-percent monthly limit is 4,800 lb (2,177 kg).

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

(a) *1998 Sablefish Management goal*. The limited entry sablefish fishery will be managed to achieve the 1998 commercial HGs of 4,680 mt north of 36° N. lat. and 425 mt south of 36° N. lat.

(b) *Gear allocations*. After subtracting the tribal-imposed catch limit and the open access allocation from the HG for sablefish north of 36° N. lat. the remainder is allocated 58 percent to the trawl fishery and 42 percent to the nontrawl fishery.

[**Note**: The 1998 ABC for sablefish north of 36° N. lat. is 5,200 mt. The trawl allocation

is 2,282 mt and the nontrawl allocation is 1,652 mt. See footnote g/ of Table 1.]

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

(i) *January-February 1998*. In January-February 1998, the 2-month cumulative trip limit for the DTS complex is 59,000 lb (26,762 kg) per vessel. Within this cumulative trip limit, no more than 5,000 lb (2,268 kg) may be sablefish, no more than 40,000 lb (18,144 kg) may be Dover sole, no more than 10,000 lb (4,536 kg) may be longspine thornyheads, and no more than 4,000 lb (1,814 kg) may be shortspine thornyheads.

(ii) *March 1988*. Beginning in March 1998, the 2-month cumulative trip limit for the DTS complex is 37,999 lb (16,783 kg) per vessel. Within this cumulative trip limit, no more than 5,000 lb (2,268 kg) may be sablefish, no more than 18,000 lb (8,165 kg) may be Dover sole, no more than 10,000 lb (4,536 kg) may be longspine thornyheads, and no more than 4,000 lb (1,814 kg) may be shortspine thornyheads.

(iii) The 60-percent monthly limits are: For the DTS complex, 35,400 lb (16,057) in January-February and 22,200 lb (10,070 kg) per 2-month period starting in March; for trawl-caught sablefish, 3,000 lb (1,361 kg) for each 2-month period; for Dover sole, 24,000 lb (10,886 kg) in January-February, and 10,800 lb (4,899 kg) per 2-month period starting in March; for longspine thornyheads, 6,000 lb (2,722 kg) for each 2-month period; and for shortspine thornyheads, 2,400 lb (1,089 kg) for each 2-month period. (iii) 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.)

(d) *Nontrawl trip and size limits*. To participate in the regular, or mop-up season for the nontrawl limited entry sablefish fishery, the owner of a vessel must hold a limited entry permit for that vessel, affixed with both a gear

endorsement for longline or trap (or pot) gear, and a sablefish endorsement. See 50 CFR 663.23(a)(2)(i). A sablefish endorsement is not required to participate in the limited entry daily trip fishery.

(i) *Regular season.* The regular season will begin at 12 noon (local time) on August 1, 1998. The management structure of the regular season, including season duration, closed periods, and trip limits will be announced with the 1998 limited entry nontrawl sablefish season regulations.

(ii) *Daily trip limit.* The daily trip limit, which applies to sablefish of any size, is in effect north of 36° N. lat. until the closed periods before or after the regular season as specified at 50 CFR 660.323(a)(2), between the end of the regular season and the beginning of the mop-up season, and after the mop-up season. The daily trip limit is expected to be in effect throughout the year in Federal waters south of 36° N. lat.

(A) The daily trip limit for sablefish taken and retained with nontrawl gear north of 36° N. lat. is 300 lb (136 kg), which counts toward a cumulative trip limit of 1,500 lb (680 kg) per 2-month period. (Landings from the regular or mop-up seasons do not count toward this cumulative limit, and the 60-percent monthly limits described at paragraph (V.A.(1)(c)(i) do not apply.)

(B) The daily trip limit for sablefish taken and retained with nontrawl gear south of 36° N. lat. is 350 lb (159 kg) with no cumulative limit on the amount of sablefish that may be retained in a month.

(iii) *Limit on small fish.* During the "regular" or "mop-up" season, there is a trip limit in effect for 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.) This trip limit counts toward any other cumulative trip limit that may be in effect.

(e) *Conversions.* The following conversions apply to both the limited entry and open access fisheries. For headed and gutted (eviscerated) 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; fisherman should contact fishery enforcement officials in the state where the fish will be landed to determine that state's official conversion factor.)

(5) *Whiting.* Additional regulations that apply to the whiting fishery are found at 50 CFR 660.306 and 50 CFR 660.323(a)(3) and (4).

(a) *Allocations.* The nontribal allocations are HGs, based on percentages that are applied to the commercial HG (see 50 CFR 660.323(a)(4)), as follows:

(i) *Catcher/processor sector*—70,400 mt (34 percent);

(ii) *Mothership sector*—49,700 mt (24 percent);

(iii) *Shore-based sector*—86,900 mt (42 percent). No more than 5 percent (4,345 mt) of the shore-based whiting allocation may be taken before the shore-based fishery begins north of 42° N. lat.

(iv) *Tribal allocation*—See paragraph V.

(b) *Seasons.* The 1998 primary seasons for the whiting fishery are as follows (see 50 CFR 660.323(a)(3)):

(i) *Catcher/processor sector*—May 15;

(ii) *Mothership sector*—May 15;

(iii) *Shore-based sector*—June 15 north of 42° N. lat.; April 1 between 42°–40°30' N. lat. (the Eureka area); April 15 south of 40°30' N. lat.

(c) *Trip limits.*

(i) *Before and after the regular season.* 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 and after the regular season for whiting, as specified at 50 CFR 660.323(a)(3) and (4). This trip limit includes any whiting caught shoreward of 100 fathoms (183 m) in the Eureka subarea.

(ii) *Inside the Eureka 100-fm contour.* 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.

(6) *Lingcod.*

(a) *Trip limits.* The cumulative trip limit for lingcod is 1,000 lb (454 kg) per vessel per 2-month period. The 60-percent monthly limit is 600 lb (272 kg). No lingcod may be smaller than 24 inches (61 cm) total length, except for a 100-lb (45-kg) trip limit for trawl-caught lingcod smaller than 24 inches (61 cm). Length measurement is explained at paragraph IV.A.(6).

(b) *Conversions.* The following conversions apply in both limited entry and open access fisheries.

(i) *Size conversion.* For lingcod with the head removed, the minimum size limit, which corresponds to 24 inches (61 cm) total length for whole fish, is 19.5 inches (49.5 cm).

(ii) *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.

(A) *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.)

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

(7) *Black rockfish.* The regulations at 50 CFR 660.323(a)(1) 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 (45 kg) or 30 percent, by weight of all fish on board, whichever is greater, per vessel per fishing trip." These limits apply to limited entry and open access fisheries. The crossover provisions at paragraphs IV.A.(12) do not apply.

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

Open access gear is gear used to take and retain groundfish from a vessel that does not have a valid limited entry permit for the Pacific coast groundfish fishery with an endorsement for the gear used to harvest the groundfish. This includes longline, trap, pot, hook-and-line (fixed or mobile), set net (south of 38° N. lat. only), and exempted trawl gear (trawls used to target non-groundfish species: pink shrimp or prawns, and, south of Pt. Arena, CA (38°57'30" N. lat.), California halibut or sea cucumbers). Unless otherwise specified, a vessel operating in the open access fishery is subject to, and must not exceed the lesser of: Any trip limit, frequency limit, and/or size limit for the open access fishery; or, in any calendar month, 50 percent of any 2-month

cumulative trip limit for the same area in the limited entry fishery, called the "50-percent monthly limit." Fish harvested under the 50-percent monthly limits also count toward the open access limits for rockfish or groundfish, as applicable. For purposes of this paragraph, exempted trawl gear (trawl gear that is used to harvest shrimp, prawns, California halibut or sea cucumbers as provided in this paragraph C.) 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, unless otherwise specified. The crossover provisions at paragraph IV.A.(12) that apply to the limited entry fishery apply to the open access fishery as well. The conversions at paragraphs IV.B.(4)(e) for sablefish and IV.B.(6)(b) for lingcod also apply to the open access fishery.

(1) *Rockfish*. Rockfish means all rockfish as defined at 50 CFR 660.302, which includes the *Sebastes* complex (including yellowtail rockfish, bocaccio, and canary rockfish), shortbelly rockfish, widow rockfish, POP, and thornyheads.

(a) *All open access gear (includes exempted trawl gear)*.

(i) *Thornyheads*. Thornyheads (shortspine and longspine) may not be taken and retained, possessed, or landed north of Pt. Conception. South of Pt. Conception, the daily trip limit for thornyheads is 50 lb (23 kg). (The 50-percent monthly limit is not relevant for thornyheads south of Pt. Conception because it is much larger than the amount that could be taken under the daily trip limits.)

(ii) *Widow rockfish*. The 50-percent monthly limit for widow rockfish is 12,500 lb (5,670 kg).

(iii) *POP*. The 50-percent monthly limit for POP is 4,000 lb (1,814 kg).

(iv) *Sebastes complex*. The 50-percent monthly limit for the *Sebastes* complex north of Cape Mendocino is 20,000 lb (9,072 kg). (The 50-percent monthly limit is not relevant for exempted trawl gear north of Cape Mendocino, or for any open access gear south of Cape Mendocino because it would be larger than the open access limits.) The 50-percent monthly limits for yellowtail rockfish, bocaccio, and canary rockfish are counted toward the 50-percent monthly limit for the *Sebastes* complex.

(A) *Yellowtail rockfish*. The 50-percent monthly limit for yellowtail rockfish is 5,500 lb (2,495 kg) north of Cape Mendocino;

(B) *Bocaccio*. The 50-percent monthly limit for bocaccio is 1,000 lb (454 kg) south of Cape Mendocino. (The 50-percent monthly limit does not apply to

setnets and trammel nets which have a higher limit—see paragraph IV.C.(1)(b)(ii));

(C) *Canary rockfish*. The 50-percent monthly limit for canary rockfish is 7,500 lb (3,402 kg).

(b) *Hook-and-line, pot, setnet, trammel net*. The cumulative monthly trip limit for rockfish is 40,000 lb (18,144 kg) per vessel per month, and includes the daily trip limit for thornyheads and the other limits in paragraph IV.C.(1)(a) above. The following trip limits also apply, which count toward the cumulative monthly limit:

(i) *Hook-and-line or pot gear*: 10,000 lb (4,536 kg) of rockfish per vessel per fishing trip, of which no more than 250 lb (113 kg) may be bocaccio taken and retained south of Cape Mendocino. As stated in paragraph IV.C.(1)(iv)(B) above, no more than 1,000 lb (454 kg) cumulative per month may be bocaccio taken and retained south of Cape Mendocino. The trip limit at 50 CFR 660.323(a)(i) for black rockfish caught with hook-and-line gear also applies and is counted toward the cumulative *Sebastes* and rockfish limits (The black rockfish limit is also stated in paragraph IV.B.(7).)

(ii) *Setnet or trammel net gear* (legal only south of 38° N. lat.): 2,000 lb (907 kg) cumulative per month of bocaccio taken and retained south of Cape Mendocino. [Note: The open-access limit is intentionally larger than the limited entry limit of 1,000 lb (454 kg) per 2-month period.]

(2) *Sablefish*.

(a) *Hook-and-line, pot, setnet, trammel net*.

[Note: There is no 50-percent monthly limit for open access sablefish taken with nontrawl gear because the limited entry nontrawl fishery is not managed with 2-month cumulative trip limits.]

(i) *North of 36°00' N. lat.* North of 36°00' N. lat., the daily trip limit for sablefish is 300 lb (136 kg), which counts toward a cumulative trip limit of 600 lb (272 kg) per 2-month period.

[Note: In 1997, the open access cumulative trip limit applied to 1-month period.]

The 2-month cumulative limit may be taken at any time during the 2-month period; there is no 60-percent monthly limit for the open access fishery.

(ii) *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).

(b) *Exempted trawl gear*. The 50-percent monthly limit of 2,500 lb (1,134 kg) applies to sablefish taken and retained with exempted trawl gear.

(3) *Lingcod*. The 2-month cumulative trip limit for lingcod is 1,000 lb (454 kg)

and applies to all open access gear, including exempted trawl gear. The 2-month cumulative limit may be taken at any time during that 2-month period; there is no 60-percent monthly limit for the open access fishery. The 50-percent monthly limit does not apply.

(4) *Dover sole*. The 50-percent monthly trip limit for Dover sole is 20,000 lb (9,072 kg) in January-February 1998 and 9,000 lb (4,082 kg) starting in March 1998. It applies to all open access gear, except it is not relevant for exempted trawl gear in January-February 1998 because then it is larger than the amount of groundfish that any legally be taken with exempted trawl gear.

(5) *Groundfish taken by shrimp or prawn trawl*. The daily trip limits, which count toward the trip limit for groundfish, are: for sablefish coastwide, 300 lb (136 kg); and for thornyheads south of Pt. Conception, 50 lb (23 kg). The limits in paragraphs IV.C.(1)(a), (2)(b), (3), and (4) also apply.

(a) *Pink shrimp*. The trip limit for a vessel engaged in fishing for pink shrimp is 500 lb (227 kg) of groundfish, multiplied by the number of days of the fishing trip. The daily trip limits for sablefish and thornyheads may not be multiplied by the number of days of the fishing trip.

(b) *Spot and ridgeback prawns*. The trip limit for a vessel engaged in fishing for spot or ridgeback prawns is 500 lb (227 kg) of groundfish species per fishing trip.

(c) *State law*. These trip limits are not intended to supersede any more restrictive state law relating to the retention of groundfish taken in shrimp or prawn pots or traps.

(6) *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. The daily trip limits, which count toward the trip limit for groundfish, are: for sablefish, 300 lb (136 kg); and for thornyheads south of Pt. Conception, 50 lb (23 kg). The limits in paragraphs IV.C.(1)(a), (2)(b), (3), and (4) also apply.

(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 660.333 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 to be participating in the sea cucumber fishery if:

(i) It is not fishing under a valid limited entry permit issued under 50 CFR part 660.333 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.

#### D. Recreational Fishery

(1) *California*. The bag limits for each person engaged in recreational fishing seaward of the State of California are: 3 lingcod per day, which may be no smaller than 24 inches (61 cm) total length; and 15 rockfish per day, of which no more than may be bocaccio. 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: 3 lingcod per day, which may be no smaller than 24 inches (61 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: 3 lingcod per day no smaller than 24 inches (61 cm) total length; and 10 rockfish per day.

#### V. Washington Coastal Tribal Fisheries

In late 1994, the U.S. government formally recognized the treaty right to fish for groundfish of the four Washington Coastal Treaty tribes (the Makah, Quileute, Hoh, 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 (described at 50 CFR 660.324).

A tribal allocation is subtracted from the species HG before limited entry and open access allocations are derived. The treaty Indian fisheries for sablefish, black rockfish, and whiting are separate fisheries, not governed by the limited entry or open access regulations or allocations. The tribes regulate their fisheries so as not to exceed their allocations. Tribal fishing for rockfish with fixed gear will operate under the same rules as the open access fishery, with one exception. The coastal tribes intend to implement a 300-lb (136-kg) trip limit for thornyheads taken with longline gear, which is expected to result in landings of 8,000–10,000 lb (3,629–4,536 kg). For other groundfish species, Makah tribal members may use midwater trawl gear to take and retain groundfish for which there is no tribal allocation; those who do so will be subject to the trip landing and frequency and size limits applicable to the limited entry fishery (50 CFR 660.324(k)). Additional background regarding the tribal allocations appears at 61 FR 28786, June 6, 1996 and 62 FR 700, January 7, 1997 and the EA and updated analysis for those actions.

The tribal allocations for black rockfish and whiting are the same in 1998 as in 1997, and are based on the same rationale. The whiting allocation remains in effect as discussions on quantification of the treaty right continue in 1998. The tribal allocation for sablefish remains at 10 percent of the HG, and therefore is reduced from 780 mt in 1997 to 468 mt in 1998, to reflect the reduction in the HG.

The tribal longline fishery has operated under the same restrictions as the open access fishery; therefore, no special provisions have been needed for this fishery. However, with the prohibition of retention of thornyheads in the open access fishery north of 36°N. lat., (while thornyheads are retained in the limited entry fishery), the tribal fishery operating under open access rules had no opportunity to retain even incidental amounts of thornyheads. Therefore, in order to allow tribal fishers at least an opportunity for the incidental harvest of species harvested by non-treaty fishers, a 300-lb (136 kg) "per trip" limit is established for the tribal longline fishery. NMFS Actions

For the reasons stated above, the Assistant Administrator (AA) announces the following tribal allocations for 1998, including those that are the same as in 1997:

*Sablefish*: 468 mt, 10 percent of the HG.

*Rockfish*: For the commercial harvest of black rockfish off Washington State an HG of: 20,000 lb (9,072 kg) north of

Cape Alava (48°09'30" N. lat.) and 10,000 lb (4,536 kg) between Destruction Island (47°40'00" N. lat.) and Leadbetter Point (46°38'10" N. lat.). this 30,000 lb (13.6 mt) is subtracted from the HG for the northern *Sebastes* complex. Thornyheads taken and retained with longline gear are subject to a 300 lb (136 kg) trip limit, which is expected to result in landings of 8,000–10,000 lb (3,629–4,536 kg).

*Whiting*: 25,000 mt for the Makah tribe in 1998, 10.8 percent of the HG.

#### VI. Issuance of Exempted Fishing Permits (EFPs) In 1997

In 1996, renewals were requested and approved for three different types of EFPs (formerly called "experimental fishing permits"): (1) The first was from the State of Oregon (representing Washington and California as well) for the purpose of renewing the 1996 EFP to monitor the bycatch of salmon in the shore-based whiting fishery. Under this permit, 45 vessels were issued EFPs that required all salmon caught incidentally in the whiting fishery to be landed shore-side. A variation of the whiting EFP also was requested by the State of California so that a small number of fishers could be allowed to fish for whiting inside of the 100-fathom (183-m) contour in the Eureka Management Area, 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. At-sea observers would be aboard all whiting trips. Even though this variation to the whiting EFP was approved, the industry declined to participate.

(2) The second EFP was for a new, enhanced data collection program that applied to the other groundfish fisheries. The application was submitted by the State of Oregon, but could include involvement by the States of Washington and California as well. This is a multi-year cooperative data collection program with the industry and state and Federal governments. Twenty-five EFPs were issued in 1997. The purpose of the experiment was to monitor trip-limit-induced discards and the bycatch of salmon and other non-target species in the groundfish trawl fishery. All participating vessels were required to land salmon caught incidentally in groundfish trawl gear and to keep enhanced logbooks required by the States. Some vessels were required to carry at-sea observers to monitor trip-limit induced discards, and some vessels could have been required to bring virtually their entire catch to shore for additional monitoring



although this occurred infrequently in 1997.

(3) The purpose of the third EFP was to collect reproductive samples for sablefish to test assumptions in the stock assessment for that species. An EFP was requested because a vessel would have been authorized to land 500 lb (227 kg) in excess of the cumulative trip limit for trawl-caught sablefish (for a total of 5 mt in 1996), and would have been able to sell the scientific samples. A state or Federal scientist would have been aboard every trip to gather the biological data. Although this permit was approved and issued, it had not been used at the time this notice was prepared in late 1997—fish were obtained directly from processors and the EFP was not needed.

#### VII. EFPs Requested for 1998

NMFS has approved requests to renew the whiting and enhanced data collection EFPs for 1998. The whiting EFP described in paragraph VI. will be continued, pending development and implementation of a regulation that would authorize salmon to be retained and landed in appropriate circumstances. Fishers are concerned that their practice of dumping codends directly into the hold would make monitoring of trip limits difficult, if not impossible, and wanted the EFP continued because it results in the forfeiture of overages but does not impose penalties for overages. The scope of the experiment and level of participation will be the same as in 1997.

Continuation of the enhanced data collection program described in paragraph VI. will also include several minor changes. The major change will enable data to be obtained on a vessel throughout its fishing activities in a month, even if the vessel is not fishing for groundfish. This will provide information on groundfish bycatch in other fisheries (particularly shrimp fisheries) and on a fisher's choice to pursue alternative fisheries or fishing strategies. The program also could be expanded to include whiting fisheries when the whiting EFP no longer is in effect.

Requests for these EFPs were presented at the Council's November 1997 meeting. Comments on the EFP programs were invited at the November 1997 Council meeting and the Council recommended approval. Now that NMFS has approved the renewal, the whiting EFPs could be issued as early as March 1 for vessels delivering in the State of California, and in the spring for vessels operating under the enhanced data collection EFP.

#### Classification

The final specifications and management measures for 1998 are issued under the authority of, and are in accordance with, the Magnuson-Stevens Act and 50 CFR parts 600 and 660 subpart G (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 1998 fishing year, the AA has determined that 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 September and November 1997 where these recommendations were formulated. Additional public comments on the specifications and management measures will be accepted for 30 days after publication of this document in the **Federal Register**. The Assistant Administrator (AA) will consider all comments made during the public period and may make modifications as appropriate.

The harvest specifications and the management measures designed to achieve those specifications announced by this rule do not require any time to come into compliance with. As described above, the interested public has participated in the Council process where these regulations were formulated. The Council has provided information to the industry on the above management measures and specifications through the U.S. Coast Guard Notice to Mariners and the States of Washington, Oregon, and California will also disseminate information. Therefore, the AA finds, under 5 U.S.C. 553(d)(3), as applicable, that it would be unnecessary or contrary to the public interest to delay the effective date of the

specifications and management measures.

*NEPA: For the Annual Specifications and Management Measures and Exempted Fishing Permits—An Environmental Impact Statement (EIS) was prepared for the FMP in 1982 and Supplemental EISs was prepared for Amendments 4 and 6 in accordance with the National Environmental Policy Act (NEPA). The alternatives considered and environmental impacts of the actions in this notice are not significantly different than those considered in either the EIS or SEISs for the FMP, and the actions fall within the scope of these analyses. The Council prepared an environmental assessment (EA) which was the basis for this conclusion.*

*For the Makah Whiting Allocation: An EA also was prepared for the tribal groundfish rule at 61 FR 28786 which concluded that the proposed 1996 Makah allocation would have no significant impact on the human environment. NMFS updated the EA for 1997 and concluded, as it did in 1996, that the 1997 Makah allocation would have no significant impact on the human environment. The 1998 whiting HG and allocation are the same as in 1997 and are within the scope previously analyzed; therefore an additional EA was not prepared. Therefore this action is categorically excluded from the NEPA requirements to prepare an environmental assessment in accordance with paragraph 6.02b3(a) of the NOAA Administrative Order 216-6.*

Dated: December 30, 1997.

**Hilda Diaz-Soltero,**

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

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 971205289-7313-02; I.D. 120497C]

RIN 0648-AK28

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Minimum Size Limit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and