DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No. 011231309–1309–01; I.D. 121301A]

RIN 0648–AO69

Magnuson-Stevens Act Provisions; 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: Proposed rule, announcement of the overfished status of yelloweye rockfish; announcement of the receipt of exempted fishing permit application; request for comments.

SUMMARY: NMFS proposes a rule to implement the 2002 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. The proposed specifications include the levels of the acceptable biological catch (ABC) and optimum yields (OYs). The commercial OYs (the total catch OYs reduced by tribal allocations and by amounts expected to be taken in recreational and compensation fisheries) proposed herein would be allocated between the limited entry and open access fisheries. Proposed management measures for 2002 are intended to prevent overfishing; rebuild overfished species; minimize incidental catch and discard of overfished and depleted stocks; provide equitable harvest opportunity for both recreational and commercial sectors; and, within the commercial fisheries, achieve harvest guidelines and limited entry and open access allocations to the extent practicable. This **Federal Register** document also announces that the yelloweye rockfish resource is considered overfished, and announces the receipt of an application for an exempted fishing permit (EFP) for 2002.

DATES: Comments must be received no later than 5 p.m., local time (l.t.) on February 11, 2002.

ADDRESSES: Send comments to D. Robert Lohn, Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070, or fax to 206–526–6736; or Rodney McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213, or fax to (562) 980–4047. Comments will not be accepted if submitted via E-mail or the internet. Information relevant to this proposed rule, which includes an environmental asssessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA), is available for public review during business hours at the offices of the NMFS Northwest Regional Administrator and the NMFS Southwest Regional Administrator, or may be obtained from the Pacific Fishery Management Council (Council), at 7700 NE Ambassador Place, Portland, OR 97220, phone: 503–326–6352. Additional reports referred to in this document may also be obtained from the Council. Copies of EFP applications are available from NMFS Northwest Region.

Send comments regarding the reporting district estimate or any other aspect of the collection-of-information requirements in the announcement of EFPs, including suggestions for reducing the burden, to one of the NMFS addresses and to the Office of Management and Budget (OMB), Washington, DC 20503, (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier or Becky Renko (Northwest Region, NMFS), phone: 206–526–6140; fax: 206–526–6736 and; E-mail: *yvonne.dereynier@noaa.gov, becky.renko@noaa.gov* or Svein Fougner (Southwest Region, NMFS) phone: 562–980–4000; fax: 562–980–4047 and; E-mail: *svein.fougner@noaa.gov.*

Electronic Access

This proposed rule also is accessible via the Internet at the Office of the Federal Register's Web site at *http://www.access.gpo.gov/su— docs/aces/aces140.html.* Background information and documents are available at the NMFS Northwest Region Web site at *http://www.nwr.noaa.gov.1sustfsh/gdfsh01.htm* and at the Council's Web site at *http://www.pcouncil.org.*

SUPPLEMENTARY INFORMATION:

Background

The FMP requires that fishery specifications for groundfish be annually evaluated, and revised as necessary, that OYs be specified for species or species groups in need of particular protection, and that management measures designed to achieve the OYs be published in the **Federal Register** and made effective by January 1, the beginning of the fishing year. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the FMP require that NMFS implement actions to prevent overfishing and to rebuild overfished stocks.

Since 1990, the Council has developed annual specifications and management measures in a two-meeting process (usually its September and November meetings) followed by a NMFS final action published in the **Federal Register** and made available for public comment and correction after the effective date of the action. Each year, specifications and management measures are effective until the specifications and management measures for the following year are published and effective. In 2001, NMFS was challenged on this process in *Natural Resources Defense Council, Inc.* v. *Evans,* 2001 WL 1246622 (N.D.Cal. 2001) and the court ordered NMFS to provide prior public notice and allow public comment on the annual specifications. NMFS is publishing the 2002 specifications and management measures initially as a proposed rule available for a 30-day public comment, to be followed by a final rule.

The Council finalized its 2002 specifications and management measures recommendations at its October 28 through November 2, 2001 meeting in Millbrae, CA. Because NMFS did not have enough time to publish a proposed rule on the Council's recommendations, receive public comments, and publish all of a final rule by the scheduled start of the fishery on January 1, 2002, NMFS also publishes a final emergency rule today's **Federal Register** that finalizes and makes effective the groundfish management measures for January 1 through February 28, 2002. As a result, this proposed rule addresses the 2002 specifications (ABCs and OYs) and the management measures for March through December 2002. Specifications and management measures proposed for 2002 are designed to constrain direct and incidental mortality in order to rebuild overfished stocks and to prevent overfishing and to achieve as much of the OYs as practicable for healthier groundfish stocks managed under the FMP.

During 2002, NMFS and the Council will develop a means to incorporated the Council's development of annual specifications and management measures into the proposed and final rulemaking process required by the Court's order.

I. Proposed Specifications

Proposed fishery specifications include ABCs, the designation of OYs, which may be represented by harvest guidelines (HGs) or quotas for species that need individual management, and the allocation of commercial OYs between the open access and limited entry segments of the fishery. These specifications include fish caught in state ocean waters (0–3 nautical miles (nm) offshore) as well as fish caught in the EEZ (3–200 nm offshore).

BILLING CODE 3510–22–M

Table 1a. 2002 Specifications of Acceptable Biological Catch (ABC), Optimum Yields (OYs), and Limited Entry and Open Access Allocations, by International North Pacific Fisheries Commission (INPFC) Areas (weights in metric tons).

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial OY (Total catch)	Allocations (Total catch)			
	Vancouver a/	Columbia	Eureka	Monterey	Conception	Total Catch			Limited Entry		Open Access	
									Mt	%	Mt	%
ROUNDFISH												
Lingcod b/	745					745	577	251	203	81.0	48	19.0
Pacific Cod	3,200		c/			3,200	na	3,200	--	--	--	--
Pacific Whiting d/									--	--	--	--
Sablefish e/ (north of 36°)	4,644				--	4,644	4,367	3,906	3,539	90.6	367	9.4
Sablefish f/ (south of 36°)	--				333	333	229	229	--	--	--	--
FLATFISH												
Dover sole g/	8,510					8,510	7,440	7,368	--	--	--	--
English sole	2,000		1,100			3,100	na	-	-	-	-	-
Petrale sole h/	1,262		500	800	200	2,762	na	-	-	-	-	-
Arrowtooth flounder	5,800					5,800	na	-	-	-	-	-
Other flatfish i/	700	3,000	1,700	1,800	500	7,700	na	-	-	-	-	-

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial OY (Total catch	Allocations (Total catch)			
	Vancouver a/	Columbia	Eureka	Monterey	Conception	Total Catch			Limited Entry		Open Access	
									Mt	%	Mt	%
ROCKFISH:												
Pacific Ocean Perch j/	640			--		640	350	350	--	--	--	--
Shortbelly k/	13,900					13,900	13,900	13,900	--	--	--	--
Widow l/	3,727					3,727	856	853	827	97.0	26	3.0
Canary m/	228					228	93	44	39	87.7	5	12.3
Chilipepper n/	c/			2,700		2,700	2,000	1,985	1,106	55.7	879	44.3
Bocaccio o/	c/			122		122	100	44	25	55.7	19	44.3
Splitnose p/	c/			615		615	461	461	--	--	--	--
Yellowtail q/	3,146			c/		3,146	3,146	3,131	2,871	91.7	260	8.3
Shortspine thornyhead r/	1,004					1,004	955	948	945	99.73	3	0.27
Longspine thornyhead s/ (north of 36°)	2,461				--	2,461	2,461	2,455	--	--	--	--
Longspine thornyhead t/ (south of 36°)	--				390	390	195	195	--	--	--	--
Cowcod u/	c/			19	--	19	2.4	0	--	--	--	--
	c/			--	5	5	2.4	0	--	--	--	--
Darkblotched v/	187					187	168	168	163	--	5	-
Yelloweye w/	22			5	--	27	13.5	3.69	--	--	--	--

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial OY (Total Catch	Allocations (Total catch)			
	Vancouver a/	Columbia	Eureka	Monterey	Conception	Total Catch			Limited Entry		Open Access	
									Mt	%	Mt	%
Minor Rockfish North x/	4,795			--		4,795	3,115	2,442	2,239	91.7	203	8.3
Minor Rockfish South y/	--			3,506		3,506	2,015	1,283	714	55.7	569	44.3
Remaining Rockfish	2,727			854		--	--	--	--	--	--	--
bank z/	c/			350		350	--	--	--	--	--	--
black aa/	615		500			1,115	--	--	--	--	--	--
blackgill bb/	c/			75	268	343	--	--	--	--	--	--
bocaccio - (north)	318					318	--	--	--	--	--	--
chilipepper- (north)	32					32	--	--	--	--	--	--
redstripe	576			c/		576	--	--	--	--	--	--
sharpchin	307			45		352	--	--	--	--	--	--
silvergrey	38			c/		38	--	--	--	--	--	--
splitnose	242			c/		242	--	--	--	--	--	--
yellowmouth	99			c/		99						
yellowtail- (south)				116		116						
Other rockfish cc/	2,068			2,652		--	--	--	--	--	--	--
OTHER FISH dd/	2,500	7,000	1,200	2,000	2,000	14,700	na	-	-	-	-	-

Table 1b. 2002 OYs for minor rockfish by depth sub-groups (weights in metric tons).

Species	Total Catch ABC	OY (Total catch)			Harvest Guidelines (Total catch)			
					Limited Entry		Open Access	
		Total Catch OY	Recreational Estimate	Commercial OY	Mt	%	Mt	%
Minor Rockfish North x/	4,795	3,115	673	2,442	2,239	91.7	203	8.3
Nearshore		987	663	324	161	na	163	na
Shelf		968	10	958	928	na	30	na
Slope		1,160	0	1,160	1,150	na	10	na
Minor Rockfish South y/	3,506	2,015	732	1,283	714	55.7	569	44.3
Nearshore		662	532	130	23	na	107	na
Shelf		714	200	514	194	na	320	na
Slope		639		639	497	na	142	na

a/ ABC applies to the U.S. portion of the Vancouver area, except as noted under individual species.

b/ Lingcod was designated as overfished in 1999. Coastwide, lingcod is estimated to be at 15 percent of its unfished biomass. An assessment was conducted in 2000 and updated for 2001. The stock assessment included parts of Canadian waters, therefore the U.S. portion of the ABC for the Vancouver area was set at 44 percent of the total for that area. The ABC of 745 mt was calculated using an Fmsy proxy of F45%. The total catch OY of 577 mt is based on a 60 percent probability of rebuilding the stock to Bmsy by the year 2009. The total catch OY is reduced by 326 mt, the amount that is estimated to be taken by the recreational fishery, resulting in a commercial OY of 251 mt. The open access total catch allocation is 48 mt (19 percent of the commercial OY) and the open access landed catch value is 38 mt. The limited entry total catch allocation is 203 mt and the landed catch value is 163 mt. The landed catch value is based on a discard mortality rate of 20 percent. Tribal vessels are expected to land a small amount of lingcod (4-5 mt), but do not have a specific allocation at this time.

c/ "Other species" - These species are neither common nor important to the commercial and recreational fisheries 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 either "other rockfish" or "remaining rockfish" for the areas footnoted only.

d/ A new Pacific whiting assessment is expected in early 2002. Therefore, final adoption of the ABC and OY is being deferred until early 2002, when the results of the new assessment become available.

e/ Sablefish north of 36° N lat. - A new sablefish assessment was done in 2001 for the area north of Point Conception (34°27'N lat.). Sablefish north of 34°27'N lat. is estimated to be between 27 percent and 38 percent of its unfished biomass. The ABC for the surveyed area (4,786 mt) is based on an environmentally driven model with an Fmsy proxy of F45%. The ABC for the management area north of 36° N lat. is 4,644 mt (97.04 percent of the ABC from the surveyed area). The total catch OY for the area north of 36° N lat is 4,367 mt, which is based on the application of the 40-10 harvest rate policy, and is 97.04 percent of the OY from the surveyed area. The total catch OY is reduced by 10 percent for the tribal set aside (437 mt) and by 24.7 mt for

compensation to vessels that conducted resource surveys. The remainder (3,906 mt) is the commercial total catch OY. The open access allocation of 9.4 percent of the commercial OY, results in an open access total catch OY of 367 mt. The limited entry total catch OY is 3,539 mt, 90.6 percent of the commercial OY. The limited entry total catch OY is further divided with 58 percent (2,052 mt) allocated to the trawl fishery and 42 percent (1,486 mt) allocated to the non-trawl fishery. Discard rates will be applied as follows: 22 percent for limited entry trawl, 8 percent for limited entry fixed gear and open access, and 3 percent for the tribal fisheries. The resulting landed catch values are: 1,601 mt for limited entry trawl, 1,367 mt for limited entry fixed gear, 338 mt for open access, and 424 mt for the tribal fisheries.

f/ Sablefish south of 36° N lat. - The ABC of 333 mt is the sum of 142 mt (2.96 percent of the ABC from the new 2001 survey based assessment) and 191 mt (based on historical landings). The total catch OY (229 mt) is the sum of 133 mt (2.96 percent of the OY from the new 2001 survey based assessment with the application of the 40-10 harvest rate policy) and 96 mt (that portion of the ABC based on historical landings south of Pt. Conception that was reduced by 50 percent to address uncertainty due to limited information). There are no limited entry or open access allocations in the Conception area at this time. The assumed discard value is 8 percent, resulting in a landed catch value of 211 mt.

g/ Dover sole north of 34°27'N lat. was assessed as a unit in 2001 and is estimated to be at 29% of its unfished biomass. The ABC (8,510 mt) is based on an Fmsy proxy of F40%. Because the biomass is estimated to be in the precautionary zone, the total catch OY of 7,440 mt is based on the application of the 40-10 harvest rate policy. The OY is reduced by 71.6 mt for compensation to vessels that conducted resource surveys, resulting in a commercial OY of 7,368 mt. Discards are assumed to be 5 percent, resulting in a landed catch value of 7,000 mt.

h/ Petrale sole was estimated to be at 42 percent of its unfished biomass following a 1999 assessment. For 2002, the final ABC for the Vancouver-Columbia area (1,262 mt) is based on an F40% Fmsy proxy. The ABCs for the Eureka, Monterey, and Conception areas (1,500 mt) continue at the same level as 2001.

i/ "Other flatfish" are those species that do not have individual ABC/OYs and include butter sole, curlfin sole, flathead sole, Pacific sand dab, rex sole, rock sole, sand sole, and starry flounder. The ABC is based on historical catch levels.

j/ Pacfic ocean perch (POP) was designated as overfished in 1999. The ABC (640 mt) is based on the 2000 assessment which was updated for 2001. The total catch OY (350 mt) is based on a 70 percent probability of rebuilding the stock to Bmsy by the year 2042. The landed catch value is 294 mt. The landed catch value is based on a discard rate of 16 percent. Tribal vessels are expected to land only trace amounts of POP in 2002 and do not have a specific allocation at this time.

k/ Shortbelly rockfish remains an unexploited stock and is difficult to assess quantitatively. The 1989 assessment provided 2 alternative yield calculations of 13,900 mt and 47,000 mt. NMFS surveys have shown poor recruitment in most years since 1989, indicating low recent productivity and a naturally declining population in spite of low fishing pressure. The ABC and OY therefore are set at 13,900 mt, the low end of the range in the assessment.

l/ Widow rockfish was assessed in 2000 and is estimated to be at 24 percent of its unfished biomass. Therefore, it was declared overfished in 2001. The ABC (3,727 mt) is based on an F50% Fmsy proxy. The OY (856 mt) is based on a 60 percent probability of rebuilding the stock to Bmsy within 37 years. The OY is reduced by 3 mt for the amount estimated to be taken as recreational catch, resulting in a commercial OY of 853 mt. The commercial OY is divided with open access receiving 3 percent (26 mt) and limited entry receiving 97 percent (827 mt). The landed catch equivalent for the open access fishery is 21 mt. The limited entry allocation is reduced by 150 mt for anticipated bycatch in the at-sea whiting fishery and an additional 40 mt for anticipated bycatch in the shore-based sector of the whiting fishery. The remainder of the limited entry allocation is reduced by 16 percent to account for discards in the trip limit fisheries. The landed catch equivalent, excluding the at-sea whiting fishery, is 575 mt. Tribal vessels are expected to land about 27 mt of widow rockfish in 2002, but do not have a specific allocation at this time.

m/ Canary rockfish is estimated to be at 22 percent of its unfished biomass in the north (north of Cape Blanco) and 8 percent of its unfished biomass in the south (south of Cape Blanco). Canary rockfish was declared overfished in 2000. The coastwide ABC (228 mt) is based on an Fmsy proxy of F50%. The coastwide OY of 93 mt (the sum of 73 mt for the northern area, plus 20 mt for the southern area) is based on a 52 percent

probability of rebuilding the stock to Bmsy by the year 2056. The OY is reduced by 5 mt for research surveys and 44 mt for the estimated recreational catch, resulting in a commercial OY of 44 mt. The commercial OY is divided with open access receiving 12.3 percent (5 mt) and limited entry receiving 87.7 percent (39 mt). The landed catch value for the open access fishery is 4.5 mt. The 39 mt limited entry allocation is further reduced by 3 mt for anticipated bycatch in the offshore whiting fishery. The limited entry landed catch value is 30 mt. The landed catch value is based on a discard rate of 16 percent. However, the specific open access/limited entry allocation has been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks. Tribal vessels are expected to land about 2.5 mt of canary rockfish in 2002, but do not have a specific allocation at this time.

n/ Chilipepper rockfish - The ABC (2,700 mt) for the Monterey-Conception area is based on the 1998 stock assessment with the application of an F50% Fmsy proxy. Because the unfished biomass is estimated to be above 40 percent, the default OY could be set equal to the ABC. However, the OY is set at 2,000 mt, near the recent average landed catch, to discourage effort on chilipepper, which is known to have bycatch of overfished bocaccio rockfish. The OY is reduced by 15 mt for the amount estimated to be taken in the recreational fishery, resulting in a commercial OY of 1,985 mt. Of the commercial OY, open access is allocated 44.3 percent (879 mt) and limited entry is allocated 55.7 percent (1,106 mt). The assumed discard is 16 percent, resulting in a open access landed catch value of 739 mt and a limited entry landed catch value of 929 mt.

o/ Bocaccio rockfish is estimated to be at 2 percent of its unfished biomass and was designated as overfished in 1999. The ABC of 122 mt is based on an F50% Fmsy proxy. The OY (100 mt) is based on the rebuilding plan, which has a 67% probability of rebuilding the stock to Bmsy by the year 2033. The OY is reduced by 56 mt for the amount estimated to be taken as recreational harvest, resulting in a 44 mt commercial OY. Open access is allocated 44.3 percent (19 mt) of the commercial OY and limited entry is allocated 55.7 percent (25 mt) of the commercial OY. The open access landed catch value is 16 mt and the limited entry landed catch value is 21 mt. The landed catch value is based on a discard rate of 16 percent.

p/ Splitnose rockfish - The 2001 ABC is 615 mt in the southern area (Monterey-Conception). The 461 mt total catch OY for the southern area reflects a 25 percent precautionary adjustment because of the less rigorous assessment for this stock. In the north, splitnose is included in the minor slope rockfish OY. The assumed discard is 16 percent for a landed catch value of 387 mt.

q/ Yellowtail rockfish is estimated to be at 63 percent of its unfished biomass. The ABC of 3,146 mt is based on a 2000 stock assessment for the Vancouver-Columbia-Eureka areas with an Fmsy proxy of F50%. The OY (3,146 mt) was set equal to the ABC. To derive the commercial OY (3,131 mt) the total catch OY is reduced by 15 mt, the amount estimated to be taken in the recreational fishery. The open access allocation (260 mt) is 8.3 percent of the commercial OY. The limited entry allocation (2,871 mt) is 91.7 percent the commercial OY. For anticipated bycatch in the at-sea whiting fishery, 400 mt is subtracted from the limited entry allocation. An additional 150 mt is deducted for the shore-based whiting fishery. The remainder (2,471 mt) is further reduced by 20 percent for assumed discard. The limited entry landed catch equivalent, excluding the at-sea whiting fishery, is 2,007 mt. The open access landed catch equivalent is 218 mt, given the assumed discard of 16 percent. Tribal vessels are expected to land about 300 mt of yellowtail rockfish outside their directed whiting fishery in 2002, but do not have a specific allocation at this time.

r/ Shortspine thornyhead - A new assessment was done for shortspine thornyhead in 2001 and the stock is estimated to be between 25 and 50 percent of its unfished biomass. The ABC (1,004 mt) for the area north of Pt. Conception (34°27'N lat.) is based on a F50% Fmsy proxy. The OY of 955 mt is based on the new survey with the application of the 40-10 harvest policy, resulting in a commercial OY of 948 mt. Open access is allocated 0.27 percent (3 mt) of the commercial OY and limited entry is allocated 99.73 percent (945 mt) of the commercial OY. A 20 percent rate of discard is applied to obtain a limited entry landed catch value of 757 mt. There is no ABC or OY for the southern Conception area. Tribal vessels are expected to land about 1 mt of shortspine thornyheads in, but do not have a specific allocation at this time.

s/ Longspine thornyhead is estimated to be above 40 percent of its unfished biomass. The ABC (2,461 mt) in the north (Vancouver-Columbia-Eureka-Monterey) is based on the average of the 3-year individual ABCs at an F50% Fmsy proxy. The total catch OY (2,461 mt) is set equal to the ABC. The OY is further reduced by 6 mt for compensation to vessels that conducted resource surveys, resulting in a commercial OY of 2,455 mt. To derive the landed catch equivalent of 2,037 mt, the limited entry

allocation is reduced by 17 percent for estimated discards.

t/ Longspine thornyhead - A separate ABC (390 mt) is established for the northern Conception area and is based on historical catch for the portion of the Conception area north of 34°27' N. lat. (Point Conception). The ABC was reduced by 50 percent to obtain the OY (195 mt), this reduction addresses uncertainty in the stock assessment due to limited information. There is no ABC or OY for the southern Conception Area.

u/ Cowcod in the Conception area was assessed in 1999 and is estimated to be at less than 10 percent of its unfished biomass. Therefore cowcod was declared overfished in 2000. The ABC in the Conception area (5 mt) is based on the 1999 assessment, while the ABC for the Monterey area (19 mt) is based on average landings from 1993-1997. An OY of 4.8 mt (2.4 mt in each area) is based on a 55 percent probability of rebuilding the stock to Bmsy by the year 2094. Cowcod retention will not be permitted in 2002.

v/ Darkblotched rockfish was assessed in 2000 and estimated to be at 22 percent of its unfished biomass. The stock was declared overfished in 2001. An update to the assessment which incorporated new data indicates that the stock may be at 12 percent of the unfished biomass. The ABC of 187 mt is based on the updated assessment with an Fmsy proxy of F50%. The OY of 168 mt is based on a 70 percent probability of rebuilding the stock to Bmsy by 2034. For anticipated bycatch in the at-sea whiting fishery, 5 mt is subtracted from the limited entry allocation. The landed catch value for the remaining limited entry fisheries is 130 mt. The landed catch value is based on a discard rate of 20 percent. Specific open access/limited entry allocation has been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks. Tribal vessels are expected to land minimal amounts of darkblotched rockfish in 2002, but do not have a specific allocation at this time.

w/ Yelloweye rockfish was assessed in 2001 and is estimated to be at 7 percent of its unfished biomass off northern California and at 13 percent of its unfished biomass off Oregon, indicating that it is overfished at this time. The 27 mt coastwide ABC (5 mt for the Monterey area and 22 mt for the areas north of 40°10'N lat.) is based on an Fmsy proxy of F50%. As a precautionary measure, until rebuilding measures can be adopted, the coastwide ABC has been reduced by 50 percent to obtain the OY of 13.5 mt (2.5 mt for the Monterey area and 11 mt for the areas north of 40°10'N lat.) The OY is reduced by 8.81 mt for the amount estimated to be taken as recreational harvest, and 1 mt for the amount expected to be taken in the tribal fishery, resulting in a commercial OY of 3.69 mt. Specific open access/limited entry allocation has been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks.

x/ Minor rockfish north includes the "remaining rockfish" and "other rockfish" categories in the Vancouver, Columbia, and Eureka areas combined. These species include "remaining rockfish" which generally includes species that have been assessed by less rigorous methods than stock assessments, and "other rockfish" which includes species that do not have quantifiable assessments. The ABC (4,795 mt) is the sum of the individual "remaining rockfish" ABCs (2,727 mt) plus the "other rockfish" ABCs (2,068 mt). The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. To obtain the total catch OY (3,115 mt) the remaining rockfish ABCs are further reduced by 25 percent with the exception of black rockfish (see footnote aa/), and other rockfish ABCs are reduced by 50 percent. This was a precautionary measure due to limited stock assessment information. The OY is reduced by 673 mt for the amount estimated to be taken in the recreational fishery, resulting in a commercial OY of 2,442 mt. Open access is allocated 8.3 percent (203 mt) of the commercial OY and limited entry is allocated 91.7 percent (2,239 mt) of the commercial OY. The discard is assumed to be 5 percent for nearshore rockfish, 16 percent for shelf rockfish, and 20 percent for slope rockfish, resulting in a an open access landed catch value of 188 mt and a limited entry landed catch value of 1,852 mt. Tribal vessels are expected to land about 10 mt of minor rockfish (2 mt of minor nearshore rockfish, 4 mt of shelf rockfish, and 4 mt of slope rockfish) in 2002, but do not have a specific allocation at this time.

y/ Minor rockfish south includes the "remaining rockfish" and "other rockfish" categories in the Monterey and Conception areas combined. These species include "remaining rockfish" which generally includes species that have been assessed by less rigorous methods than stock assessments, and "other rockfish" which includes species that do not have quantifiable assessments. The ABC (3,506 mt) is the sum of the individual "remaining rockfish" ABCs (854 mt) plus the "other rockfish" ABCs (2,652). The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. To obtain total catch OY (2,015 mt), the remaining rockfish

ABCs are further reduced by 25 percent, with the exception of blackgill rockfish (see footnote bb/), and the other rockfish ABCs were reduced by 50 percent. This was a precautionary measure due to limited stock assessment information. The OY is reduced by 732 mt for the amount estimated to be taken in the recreational fishery, resulting in a commercial OY of 1,283 mt. Open access is allocated 44.3 percent (569 mt) of the commercial OY and limited entry is allocated 55.7 percent (714 mt) of the commercial OY. The discard is assumed to be 5 percent for nearshore rockfish, 16 percent for shelf rockfish, and 20 percent for slope rockfish, resulting in an open access landed catch value of 484 mt and a limited entry landed catch value of 582 mt.

z/ Bank rockfish - The ABC of 350 mt is based on a 2000 assessment for the Monterey and Conception areas. This stock contributes 263 mt towards the minor rockfish OY in the south.

aa/ Black rockfish - The ABC (1,115 mt) which is based on a 2000 assessment, is the sum of the assessment area (615 mt) plus the average catch in the unassessed area (500 mt). To obtain the OY for the southern portion of this area, the ABC has been reduced by 50 percent as a precautionary measures due to limited information. For the assessed area the OY was set equal to the ABC. This stock contributes 865 mt towards the minor rockfish OY in the north.

bb/ Blackgill rockfish is estimated to be at 51 percent of its unfished biomass. The ABC (343 mt) is the sum of the Conception area ABC of 268 mt, based on the 1998 assessment with an Fmsy proxy of F50%, and the Monterey area ABC of 75 mt. This stock contributes 306 mt towards minor rockfish south (268 mt for the Conception area ABC and 38 mt for the Monterey area). The OY for the Monterey area is the ABC reduced by 50 percent for precautionary measures because of lack of information.

cc/ "Other rockfish" includes rockfish species listed in 50 CFR 660.302 and California scorpionfish. The ABC is based on the 1996 review of commercial Sebastes landings and includes an estimate of recreational landings. These species have never been quantifiably assessed. Beginning in 2002, an ABC and OY have been specified for yelloweye rockfish, in the Monterey and Conception areas. Therefore, it has been removed from the "other rockfish" category.

dd/ "Other fish" includes sharks, skates, rays, ratfish, morids, grenadiers, and other groundfish species noted above in footnote c/.

BILLING CODE 3510–22–C

ABC Policy and Overfishing

Each fishing year, the Council assesses the biological condition of the Pacific Coast groundfish fishery, develops estimates of the ABC for major groundfish stocks, and identifies harvest levels or OYs for the species or species groups that it proposes to manage.

The Magnuson-Stevens Act requires an FMP to prevent overfishing. Overfishing is defined in the National Standard Guidelines (50 CFR part 600, subpart D) as exceeding the fishing mortality rate (F) needed to produce the maximum sustainable yield (MSY). When setting the 2002 ABCs, the Council maintained a policy of using a default harvest rate as a proxy for the fishing mortality rate (Fmsy) that is expected to achieve the MSY. The OYs were then set at levels that are expected to prevent overfishing, equal to or less than the ABCs.

The ABC for a species or species group is generally derived by multiplying the harvest rate proxy by the current estimated biomass. In 2002, the Council continued to use default harvest rate proxies recommended by the Council's Scientific and Statistical Committee (SSC) for 2001. See the final rule for the 2001 annual specifications and management measures published on January 11, 2001 (66 FR 2338). These recommended harvest rate proxies are: F40% for flatfish and whiting, F50% for rockfish (including thornyheads), and F45% for other groundfish such as sablefish and lingcod. The FMP allows default harvest rate proxies to be modified as scientific knowledge improves for a particular species.

A harvest or fishing mortality rate can mean very different things for different stocks because that rate is dependent on the productivity of a particular species. For fast growing stocks, those with a strong ability to maintain moderate recruitment levels even when the spawning biomass is reduced, a higher fishing mortality rate may be used, such as F40%. A rate of F40% can be explained as that which reduces spawning potential per female to 40 percent of what it would have been under natural conditions (if there were no mortality due to fishing), and is therefore a more aggressive rate than F45% or F50%. Harvest rate policies must account for several complicating factors, including the relative fecundity of mature individuals over time, and the optimal stock size for the highest level of productivity within that stock.

For some groundfish species, there may be little or no detailed biological data available on which to base ABCs, and only rudimentary assessments were prepared; for other species, the ABC levels may be established only on the basis of historical landings. As in 2001, precautionary measures continue to be taken when setting ABCs and OYs for species with no assessments or only rudimentary ones.

The 2002 ABCs are based on the best scientific information available to the Council at its November 2001 meeting. The ABCs in Table 1 represent total fishing mortality (landed catch plus discards). Where the assessments included Canadian waters, the ABCs apply only to U.S. waters. 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 2001 meeting. Additional

information can be found in the EA/RIR/IRFA prepared by the Council for this action and in documents from the September and November 2001 Council meetings (see **ADDRESSES**).

OY Policy

In 1999, the Council adopted the ''40–10 precautionary policy'' for setting OYs. The 40–10 policy is intended to prevent species from becoming overfished. According to the Council's OY policy, if a stock biomass is larger than the biomass needed to produce MSY (Bmsy), the OY may be set equal to or less than ABC. The Council uses 40 percent as a default proxy for the Bmsy, also referred to as B40%. See the final rule for the 1999 annual specifications and management measures published on January 8, 1999 (64 FR 1316). A stock with a current biomass between 25 percent of the unfished level and Bmsy (the precautionary threshold) is said to be in the ''precautionary zone.'' The Council's default OY harvest policy reduces the fishing mortality rate when a stock is at or below its precautionary threshold. The further the stock is below the precautionary threshold, the greater the reduction in OY will be relative to the ABC, until, at B10%, the OY would be set at zero. This is, in effect, a default rebuilding policy that will foster quicker return to the Bmsy level than would fishing at the ABC level.

The Council may recommend setting the OY higher than what the default OY harvest policy specifies, if justified, as long as the OY does not exceed the ABC (Fmsy harvest rate) and it is consistent with the requirements of the Magnuson-Stevens Act and the National Standard Guidelines. Additional precaution may be added on a case-by-case basis regardless of the stock's current biomass level, if warranted by uncertainty in the data or by higher risks of being overfished.

If a stock falls below 25 percent of its unfished biomass (B25%), it is considered overfished, and the Magnuson-Stevens Act requires the Council to develop a rebuilding plan within 1 year. Rebuilding plans for overfished species have stock-specific allowable harvest rates, which are intended to rebuild the stock within a specified time period.

Precautionary measures continue to be taken when setting the OYs for species that have no or only rudimentary assessments. Since implementation of the 2000 specifications, ABCs have been reduced by 25 percent to set OYs for those species with less rigorous stock assessments, and by 50 percent to set OYs for those species with no stock assessment.

2002 ABCs and OYs

Species with ABCs and OYs in 2001 continue to have ABCs and OYs in 2002. New assessments were completed and new ABCs and OYs were developed for sablefish, Dover sole, and shortspine thornyhead north of Point Conception (34°27′ N. lat.;) and for yelloweye rockfish in the Monterey, Eureka and Columbia (waters off Oregon only) areas. A new assessment was also prepared for black rockfish off southern Oregon to 40°10′ N. lat.; however, it was not available in time to complete the required review process and was therefore not available for setting 2002 ABCs.

A new stock assessment was prepared for sablefish in 2001. The assessment incorporated new survey and fishery data and extended the assessment area south from 36°N. lat. to 34°27′ N. lat. (Point Conception). Two different assessment models indicated a normal decline in biomass since the late 1970s due to the fishing down of the virgin stock and an unexpected decline in recruitment during the early 1990s. The sablefish stock is currently estimated to be between 27 and 38 percent of the unfished biomass, depending on the assessment scenario and the basis for estimating unfished biomass.

A change in environmental conditions may have been responsible for the abrupt decline in recruitment in the 1990s, or this low recruitment may have been the natural consequence of the gradual decline in spawning biomass. Because of this uncertainty, two ABC estimates were produced and reviewed by the Council: an ABC of 4,786 mt based upon the current Fmsy proxy of F45%, and an ABC of 4,062 mt based upon a reduced harvest rate of F50%. Although sablefish have experienced a decline due to poor recruitment in the 1990's, continuation of the F45% harvest rate is expected to prevent overfishing if this recruitment decline is primarily due to random environmental factors. However, reduction in harvest rate of F50%, or lower, will be necessary in the long-term if reduced spawner abundance has been the dominant factor in causing the lower recruitment (density-dependence). Both represent a substantial reduction from the current ABC. If further analysis during 2002 indicates that the lower level is more appropriate, then the one year delay in implementing the change from F45% to F50% will cause the spawning stock at the beginning of 2003 to be only slightly smaller (47,341 mt versus 47,704 mt).

It is likely that both environmental factors and reduced spawning biomass affect sablefish recruitment, although the relative contribution of each is unknown. Large numbers of juvenile sablefish in the 2001 shelf survey (conducted after the 2001 assessment was completed) suggest that the fishable biomass and spawning biomass will increase in coming years. The survival of these juvenile sablefish may also be improved through the reduced trawl opportunities for continental shelf species because juvenile sablefish are commonly found in shelf areas. The recent large year classes are physical evidence that a recruitment scenario based solely on low spawning biomass (density-dependent scenario) does not fully described the status of the sablefish biomass. Thus, the environmental scenario may have merit as an explanation for the low recruitment during the 1990s. The ABCs considered by the Council and its advisory panels were based on assessments that did not include projections of the juvenile fish (animals that have not yet entered the fishery) from 1999 and 2000. Therefore, both ABC options considered by the Council were prudent reductions from the 2001 ABC level (7,661 mt) and until new information validates the recent recruitment level.

Three OY options were considered for sablefish by the Council: 4,500 mt derived from the environmentally driven model, 4,000 mt a ramp down approach to start moving toward a lower OY strategy, and 3,200 mt derived from the density-dependent model. At the Council's September meeting, the SSC stated a preference for the lowest OY option (3,200 mt), because it was the option most likely to prevent the biomass from falling below the rebuilding threshold (B25%) within the next five years. The SSC also recommended that the Council consider moving towards a more conservative Fmsy proxy. At the Council's November meeting, NMFS scientists presented preliminary data from the 2001 shelf survey that suggests that the fishable biomass and spawning biomass will increase in coming years. In addition, public testimony indicated that more smaller sablefish have been seen in catches during the 2001 fishing year. The SSC did not revise its OY recommendation to the Council after receiving this new information.

The Council majority agreed that information on juvenile sablefish occurrence in the shelf survey and in commercial landings is so strong that it supported the environmental-recruitment scenario while still being

precautionary. Therefore, the Council recommended adopting a 4,500 mt OY, based on the environmentally driven recruitment scenario with the application of the 40–10 harvest policy to reduce the risk of overfishing. The Council asked that NMFS prepare a revised assessment that incorporates the 2001 survey data in time for the Council's 2003 ABCs and OYs setting process. If the revised assessment does not show an increase in recruitment for 2001, the Council expressed interest in considering a ramp down strategy beginning with 2003.

Because the OY options before the Council were substantial reductions from the 2001 total catch OY of 6,895 mt, the Council expressed concern about the adverse economic effect on the fishing industry. In the short-term the 4,500 mt OY option is expected to have less of an adverse economic impact on the fishery than the other OY options.

The sablefish spawning biomass is expected to slowly decline until the large 1999 and 2000 year classes mature. The abundance of these year classes will be monitored with surveys planned for summer 2002, and subsequent stock assessments will provide biological guidance for future adjustments to allowable harvest levels. If the future recruitment of juvenile sablefish from 1999 and 2000 is not as large as estimated and are followed by low recruitments as in the 1990s, then future spawning biomass and OYs will decline further. If the recruitment returns to the long-term average level or is above average, as may be the case in 2001, the stock is expected to increase its spawning biomass and the OY will also increase.

A new stock assessment for Dover sole was prepared by scientists from Oregon State University in 2001. This assessment incorporated new survey and fishery data and extended the assessment area south from 36° N. lat. to Point Conception. The new assessment indicates that the Dover sole stock is at about 29 percent of its unfished biomass. Recent biomass estimates appear to be without trend, but follow a steady decline since the late 1950s. The 5-year projection is for a relatively stable stock abundance. However, lower recruitment during the 1990s indicates a possible future stock decline and provides the reason for consideration of a lower harvest rate.

For the 2001 fishery, the Council adopted a Fmsy proxy of F40% for Dover sole following an SSC recommendation based on a harvest rate analysis specific to Dover sole. With the new Dover sole assessment in 2001, the SSC expressed concerns that the F40% harvest rate was too aggressive given the reduced recruitment levels seen in the 1990s. Three ABCs based on alternative Fmsy proxies of F40%, F45%, and F50% were considered by the Council. The Council determined that a change from the harvest rate policy introduced in 2001 would require a new and equally thorough evaluation of the long term harvest strategy. For 2002, the Council recommended adopting the ABC and OY values (8,510 mt/7,440 mt) that are consistent with the current F40% proxy for Fmsy with the 40–10 precautionary policy adjustments. The Council expressed support for the SSC recommendation for further evaluation of the Fmsy proxy used for Dover sole, but indicated that the process for preparing and reviewing such recommendations should be maintained.

NMFS prepared a new stock assessment for shortspine thornyhead in 2001. The assessment incorporated new survey and fishery data and extended the assessment area south from 36° N. lat. to Point Conception (34°27′ N. lat.) The stock is estimated to be at 25 to 50 percent of its unfished biomass. The assessment concluded that the shortspine thornyhead population shows an increasing biomass trend and has not declined since the last assessment. The Council considered two OYs: 955 mt, the OY from the new assessment, and 751 mt, the 2001 OY that was based on the assessments prepared in the late 1990s. Both OY options reflected an Fmsy proxy of F50% with the application of the 40–10 harvest policy.

The SSC recognized that the analysis and data in the new assessment were an improvement over the previous assessment. However, the SSC also noted the high degree of uncertainty in the 2002 stock projections and they considered the lower OY (751 mt) to be the most risk-adverse option before the Council. The uncertainty associated with an incomplete understanding of biological parameters and survey effectiveness led to the calculation of an alternative shortspine thornyhead OY using standard precautionary measures typically used for species with less rigorous stock assessments. The OY based on standard precautionary measures was similar to the OY from the new assessment. The Council recognized the uncertainty associated with the new assessment, but noted that the new assessment was more adequate than those available in previous years. Because the assessment-based OY was comparable to an OY calculated using standard precautionary measures, the Council recommended adopting 955 mt at the 2002 OY for shortspine thornyhead.

A yelloweye rockfish assessment, which integrated fishery and survey data from northern California and Oregon, was completed by Washington Department of Fish and Wildlife. This was the first time an assessment was done on yelloweye rockfish. The assessment indicated that there has been a declining biomass trend in both areas for about 30 years, with the last above average recruitment occurring in the late 1980s. The assessment concluded that yelloweye rockfish is at about 7 percent of its unfished biomass in waters off northern California and at 13 percent of its unfished biomass in waters off Oregon.

Although a rebuilding analysis has not yet been completed for yelloweye rockfish, the assessment author and the Groundfish Management Team (GMT) analyzed the recruitment data and projected ABCs and OYs for 2002 fisheries. They recommended a coastwide ABC of 27 mt (5 mt for the Monterey area and 22 mt for the areas north of 40°10′ N. lat.) which is based on an Fmsy proxy of F50%.

In September, the Council adopted a preliminary coastwide total catch OY of 11 mt for yelloweye (2 mt for Monterey, 1 for Eureka, and 8 for Columbia and Vancouver areas) based on an initial rebuilding analysis and the application of the 40+10 harvest policy. As an interim measure prior to the development of a rebuilding plan, the Council recommended reducing the 27 mt ABC by 50 percent as a precautionary measure, resulting in an OY of 13.5 mt. The 2.5 mt difference between the two OY options represents approximately 0.3 percent of the stock biomass and is therefore not expected to have an appreciative effect on the stock abundance while a rebuilding analysis is prepared. The recommended OY of 13.5 is not expected to result in further overfishing because both of these options are below the 27 mt ABC.

Seven groundfish stocks have been designated as ''overfished'' Pacific ocean perch (POP), bocaccio, lingcod, canary rockfish, cowcod, darblotched rockfish, and widow rockfish. With the publication of this document, yelloweye rockfish is being designated as overfished. As noted above, the OY for yelloweye rockfish is set at extremely low levels in anticipation of rebuilding plan requirements in 2003.

The OYs for 3 overfished species, POP, widow rockfish and darkblotched rockfish were revised to be consistent with the rebuilding measures for those species. For 2002: the POP OY would be

set at 350 mt, which reflects a 70 percent probability of rebuilding by the year 2042; the widow rockfish OY would be set at 856 mt, which reflects a 60 percent probability of rebuilding the stock by the year 2039; and the darkblotched rockfish OY would be set at 168 mt, which reflects a 70 percent probability of rebuilding the stock by the year 2034. The revised rebuilding analysis for darkblotched rockfish indicates that the stock cannot be rebuilt within a 10 year period; therefore, the OY reflects an extended rebuilding trajectory.

To protect depleted stocks and minimize the chance of overfishing, changes were made in 2000 that eliminated the ''Sebastes complex'' and created the ''minor rockfish'' categories. The same categories will continue to be used for 2002. Minor rockfish, species which have had no or only rudimentary assessments, are divided into nearshore, continental shelf, and continental slope categories that represent where they are predominantly caught. This strategy is intended to keep harvest levels more closely in line with the allowable biological catches for individual species and the various rockfish groups. Grouping the minor rockfish species into nearshore, shelf, and slope categories, allows fishing opportunities to be maintained for abundant stocks while improving protection for depleted stocks.

Management measures designed to rebuild overfished species, to prevent overfishing, or to prevent species from becoming overfished may restrict the harvest of relatively healthy stocks that co-occur with overfished species. As a result of the constraining management measures imposed to protect and rebuild overfished species, a number of the OYs may not be achieved in 2002, particularly for those shelf rockfish species that are not overfished, but which are caught with species that are overfished. Derivations of the ABCs and OYs for the individual groundfish species are explained in detail in Council documents from their September and November 2001 meetings and in the most recent stock assessments, and are summarized in this document in Table 1a. Derivations of commercial harvest guidelines, limited entry and open access allocations, and landed catch equivalents appear in the footnotes to table 1a, which are listed at the end of Table 1b.

Determinations of Overfished Stocks and Rebuilding Plans

The status of the resource is evaluated against the requirements of the Magnuson-Stevens Act, the National Standard Guidelines, and the FMP. A species is considered by NMFS to be overfished if its current biomass is less than 25 percent of the unfished biomass. The Magnuson-Stevens Act requires that a rebuilding plan be prepared within 1 year after the Council is notified by NMFS that a particular species is overfished.

Requirements for developing overfished species rebuilding plans were addressed in Amendment 12 to the FMP, which NMFS approved on December 7, 2000 (65 FR 82947, December 29, 2000). Before Amendment 12 was approved, NMFS had approved the first 3 rebuilding plans for lingcod, bocaccio, and POP (65 FR 53646, September 5, 2000). During NMFS review of Amendment 12, the agency considered whether these 3 rebuilding plans met the requirements of Amendment 12 and concluded that they did not. The final rule to implement Amendment 12 describes NMFS's revocation of the lingcod, bocaccio, and POP rebuilding plans, as these plans did not meet the rebuilding plan content requirements described in Amendment 12 (65 FR 82947, December 29, 2000). The groundfish fishery has continued to operate under measures implementing these preliminary rebuilding plans for lingcod, bocaccio, and POP. NMFS instructed the Council to re-submit rebuilding plans for these species by January 1, 2002.

On January 4, 2000 (65 FR 221), NMFS notified the Council that cowcod and canary rockfish were overfished and that the Council must submit rebuilding plans for these species to NMFS by January 4, 2001. On January 11, 2001 (66 FR 2338), NMFS notified the Council that darkblotched and widow rockfish were overfished and that the Council must submit rebuilding plans for these species to NMFS by January 11, 2002.

On August 20, 2001, the Federal magistrate ruled in *National Resources Defense Council*, v. *Evans*, 2001 WL 1246622 (N.D. Cal. 2001) that rebuilding plans under the FMP must be in the form of a plan amendment or proposed regulations as specified by the Magnuson-Stevens Act, 16 U.S.C. 1854(e)(3). Accordingly, the magistrate issued an order setting aside those portions of Amendment 12 to the FMP dealing with rebuilding plans. Amendment 12 had provided a framework for rebuilding plans that were not themselves plan amendments or proposed regulations. As a result of the magistrate's decision, the Council must now revise Amendment 12 and all rebuilding plans to be consistent with the Court Order. NMFS has notified the Council that draft FMP amendment(s) that meet the statutory rebuilding requirements for POP, bocaccio, lingcod, canary rockfish, cowcod, darkblotched rockfish and widow rockfish should be available for review at the April 2002 meeting, with the intention of presenting final amendment(s) for adoption at the Council's June 2002 meeting.

NMFS also notifies the Council, via this **Federal Register** document, and that yelloweye rockfish is considered overfished at this time and the Council must submit a rebuilding plan FMP amendment to NMFS within 1 year of this notification. While rebuilding plans have not been approved by NMFS, the Council has prepared rebuilding analyses, and the OYs and management measures proposed for 2002 are consistent with these. The draft rebuilding plans initially endorsed by the Council are summarized as follows (maximum allowable rebuilding years refers to the maximum time allowed under the Magnuson-Stevens Act and the National Standard Guidelines):

Canary Rockfish

Areas: Coastwide
Status of stock: 8 to 22 percent of its unfished biomass.
Maximum allowable years to rebuild to MSY: 58 years
Expected median time to rebuild: 57 years (2056)
Probability of rebuilding to MSY biomass by 2056: 52 percent
Fmsy proxy: F50%
ABC in 2002: 228 mt
OY in 2002: 93 mt

Management Measures for 2002

Historically, canary rockfish have been caught directly or incidentally in both recreational and commercial groundfish fisheries. Commercial fisheries for groundfish and for non-groundfish species that co-occur with canary rockfish have been restricted to minimize the incidental catch of canary rockfish. Management measures have also been taken to divert effort off the seafloor of the continental shelf where canary rockfish are typically found. Fishing opportunities with large footrope bottom trawl gear have been severely restricted to reduce incidental interception of canary rockfish. Only small amounts of canary rockfish may be landed with small footrope or midwater trawl gear. Summer flatfish and midwater yellowtail rockfish harvests are constrained to protect canary rockfish and the Dover sole, sablefish, thornyhead (DTS) northern limits are structured to minimize canary interception. California hook-and-line

commercial fisheries are closed during the same periods and in the same areas as the recreational fisheries (below). The shrimp trawl industry will continue to use fish excluder devices to reduce incidental harvest of canary rockfish and other groundfish in that fishery.

The recreational fisheries have been constrained to protect overfished species including canary rockfish. In California and Oregon, the rockfish bag limit is 10 fish, no more than 1 of which may be canary rockfish; off Washington the bag limit is 10 fish, no more than 2 of which may be canary rockfish or no more than 1 canary rockfish and 1 yelloweye rockfish. California recreational fisheries closures are twice the duration they were in 2001. The recreational season for the area between Point Conception and Cape Mendocino, California would be just 4 months duration for all depths, January–February and July–August, plus 4 months inside 20 fathoms (36.9 m) in May–June and September–October. When the fishery is open inside 20 fathoms (36.9 m), canary rockfish retention is prohibited, and there is a 2-shelf rockfish bag limit. South of Point Conception, the recreational fishery would be 8 months (March–October). Historically, the bulk of the recreational canary rockfish landings have been made in California.

POP

Areas: Vancouver and Columbia
Status of stock: 13 percent of its unfished biomass (1998)
Maximum allowable years to rebuild to MSY: 47 years
Expected median time to rebuild: 43 years (2042)
Probability of rebuilding to MSY biomass by 2042: 70 percent
Fmsy proxy: F50%
ABC in 2002: 640 mt
OY in 2002: 350 mt

Management Measures for 2002

Because POP primarily inhabit waters of the upper continental slope and are found along the edge of the shelf, they benefit from the trawl gear restrictions adopted to protect shelf rockfish species. Relatively small cumulative trip limits are intended to accommodate incidental bycatch without encouraging targeting. Higher POP limits are provided in the summer months, when they are more likely to be incidentally taken in the flatfish fisheries.

Bocaccio

Areas: Monterey and Conception
Status of stock: 2.1 percent of its unfished biomass
Maximum allowable years to rebuild to MSY: 38 years
Expected median time to rebuild: 34 years (2033)
Probability of rebuilding to MSY biomass by 2033: 67 percent
Fmsy proxy: F50%
ABC in 2002: 122 mt
OY in 2002: 100 mt

Management Measures for 2002

Bottom trawl opportunities for shelf rockfish continue to be extremely limited. No landings of bocaccio rockfish are allowed with large footrope trawl gear. Small amounts of bocaccio, an unavoidable bycatch, taken with small footrope or midwater trawl gear may be landed in fisheries for healthy stocks. The chilipepper rockfish OY continues to be reduced to limit the incidental take of bocaccio. California hook-and-line commercial fisheries are closed during the same periods and in the same areas as the recreational fisheries (below).

The recreational fisheries in California maintain a rockfish bag limit of 10 fish, no more than 2 of which may be bocaccio rockfish. In addition, California recreational fisheries closures described above under the canary rockfish rebuilding section also protects bocaccio.

Darkblotched Rockfish

Areas: Coastwide
Status of stock: 22 percent of its unfished biomass
Maximum allowable years to rebuild to MSY: 47 years
Expected median time to rebuild: 34 years (2034)
Probability of rebuilding to MSY biomass by 2034: 70 percent
Fmsy proxy: F50%
ABC in 2002 187 mt
OY in 2002: 168 mt

Management Measures in 2002

Relatively small cumulative trip limits for slope rockfish north are intended to accommodate incidental bycatch without encouraging targeting. In addition, the northern DTS trawl fisheries limits are constrained during the November–December period to reduce the incidental catch of darkblotched rockfish, as are the flatfish fisheries during the summer months when participation is greatest and darkblotched are most likely to be encountered. Lower sablefish and Dover sole OYs are also expected to reduce the incidental take of darkblotched rockfish.

Lingcod

Areas: Coastwide
Status of stock: 15 percent of its unfished biomass
Maximum allowable years to rebuild to MSY: 10 years
Expected median time to rebuild: 10 years (2009)
Probability of rebuilding to MSY biomass by 2009: 60 percent
Fmsy proxy: F45%
ABC in 2002: 745 mt
OY in 2002: 577 mt

Management Measures for 2002

Commercial limits for lingcod are intended to accommodate incidental catch and do not provide an incentive for directed fishing. Bottom trawl opportunities for shelf rockfish continue to be extremely limited. Because lingcod are predominately found on the shelf, gear restrictions imposed to protect shelf rockfish will also benefit lingcod. Trawl caught lingcod retention will be permitted during the winter months so as not to increase the overall discard mortality. Commercial nontrawl landings will continue to be prohibited during the winter months. This is to protect lingcod, which are more available to nontrawl gears in rocky habitats, during their spawning and nesting seasons. Nontrawl commercial fishing for lingcod south of 40°10′ N. lat. will be closed during the same periods and in the same areas as the recreational fisheries (below).

The recreational fisheries have been constrained to protect overfished species, including lingcod. Off Washington, the bag limit is 1 lingcod and fishing is not allowed during a 5 month period in the winter. The Oregon lingcod bag limit is 1 fish and the fishery operates year-round. California has a 2 lingcod bag limit. Beginning in 2002, California will lower the minimum size limit to 24 inches (61 cm), which is the same Oregon and Washington. California lingcod closures south of 40°10′ N. lat. are more stringent than in 2001. From 40°10′ N. lat. to 34°27′ N. lat., the area is closed March through April and November through December in all waters, and open only inside 20 fathoms (36.9 m) in May through June and September through October. The area south of 34°27′ N. lat., is closed January through February and November through December.

Cowcod

Areas: Point Conception to the U.S. Areas: Point Conception to the U.S.-Mexico boundary
Status of stock: 4–11 percent of its unfished biomass
Maximum allowable years to rebuild to MSY: 98 years
Expected median time to rebuild: 95 years (2094)
Probability of rebuilding to MSY biomass by 2094: 55 percent
Fmsy proxy: F50%

ABC in 2002: 24 mt
OY in 2002: 4.8 mt

Management Measures in 2002

As in 2001, retention of cowcod is not allowed for any commercial and recreational fisheries. To further protect cowcod from incidental harvest, 2 Cowcod Conservation Areas (CCAs), delineated to encompass key cowcod habitat areas and known areas of high catches, were established in the Southern California Bight in 2001. Fishing for groundfish is prohibited within the CCAs, except that minor nearshore rockfish, cabezon, and greenlining may be taken from waters where the bottom depth is less than 20 fathoms (36.9 m).

Widow Rockfish

Areas Coastwide
Status of Stock: 24 percent of its unfished biomass
Maximum allowable years to rebuild to MSY: 38 years
Expected median time to rebuild: 37 years (2039)
Probability of rebuilding to MSY biomass by 2039 60 percent
Fmsy proxy: F50%
ABC in 2002: 3, 727 mt
OY in 2002: 856 mt

Management Measures in 2002

Commercial limits for widow rockfish are intended to accommodate incidental catch and do not provide an incentive for direct fishing. In addition, the midwater trawl fisheries for yellowtail rockfish have been constrained with an incidental catch allowance during the primary season for Pacific whiting. Bottom trawl opportunities for shelf rockfish continue to be extremely limited, which is expected to benefit widow rockfish.

Overfishing

None of the 2002 ABCs are knowingly set higher than Fmsy or its proxy, none of the OYs are set higher than the corresponding ABCs, and the management measures herein are designed to keep harvest levels within specified OYs. After the 2000 fishing season, NMFS determined that overfishing did not occur on any of the groundfish species. Changes to the rockfish management structure in 2002 that divided minor rockfish into 3 species groups (nearshore, shelf, slope) were partially intended to ensure that those species would not be subject to overfishing harvest rates. The Council also adopted a policy for the 2000 specifications that reduced ABCs by 25 percent to determine OYs for those species with less rigorous stock assessments, and by 50 percent to determine OYs for those species with no stock assessment. These policies are continued in 2002. Overfishing is difficult to detect inseason for many rockfish, particularly on these minor rockfish species, because most are not individually identified on landing. Species compositions, based on proportions encountered in samples of landings, are applied during the year. However, final results are not available until after the end of the year.

Bycatch and Discard Accounting

The Magnuson-Stevens Act defines bycatch as ''fish which are harvested in a fishery, which are not sold or kept for personal use, and include economic discards and regulatory discards.'' By contrast, Pacific Coast groundfish fishery management and many other fishery management regimes commonly use the term bycatch to describe non-targeted species that are caught in common with (co-occur with) target species, some of which are landed and sold or otherwise used and some of which are discarded. The term ''discard'' is used to describe those fish harvested that are neither landed nor used. For the purposes of this rule, the term ''bycatch'' is used to describe a species' co-occurrence with a target species, regardless of that first species' disposition.

With the exception of the mid-water trawl fishery for Pacific whiting, most groundfish vessels sort their catch at sea and discard species that are: in excess of cumulative trip limits, unmarketable, in excess of annual allocations, or incidentally caught non-groundfish species. Landed or retained catch has been monitored by the three state-run fish ticket programs in Washington, Oregon, and California.

Groundfish management measures include provisions to reduce trip limit-induced discards and to account for those discards when monitoring harvest levels (OYs). Historically, NMFS and the Council have accounted for dead discards by estimating the amounts of certain species OYs that would be discarded dead, and then subtracting those amounts from the total catch OYs to get landed catch levels for those species. These discard rates have been expressed as a percent of total catch OY, so that a 16 percent discard rate for a species meant that 16 percent of that species' total catch OY would be deducted to derive that species' landed catch OY. Then, management measures were set to achieve the landed catch OY for that species. Using discard rates was intended to account for dead fish either as dead discard or in landed catch. For all species except lingcod, sablefish, and nearshore rockfish species, it is assumed that discarded fish are generally dead upon discard or die soon after being discarded. Rockfish, particularly deepwater species, are severely stressed by decompression and temperature shock; however, lingcod discard mortality studies show about a 50 percent discard survival rate. There is no exact measure of discard amounts in most fisheries. Assumed amounts are taken into account to determine the true fishing mortality level and to prevent overall harvest from exceeding the OYs.

In setting past management measures, the Council would consider how each species or species group was taken, as targeted or incidental catch, in each of the various West Coast fisheries. A single species could be taken by many different gear types using different fishing strategies. Sablefish, for example, could be taken in trawl fisheries directly targeting the DTS complex, by pot gear directly targeting just sablefish, or by hook-and-line gear catching sablefish incidentally while targeting slope rockfish. West coast groundfish species are rarely found in isolation, and form associations with other groundfish that vary by geographic location, position in the water column, and season. Fisheries management recognizes this mix by setting management measures that discourage targeting of healthy stocks in times and areas when depleted stocks may co-occur with those healthy stocks. Conversely, fisheries management also recognizes this mix by structuring retention allowances for the harvestable amounts of depleted stocks so that fisheries do have access to healthy fish stocks.

During 2001, the annual specifications and management measures were challenged in court under *Natural Resources Defense Council, Inc* v. *Evans*, 2001 WL 1246622 (N.D.Cal. 2001). One result of that challenge was a court order to review the Council's historic bycatch rates and discard assumptions for bocaccio and lingcod, two overfished species. NMFS and the Council therefore reviewed and revised their overall approach to managing co-occurring healthy and depleted stocks. In September 2001, the Council's GMT and its SSC met to consider a new approach for determining discard rates for five overfished species for the 2002 fishery: bocaccio, lingcod, POP, canary rockfish, and darkbotched rockfish. During the September-October 2001 period, the GMT also considered discard rates for other rockfish and rockfish complexes. This analysis of discard rates for 2002

is the same analysis that the court had ordered NMFS to conduct for the 2001 annual specifications and management measures, and is intended to fulfill that obligation and to serve as the basis for determining 2002 management measures. The analysis for the 2002 discard rates is in ''Evaluation of Bycatch and Discard in the West Coast Groundfish Fishery,'' Council's Exhibit C3, Supplemental Attachment 3, November 2001.

This new bycatch and discard analysis calculated the co-occurrence of healthy stocks with each of the five overfished species. To make these co-occurrence calculations, the analysis evaluated data on a suite of trawl fishery target strategies (targeting the deepwater DTS complex, targeting arrowtooth flounder, etc.) Each target strategy was separated into six two–month periods to set a baseline of co-occurrence rates of overfished stocks throughout an entire calendar year. Not surprisingly, the analysis found seasonal variations in the co-occurrence rates between healthy and overfished stocks.

The bycatch and discard analysis evaluated information from several sources: (1) A 1985–1987 observed trawl study, commonly referred to as ''the Pikitch study,'' for its principal investigator; (2) the 1995–1998 EDCP observer and logbook study; (3) the 1999 state trawl logbook data; and (4) a 1998 Washington Department of Fish and Wildlife (WDFW) study on lingcod discard mortality. The Pikitch study, Experimental Data Collection Program (EDCP) study, and the trawl logbook data were used to derive co-occurrence rates of bycatch species within numerous defined target fishing strategies. Because logbooks only report retained catch, only tows where trip limits had not yet been achieved were included in the calculation of the rates. Logbooks represented the only available source of co-occurrence information for the fishery south of Cape Mendocino. The WDFW study addressed only lingcod discard survival and was not used in analyzing the effects of different fishing strategies on rockfish species.

Once the report's authors had described the relationship between healthy and overfished stocks by calculating co-occurrence rates, they then calculated a range (low-mid-high) of bycatch rates for each of the five overfished species in the analysis. In this report, the bycatch rate referred to the caught amount (by weight) of an overfished bycatch species, divided by the caught-and-retained amount (by weight) of target species for various target fishery scenarios, areas, and months.

Logbook and EDCP data were also used in developing a supplemental analysis of the effects of bycatch distribution on discard for the area north of Cape Mendocino for canary rockfish, POP, and lingcod. The report's authors used the findings from these three species in developing the upper end of the ranges for darkblotched rockfish and bocaccio. The results of this supplemental analysis were used in developing the upper bounds of the expected discard ranges identified for individual species, below. In all cases, the discard ranges developed are lower than the discard assumptions that have been used in recent years. Because of the newness of the analysis and the uncertainty regarding much of the data included in the analysis, NMFS determined it would be prudent to wait to use the new lower discard estimates in calculating landed catch OYs until they can be confirmed by data to be obtained in the new NMFS observer program in the current management regime. Therefore, for canary rockfish, POP, bocaccio, and lingcod the assumed discard rate has been conservatively adjusted up to the rate used in the recent past. For darkblotched rockfish, as explained below, the rate has been conservatively adjusted up to 20 percent.

At its November 2001 meeting, the Council reviewed the bycatch and discard analysis and the possible range of bycatch rates for each of the five overfished species. The Council determined which bycatch level (low, mid, or high) was likely most accurate for each of the five species, based on the analysis in the report. The Council's GMT then crafted trip limit scenarios for target and bycatch species calculated to keep the total catch (landed + discard) of healthy target species and the five overfished species below their respective OYs. The Council's ultimate trip limit recommendations were shaped largely by this bycatch and discard analysis and are proposed in section IV.

After the Council had set management measures according to the bycatch rate ranges for those species and designed to keep the total catch of overfished species below their OYs, the analysis authors were then able to provide NMFS with estimates of the percent of each overfished species OY that would be discarded. Thus, although the analysis of healthy/overfished stock co-occurrence rates and overfished species bycatch rates is new, the practice of deducting expected discard from a species total catch OY to derive landed catch OY has not changed. At the November 2001 Council meeting, the SSC reviewed the new bycatch and discard analysis and stated in its report to the Council that ''the SSC considers the GMT analysis to be the best way to proceed for the coming year.''

As the fishing year progresses, the GMT and the Council will have to periodically evaluate target species catch patterns and effort in season and revise trip limits for the remainder of the year to keep overfished species catch (landed + discard) below the appropriate limits. For example, if flatfish trawl fishery participation in winter months is higher than expected from past participation, assumed winter discard levels might increase and summer trip limits for target and bycatch species may then have to be adjusted to ensure that the overall 2002 fisheries do not exceed the OYs for overfished species. This approach addresses a recommendation from Amendment 13 to the FMP, which called for a re-examination and improvement in accuracy of species-to-species landings limit ratios.

The Council recommended addressing bycatch rates of the five overfished species analyzed in the report as follows:

Canary rockfish. Within the low-mid-high range of possible bycatch rates, the Council recommended the low bycatch rate range for canary rockfish. The Council chose the low range because both the Pikitch study and the EDCP study occurred during years when canary rockfish was considered one of the primary target species in the West Coast rockfish complex fisheries. Coincident catch of canary rockfish should be lower in a fishery management regime designed to avoid canary rockfish, through gear and target species restrictions, than in one designed to target canary rockfish. Data from a 2001 EFP at-sea observation program managed by WDFW supported this assumption, indicating canary rockfish interception rates in the trawl arrowtooth fishery off Washington were about one-tenth the rates assumed in even the low bycatch range scenario. The low bycatch rate range and the management measures proposed in this rule are expected to result in a discard rate of 5–10 percent of the total catch, which has been conservatively adjusted to 16 percent. This bycatch rate range and discard deduction would result in a landed catch OY of 30 mt for the limited entry fisheries and 4.5 mt for the open access fisheries.

Pacific ocean perch. Within the low-mid-high range of possible bycatch rates, the Council recommended the mid bycatch rate range for POP. POP has been managed to allow only incidental

retention for many years, thus the Pikitch and EDCP studies may more accurately represent current POP co-occurrence rates in the fisher than they do for canary rockfish. Bycatch levels assumed under the high bycatch rate scenario were so high that accepting it would have meant assuming that vessels would discard POP without achieving their trip limits. Conversely, the low bycatch rate scenario was implausible because it projected harvest levels lower than actual recorded landings in recent years. These unlikely assumptions related to the high and low bycatch scenarios for POP illustrate some of the difficulties in using varied historical data in a mathematical probability model for determining current bycatch rates. The mid bycatch rate range and the management measures proposed in section IV are expected to result in a discard rate of 0–7 percent of the total catch, which has been conservatively adjusted to 16 percent. This bycatch rate range and discard deduction would result in a landed catch OY of 294 mt.

Bocaccio. Within the low-mid-high range of possible bycatch rates, the Council recommended the high bycatch rate range for bocaccio. Similar to the POP low and high ranges, the low and mid bocacio bycatch range scenarios that came out of the model were unlikely when examined against actual landings data. Both the low and mid bycatch range scenarios for bocaccio projected harvest levels lower than actual recorded landings. Thus, the high bycatch range was the only plausible range for bocaccio. The high bycatch rate range and the management measures proposed in of this rule are expected to result in a discard rate of 4–8 percent of the total catch, which has been conservatively adjusted to 16 percent. This bycatch rate range and discard deduction would result in a landed catch OY of 21 mt for the limited entry fisheries and 16 mt for the open access fisheries.

Darkblotched rockfish. Within the low-mid-high range of possible bycatch rates, the Council recommended the mid bycatch rate range for darkblotched rockfish. Setting a bycatch rate for darkblotched rockfish was more difficult than for the other four species because darkblotched rockfish has not historically been separated from other minor slope rockfish in landings tickets, logbooks, and in data gathered in the EDCP study. The Council indicated that the high range was not as probable as the mid range because darkblotched rockfish tend to be of a larger size than other minor slope rockfish, thus less likely to be discarded for size and market reasons. The mid bycatch rate range and the management measures proposed in section IV are expected to result in a discard rate of 4–16 percent of the total catch, which has been conservatively adjusted to 20 percent due to generally higher rates of slope rockfish discard in EDCP observations. The mid bycatch range was also more probable than the low bycatch range because it was more compatible with results from the EDCP study, which NMFS has determined to be a fair illustration of slope trawling acetifies. This bycatch rate range and discard deduction would result in a landed catch OY of 130 mt.

Lingcod. Within the low-mid-high range of possible bycatch rates, the Council recommended the mid bycatch range for lingcod. The Council indicated that the high bycatch rate range was unlikely because the Pikitch and EDCP studies were conducted during periods when large footrope trawling (which can operate in rocky areas where lingcod are found) was permitted for rocky habitat species. The low bycatch range was unlikely for reasons similar to those for the low range for bocaccio and the low and mid ranges for POP, all of which projected harvest levels lower than actual recorded landings in recent years. The bycatch/discard analysis also indicated that if trawlers were allowed to retain incidentally caught lingcod during the winter months, the overall level of dead and discarded lingcod in 2002 could be reduced because it would be landed as retained catch during those months. Trawl footrope restrictions prevent trawlers from targeting lingcod. Thus, allowing winter trawl retention of lingcod is not expected to increase overall lingcod harvest and the effect on nest guarding males in rocky areas is expected to be neutral. Lingcod discard mortality is estimated to be 50 percent of the number of lingcod discarded (WDFW, 1997). The mid bycatch rate range and the management measures proposed in of this rule are expected to result in a discard mortality rate of 6–10 percent of the total catch, which has been conservatively adjusted to 20 percent. This bycatch rate range and discard deduction would result in a landed catch OY of 163 mt for the limited entry fisheries and 38 mt for the open access fisheries.

In addition to establishing the amount and percentage of discard that would occur for each of these five species (bocaccio, lingcod, darkblotched rockfish, canary rockfish, and POP), target fishery limits were adjusted so that the expected total catch of the five species was less than their total catch OYs. This provides an additional layer of protection for the five species, in that even if realized discard rates are somewhat higher than estimated, the total mortalities of these species should not exceed their OYs.

DTS complex species. For the 2001 specifications and management measures process, NMFS analyzed the results of the 1995 through 1998 EDCP, in which trawl vessels voluntarily fished for groundfish and either carried observers or completed detailed catch and discard logbooks. In 2000, NMFS determined that EDCP data could be used to update discard estimates applied to the DTS complex. New discard rates for the DTS complex resulted from this analysis and were implemented in 2001 as follows: 5 percent of the total catch OY for Dover sole, 17 percent of the total catch OY for longspine thornyhead, and 20 percent of the total catch OY for shortspine thornyhead. For sablefish, the new analysis resulted in discard rates separated by fishery: 22 percent of the limited entry trawl allocation, 8 percent of the limited entry fixed gear and open access allocations, and 3 percent of the tribal fisheries allocation. These discard rate estimates would again be used in 2002 as deductions from the total catch OYs for Dover sole and the two thornyhead species, and as deductions from the various fishery-specific sablefish allocations.

Rockfish species not included in bycatch/discard analysis. For widow rockfish, an overfished shelf rockfish species, the Council recommended continuing use of the historic discard rate estimation of 16 percent, which was originally derived for widow rockfish from the Pikitch study. The Council also recommended using this 16 percent placeholder discard rate for minor shelf rockfish and chilipepper rockfish. The origin of this rate is explained in the GMT's bycatch and discard analysis, along with an evaluation of its current use. Yellowtail rockfish would have a 20 percent placeholder discard rate, which is the 16 percent historic rate adjusted conservatively to reflect moderately higher discard values for yellowtail in the EDCP study. As in past years, widow, yellowtail, canary and darkblotched rockfish discard in the at-sea whiting fisheries will be monitored inseason and actual discard numbers will be deducted from the OY. The Council recommended a 20 percent discard rate for minor slope rockfish, as a conservative adjustment to the 16 percent discard rate that the EDCP study showed for slope rockfish taken in the DTS complex fisheries. The 20 percent discard rate for minor slope rockfish also mirrors the more thoroughly analyzed discard rate for darkblotched

rockfish, a slope rockfish. The minor nearshore rockfish discard rate was set at 5 percent of the total catch OY, based on the assumption that most minor nearshore rockfish survive the discard process because they are shallow water species and are not as affected by depth changes during capture as shelf and slope rockfish. This is supported by the fact that a significant percentage of these species are landed as live fish.

Cowcod and yelloweye rockfish are the other two overfished species not analyzed in the bycatch and discard analysis. Cowcod rebuilding measures include a coastwide retention prohibition. Thus, there is no landed catch OY for cowcod and any incidentally caught cowcod will be discarded. Prohibiting fishing for all groundfish with the CCAs, except that which is allowed seasonally inside 20 fathoms (37 m) along with other seasonal closures off California, is expected to reduce opportunities for intercepting cowcod.

Yelloweye rockfish is not often intercepted in the trawl fisheries. Thus, yelloweye rockfish management focuses on eliminating commercial hook-and-line interception and reducing recreational fisheries opportunities for interception. Modest amounts of yelloweye rockfish retention would be permitted in the trawl fisheries to ensure that if it is encountered, it will be available for scientific sampling.

Future Bycatch and Discard Analyses. During 2002, the Council's SSC will convene a workshop or a series of workshops to discuss the future of the Council's bycatch and discard rate policies. NMFS initiated an observer program for the vessels delivering groundfish to shorebased processing plants in August 2001. Future Council bycatch and discard rate policies will have to evolve over time, first accommodating management needs with little current observer data, and then maturing as the observer program data accumulates to a level where it can be used to better define total catch levels. Data from the observer program will provide information about co-occurrence and discard rates, and will affect discard calculations for all groundfish species, not just those included in the November 2001 bycatch and discard analysis. By the fall of 2002, the observer program will have been in operation for one year and will have observations from all seasons. Preliminary examination of the observer data will occur prior to that time, but the first complete analysis requires accumulation of data from all seasons. This analysis may not be completed in time, or have sufficient observations, to be fully incorporated in the annual specifications fro 2003.

II. Limited Entry and Open Access Fisheries

Since 1994, the non-tribal commercial groundfish fishery has been divided into limited entry and open access sectors, each with its own set of allocations and management measures. Species or species group allocations between the two sectors are based on the relative amounts of a species or species group taken by each component of the fishery during the 1984–1988 limited entry permit qualification period (50 CFR 660.332). The FMP allows suspension of this allocation formula for overfished species when changes to the traditional allocation formula are needed to better protect overfished species (Section 5.3.2).

Ground fish species or species group allocations between the limited entry and open access sectors are detailed in Tables 1a and 1b. All OYs, and all limited entry and open access allocations are expressed in terms of total catch. The limited entry/open access allocations for canary, darkblotched, and yelloweye rockfish would be suspended to allow the Council to better develop management measures that provide harvest of healthy stocks while protecting overfished stocks. Estimates of trip-limit induced discards are taken ''off the top'' before setting the limited entry and open access allocations, except for estimates of sablefish discards as explained in the footnotes to Table 1a. Landed catch equivalents are the harvest goals used when adjusting trip limits and other management measures during the season. Estimated bycatch of yellowtail, widow, canary, and darkblotched rockfish in the offshore whiting fishery is also deducted from the limited entry allocations before determining the landed catch equivalents for the target fisheries for widow and yellowtail rockfish.

Open Access Allocations

The open access fishery is composed of vessels that operate under the OYs, 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 limited entry permits endorsed for that gear. Exempt gear includes all types of legal groundfish fishing gear except groundfish trawl, longline, and pots. (Exempt gear includes trawls used to harvest pink shrimp, spot, or ridgeback prawns (shrimp trawls) and, halibut or sea cucumbers south of Pt. Arena, CA (38°57′30″N. lat.))

Open access allocations are derived by applying the open access allocation percentages to the commercial OY. The commercial OY is the total catch OY after subtracting any tribal allocations and set-asides for recreational or compensation fishing for conducting resource surveys. 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 is the fishery composed of vessels using limited entry gear fished pursuant to the OYs, quotas, and other management measures governing the limited entry fishery. Limited entry gear includes 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 Pt. Arena, CA.) A sablefish endorsement is also required for a vessel to operate in the limited entry primary fixed gear season for sablefish.

The limited entry allocation (in total catch) is the OY reduced by (1) set-asides, if any, for treaty tribal fisheries, recreational fisheries, or compensation fishing for participation in resource surveys (which results in the commercial OY or quota); and (2) the open access allocation. (Allocations for Washington coastal tribal fisheries are discussed in section V and, for whiting, at paragraph IV.B.(3).)

Following these procedures, the Regional Administrator calculated the amounts of allocations that are presented in Table 1a of this document. Unless otherwise specified, the limited entry and open access allocations would be treated as OYs or harvest guidelines in 2002. There may be slight discrepancies from the Council's recommendations due to rounding.

III. 2002 Management Measures

Before 2000, the major goals of groundfish management were to prevent overfishing while achieving the OYs and to provide year-round fisheries for the major species or species groups. Over time, however, it became apparent to NMFS that a number of species could not continue to be harvested year-round at a constant harvest rate. New legislative mandates under the Magnuson-Stevens Act (as amended by the Sustainable Fisheries Act in 1996)

gave highest priority to preventing overfishing and rebuilding overfished stocks to their MSY levels. The National Standard guidelines at 50 CFR 600.310 interpreted this as ''weak stock management,'' which means that harvest of healthier stocks may need to be curtailed to prevent overfishing or to rebuild overfished stocks.

Seven FMP species were declared overfished as of January 2001 (lingcod, bocaccio, POP, canary rockfish, cowcod, widow rockfish, and darkblotched rockfish), and one more species is being declared overfished concurrent with publication of this document (yelloweye rockfish). Of these species, canary rockfish is the most constraining, because it is found coastwide on the continental shelf and is caught directly or incidentally in most West coast fisheries (groundfish and non-groundfish.) In order to rebuild these overfished species while allowing harvest of healthy stocks, the Council chose management measures to divert fishing effort off the sea floor of the continental shelf, where lincod, bocaccio, canary rockfish, cowcod, widow rockfish, yelloweye rockfish, and, to a lesser extent, POP and darkblotched rockfish occur. Continental slope fisheries have also been curtailed by lower Dover sole and sablefish ABCs and OYs, which provides additional protection to POP and darkblotched rockfish. Management measures for 2002 have been crafted to maximize fishing opportunity for healthy stocks in periods when bycatch and discard of overfished and depleted stocks is estimated to be lowest.

Management priorities for 2002 were guided by the following goals: (1) Prevent overfishing; (2) manage consistent with rebuilding plans for overfished species; (3) craft management measures and target species seasons to minimize incidental catch and discard of overfished and depleted stocks; (4) provide equitable harvest opportunity for both recreational and commercial sectors; and (5) within the commercial fisheries, achieve harvest guidelines and limited entry and open access allocations, to the extent practicable.

A number of assumptions and considerations were involved in developing the management recommendations for 2002. As discussed earlier, the November 2001 bycatch and discard analysis evaluated the target fisheries for healthy stocks to determine periods in the fishing year when those fisheries could be constrained to best reduce the incidental catch of overfished species. Trip limits in the commercial fisheries have been crafted to reduce incidental interception of overfished species so that total mortality for a species does not exceed its OY, and different sectors of the commercial fisheries are constrained at different times of the year in accordance with their specific effects on overfished species. For example, the bycatch and discard analysis of EDCP data indicated that incidental catch of darkblotched rockfish in the DTS complex fisheries is significantly higher during November-December than during other times of the year. Thus, DTS complex cumulative limits are at their lowest in November-December. Similarly, trawl flatfish limits are the most constrained in May through September, when canary rockfish interception is higher. Fisheries for many target species are unlikely to achieve the OYs of those target species so that overfished species may be protected. Fisheries for yellowtail rockfish, for example, will not achieve the yellowtail OYs because yellowtail harvest is constrained to protect co-occurring canary and widow rockfish. Similarly, chilipepper harvest will be significantly below its OY to protect co-occurring bocaccio.

Management measures for the limited entry fishery are found in section IV. Most cumulative trip limits, size limits, and seasons for the limited entry fishery are set out in Tables 3 and 4. However, the limited entry nontrawl sablefish fishery, the midwater trawl fishery for whiting, and the hook-and-line fishery for black rockfish off Washington are managed separately from the majority of the groundfish species and are not fully addressed in the tables. The management structure for these fisheries has not changed since 2001, except for the level of trip limits for sablefish and whiting, and is described in paragraphs IV.B.(2)–(4) of section IV. Other provisions for the 2001 fisheries not explicitly addressed above would remain in effect for 2002 and are repeated in section IV of this document.

After hearing proposals and advice from its advisory entities and public testimony at its November 2001 meeting, the Council recommended the following actions for management in 2002.

Limited Entry Trawl

For the limited entry trawl fishery, the Council recommended a suite of gear and cumulative trip limits designed to allow fishing with gear in times and areas where incidental catch of overfished or depleted species will be minimized. As discussed earlier, the primary force shaping the structure of trawl fisheries limits were the coincident catch rates for overfished species taken in fisheries targeting healthy stocks. Many of the healthy groundfish stocks, such as the suite of flatfish species, are harvested almost exclusively with trawl gear, rather than with hook-and-line gear. Season structuring and gear requirements are intended to reduce incidental catch of overfished species as much as possible in every period of the year.

Flatfish fisheries are managed with more restrictions on gear use and trip limit levels during the summer months, when participation is greater and trawl tows for flatfish are more likely to encounter overfished species. More restrictive landings limits are imposed on all flatfish species in the north in May–October to minimize canary and/or darkblotched rockfish bycatch. Higher POP trip limits are provided in the summer months, when the flatfish fisheries are more likely to encounter POP. Northern DTS complex limits are different for each two-month period of the year to minimize interception of canary rockfish or darkblotched rockfish, depending on which species is more available to the DTS complex fisheries during a particular period. For both the DTS complex and flatfish fisheries, landings limits are less tightly structured south of 40°10″ N. lat. because fisheries in that area are less likely to encounter POP, canary, and darkblotched rockfish. South of 40°10″ N. lat., the Council has also introduced a new trip limit for Pacific sanddabs, an abundant species with relatively low bycatch rates of other species.

In 2000 and 2001, lingcod retention was prohibited in all fisheries for the months of November through April. These winter closures were intended to both reduce overall lingcod harvest and to reduce capture of male lingcod during the spawning/nesting season. Male lingcod guard nests of fertilized eggs from predators, so reducing male lingcod catch during nest guarding season is an effective way of protecting both adults and eggs. Nest guarding males are mainly caught by gear that can be used in the rocky areas where they nest. Under current gear restrictions, this gear is hook-and-line gear. Small footrope trawl and mid-water trawl gear are not used in rocky areas because they can too easily become entangled and torn in rocky habitat. In 2002, trawl-caught lingcod retention would be permitted throughout the year because the Council believes that trawling is less likely than hook-and-line fishing to disturb male lingcod guarding nests in rocky areas. Lingcod caught incidentally during winter trawl fisheries would otherwise be discarded and thereby increase the overall lingcod discard

level in the trawl fisheries. The lingcod landings limit of 800 lb (363 kg) per 2-month period is not high enough to give trawlers an incentive to target lingcod.

For 2002, the Council recommended continuing the use of differential trip limits for limited entry trawlers operating with different trawl gear configurations: bottom trawl with footropes greater than 8 inches (20.5 cm) in diameter; bottom trawl with footropes smaller than 8 inches (20.5 cm) in diameter; and midwater or pelagic trawl. Trawling with footropes that have roller gear or other large gear designed to bounce over tough rockpiles tends to allow those vessels greater access to rocky areas where several of the overfished species congregate. Therefore, landings of shelf rockfish (except chilipepper) are prohibited if large footrope trawls (such as roller gear) are used (or on board the vessel); small amounts of shelf rockfish bycatch may be landed if small footrope trawls are used; and, targeting healthy shelf rockfish stocks is encouraged only if midwater trawls are used. This tends to greatly reduce harvest in the areas where the overfished species are presumably found, while allowing retention of small amounts incidentally caught in areas of lower abundance of these species. This strategy of differential trip limits for different trawl gear types was used in 2000 and 2001. Initial Oregon Department of Fish and Wildlife trawl logbook data indicate a significant decrease in trawl activity in rocky areas of the continental shelf since the adoption of this strategy. Cowcod prohibitions and closures apply to limited entry trawl vessels, although there are few limited entry trawl vessels operating south of Point Conception in CCA waters.

Chafing gear will continue to be prohibited on the body of small footrope trawls. Chafing gear protects the net from excess wear when it drags against rock piles or the sea floor. The prohibition against chafing gear makes the net more vulnerable to damage, and so encourages fishers to operate in less rocky areas.

Trawl vessels using large footrope gear (with footrope greater than 8 inches (20 cm) in diameter) are prohibited from landing nearshore and shelf rockfish (except chilipepper) and most flatfish species because their ability to fish in rocky areas would result in high incidental catch of species that cannot withstand additional fishing effort. Although vessels are not prohibited from using large footropes in nearshore and continental shelf areas, they are not allowed to retain and sell most of the species they would catch from those areas. Therefore, NMFS expects little, if any, use of large footrope gear in areas of high concentration of overfished species. Large footrope trawls may still be used for target deepwater fisheries when fewer overfished species are encountered, primarily Dover and rex soles, thornyheads, sablefish, and deepwater rockfish. During part of the year, predominately winter months, large footrope trawls may also be used to harvest arrowtooth flounder and petrale sole. However, small footrope trawls are required for the rest of the year when these species are more likely to aggregate with overfished species (See Table 3).

For chilipepper rockfish, trip limits are more liberal when it is taken with midwater trawl gear. This gear is effective at harvesting chilipepper above the ocean floor with little or no bycatch of bottom-dwelling species such as canary rockfish. In past years, higher midwater trawl limits were also available for yellowtail rockfish because of reduced canary rockfish availability in the midwater yellowtail fisheries. In 2002, however, midwater yellowtail retention is restricted to an incidental catch allowance in the midwater whiting trawl fisheries. Midwater fisheries for yellowtail rockfish tend to also harvest widow rockfish. Thus, this increased protection for yellowtail rockfish taken with midwater gear is intended to reduce the opportunity for incidental widow rockfish harvest. If a fisher chooses to carry more than one type of trawl gear on board, any landing will be attributed to the gear on board with the most restrictive landing limit. To land the maximum amounts of chilipepper rockfish, vessels will be required to have only midwater trawl gear on board.

Limited Entry Fixed Gear

Similar to the limited entry trawl fisheries, trip limit opportunities in the limited entry fixed gear fisheries are arranged to minimize opportunities for intercepting overfished species. One of the most significant changes expected for limited entry fixed gear management in 2002 is an April-October primary sablefish season. In 2001, NMFS approved Amendment 14 to the FMP, which implemented a permit stacking program for sablefish-endorsed limited entry permits and a longer primary sablefish season. NMFS expects to shortly publish a proposed rule to, among other things, implement the April-October season for 2002 and beyond.

The larger-sized sablefish most desired in the market are available farther offshore in continental slope waters. For 2002, minor slope rockfish limits are higher in the May-October period to allow vessels targeting primary season sablefish to take advantage of the minor slope rockfish OY when they are most likely to encounter those rockfish. Darkblotched rockfish are part of the minor slope rockfish complex, so overall minor slope rockfish limits are set at levels intended to constrain darkblotched rockfish catch.

Yelloweye rockfish is also caught incidentally in hook-and-line sablefish fisheries. Because yelloweye rockfish tend to sell for a higher price per pound than other co-occurring rockfish species, there is a good chance that yelloweye taken in prior years have been targeted, rather than caught incidentally. Thus, yelloweye rockfish retention has been prohibited entirely in the limited entry fixed gear fisheries. To give vessels targeting sablefish in the daily trip limit fisheries an opportunity to move out to the continental slope fishing grounds, the Council has again recommended a weekly sablefish landing option. With weekly limits, vessels are more likely to travel to the continental slope for the larger and more valuable sablefish, thereby reducing opportunities for incidental catch of continental shelf species (yelloweye, canary, and widow rockfish, bocaccio, cowcod, and lingcod.) Cowcod prohibitions and closures apply to limited entry, fixed gear vessels. Similar to 2001, fisheries for minor nearshore rockfish north of 40°10′ N. lat. are managed with sublimits for species other than black and blue rockfish, to encourage targeting on these more abundant nearshore rockfish species.

As in 2000 and 2001, limited entry fixed gear fishing for lingcod will be prohibited during January through April and during November through December. These closures are intended to protect nest-guarding lingcod during the spawning and nesting season. Nest-guarding lingcod are more available to fixed gear than to trawl gear, because lingcod nest in rocky habitat that tears trawl gear while line gear can be used successfully in rocky areas. Thus, winter closures for fixed gear are intended to eliminate fixed gear lingcod targeting.

For commercial fisheries, directed fishing for and opportunities to take overfished species as bycatch are severely curtailed. Fixed gear generally has greater access than trawl gear to rockfish living on and around high relief rockpiles as explained above. The Council recommended closing commercial fixed gear fishing for nearshore rockfish, shelf rockfish, and

lingcod during periods when the recreational fisheries for those species are closed to reduce overall hook-and-line gear (commercial and recreational) targeting on rockfish. All limited entry fixed gear (pot and longline) vessels south of 40°10′ N. lat. are prohibited from fishing for nearshore rockfish, shelf rockfish, and lingcod during the closed periods detailed in Table 4, with allowances for vessels fishing inside of the 20-fathom (36.9 m) depth contour. Concurrent commercial and recreational closures are expected to achieve conservation goals while reducing the conflict that sometimes occurs when one fishing sector is allowed to fish while another is not.

Open Access (Hook-and-Line, Troll, Pot, Setnet, Trammel Net)

The open access nontrawl fishery is managed separately from the limited entry fixed-gear fishery, but bycatch reduction measures are similar for both sectors. As in the past, open access cumulative trip limits continue to be applied mostly to 1-month periods, and thornyheads may not be taken and retained north of 37°27′ N. lat. Time and area closures are used south of 40°10′ N. lat., similar to the limited entry fixed gear fisheries and for the same reasons. Vessels participating in the open access fisheries with nontrawl gear (hook-and-line, troll, pot, setnet and trammel net) south of 40°10′ N. lat. are prohibited from fishing for nearshore rockfish, shelf rockfish, and lingcod, during the closed periods described in Table 5 with allowances for vessels fishing inside of the 20-fathom (36.9 m) depth contour. The lingcod fishery for all open access nontrawl gears is also subject to the same closure, size limits, and cumulative trip limits as the limited fixed gear fisheries. Similar to 2001, fisheries for minor nearshore rockfish north of 40°10′ N. lat. are managed with sublimits for black and blue rockfish, to encourage targeting on these more abundant nearshore rockfish species. Cowcod prohibitions and closures apply to all open access vessels.

Open access cumulative limits may exceed those for limited entry. If a vessel with a limited entry permit uses open access gear (including exempted trawl gear) and the open access cumulative limit is larger, the vessel will be constrained by the smaller, limited entry cumulative limit for the entire cumulative period.

Open Access Exempted Trawl Gear

Open access exempted trawl gear (used to harvest spot and ridgeback prawns, California halibut, sea cucumbers, or pink shrimp) is managed with both ''per trip'' limits and cumulative trip limits. These trip limits are similar to those in 2001, and the species-specific open access limits apply but may not exceed the overall groundfish limits. The limits are 500 lb (227 kg) of groundfish per day, not to exceed 1,500 lb (680 kg) per trip in the pink shrimp fishery. For other exempted trawl gears, there is a 300 lb (136 kg) per trip limit. The pink shrimp fishery is subject to species-specific limits that are different from other open access limits for lingcod, canary rockfish, and sablefish. As with open access nontrawl gears, thornyheads may not be taken and retained north of 34°27′ N. lat. Cowcod prohibitions and closures apply to all open access vessels.

Recreational Fishery

Recreational fisheries effort has also been constrained to protect overfished species, particularly for lingcod, canary rockfish, bocaccio, and yelloweye rockfish, which have significant recreational catches. Washington, Oregon, and California each proposed, and the Council recommended, different combinations of seasons, bag limits, and size limits to best fit the needs of their recreational fisheries, while also meeting conservation goals.

For lingcod, Washington closed the recreational fishery for 5 months (January 1—March 15, October 15—December 31) and maintained its 2 fish bag limit and its 24 inch (61 cm) minimum size limit. Oregon's lingcod measures are also the same as in 2001, a 1 fish bag limit, 24 inch (61 cm) minimum size limit and a year-round fishery. California maintained its 2 lingcod bag limit, but lowered its minimum size limit to match the 24 inch (61 cm) limit used in the other two states. California lingcod closures south of 40°10′ N. lat. are more stringent than in 2001: from 40°10′ N. lat. 34°27′ N. lat., closed March through April and November through December in all waters, and open only inside 20 fathoms (36.9 m) in May through June and September through October. South of 34°27′ N. lat., closed January through February and November through December.

Recreational fisheries off Washington and Oregon will be challenged this year by a need to maintain low yelloweye rockfish catch. Some measures taken in 2000 and 2001 to protect other northern overfished rockfish species should also protect yelloweye rockfish, but the states also recommended several new yelloweye-specific measures. Washington maintained its 10 rockfish bag limit, with sublimits of no more than 2 canary rockfish, or no more than 1 canary rockfish and 1 yelloweye rockfish. Oregon also maintained its 10 rockfish bag limit, of which no more than 1 may be canary rockfish and no more than one may be yelloweye rockfish. In reviewing the take of yelloweye rockfish in their recreational fisheries, the states of Washington and Oregon found that yelloweye rockfish is most frequently taken by vessels that travel offshore to target Pacific halibut. However, yelloweye rockfish are not taken while the vessel is fishing for halibut, but rather after the vessel has completed its halibut fishing it moves to another location and fishes for yelloweye rockfish before heading to port. Therefore, prohibiting the retention of yelloweye rockfish when halibut are on the vessel should eliminate the directed harvest of yelloweye during halibut fishing trips, without causing discard of incidentally-caught yelloweye rockfish. Thus, Washington is prohibiting the retention of yelloweye rockfish when halibut is on board, and Oregon is prohibiting the same during its all-depth halibut fisheries.

Recreational fishing restrictions proposed for California are intended to ensure that fishing mortality will not exceed limits associated with rebuilding plans for bocaccio, canary rockfish, cowcod, and lingcod. California maintained its rockfish size limits, its 2-hook per fishing line limit and its 10 rockfish bag limit, with a 1 canary rockfish sublimit, 2 bocaccio sublimit, and a 1 yelloweye rockfish sublimit with no more than 2 yelloweye rockfish per vessel. As with all commercial fisheries, cowcod retention is prohibited. In the southern California area, the CCAs first implemented in 2001 would remain closed to both recreational and commercial fishing for groundfish outside of the 20 fathom (36.9 m) depth contour. Inside the 20 fathom (36.9 m) depth contour, recreational and commercial fishing for rockfish and lingcod is permitted from March through October.

Recreational fisheries data indicate that California fisheries may have exceeded the amounts of bocaccio and canary rockfish that the Council had estimated pre-season would be taken in those fisheries in 2001. To prevent these overages from reoccurring in 2002, recreational fisheries closures off California are twice the duration they were in 2001. The recreational fishing season for rockfish and lingcod between 40°27′ N. lat.) and Point Conception (34°27′ N. lat.) would be just 4 months duration for all depths, January–February and July–August, plus 4 months inside 20 fathoms (36.9 m) in

May–June and September–October. When the fishery is open inside 20 fathoms (36.9 m), bocaccio, canary, and yelloweye rockfish retention is prohibited, and there is a 2 shelf rockfish bag limit. The recreational fishing season for rockfish and lingcod in that same area would be open for all depths in January–February and July–August, and in waters shoreward of 20 fathoms (36.9 m) in May–June and September–October. South of Point Conception (34°27′ N. lat.) the recreational fishing season would be 8 months duration, March through October. Different season closures were chosen north and south of Point Conception (34°27′ N. lat.) in order to correspond with the periods of greatest benefit statewide for bocaccio and canary rockfish. Taken together with the proposed restrictions on commercial fisheries, the recreational fishery season closures and limits are expected to keep total fishing mortality under the established OYs.

The season closures allow for modestly higher commercial trip and recreational bag limits than would otherwise be possible under year-round fishing. Season closures are also expected to result in fewer discards than would otherwise occur. Concurrent seasons for recreational and commercial nontrawl fisheries are more cost effective to enforce than staggered seasons and minimize conflicts between commercial nontrawl and recreational fishers who fish for nearshore and self rockfish.

Fishing Communities and Impacts

The Magnuson-Stevens Act requires that actions taken to implement FMPs be consistent with the 10 national standards, one of which requires that conservation and management measures shall be consistent with the conservation requirements of the Act, ''take into account the importance of fishery resources to fishing communities in order to (A) provide for sustained participation of such communities and (B), to the extent practicable, minimize adverse economic impacts on such communities.'' Commercial and recreational fisheries for Pacific Coast groundfish contribute to the economies and shape the cultures of numerous fishing communities in Washington, Oregon, and California. Meeting the needs of fishing communities has become increasingly difficult because the Council manages a fishery that is overcapitalized and contains stocks that are overfished. In recommending this year's specifications and management measures, the Council tried to accommodate some of the needs of those communities within the constraints of Magnuson-Stevens Act requirements to rebuild overfished stocks, prevent overfishing, and minimize bycatch. In general, the Council allows the largest harvest possible, consistent with conservation needs of the fish stocks.

West Coast groundfish intermix by species, which means that interception and incidental mortality of overfished species is inevitable even if retention of a particular species is prohibited. As discussed earlier in the section on bycatch and discards, the Council's primary goal for 2002 was to minimize the incidental interception of overfished species. To achieve this, the fisheries seasons are structured both to maximize target species catch while minimizing overfished species incidental take and to allow minimal retention of overfished species where incidental take will inevitably occur. Minimal retention levels will discourage targeting while allowing fishers to land already dead, incidentally caught fish. The retention levels allowed (along with the estimated discard levels) for each of the overfished species are below their OYs and allow rebuilding.

For 2002, the Council continued the year-round fishery opportunity that is important to the fishing and processing sectors for maintaining continuous employment opportunities and maintaining consistent groundfish marketing opportunities. The Council modified the cumulative trip limit system that has been used in recent years to extend the fishing season throughout the year by providing opportunities for at least some groundfish species and by maintaining trawl gear restrictions initially adopted for 2000. These gear restrictions use operational and economic incentives to prevent bottom trawl fishing with roller gear for some species and encourage use of midwater trawl and small footrope trawls on the continental shelf where most overfished species occur. Trawl gear restrictions are intended to reduce directed fishing for species that commonly co-occur with overfished species. These strategies were first developed for the 2000 fishery by a group of industry participants who met with the GMT about achieving conservation goals while minimizing effects on the industry and coastal communities. Offering higher limits to fishermen who use gear with lower bycatch rates reduces bycatch and enhances economic opportunities by providing access to healthy stocks.

Some commercial fishers have commented that they are being unfairly constrained relative to recreational fisheries, while some recreational fishers have commented that the commercial fisheries are being favored. In developing 2002 management measures, the Council sought a fair and equitable balance for the two sectors, and also sought to achieve needed reductions in total fishing mortality. California hook-and-line commercial fisheries will be subject to the same season restrictions as the recreational fisheries. The Council was concerned that further restrictions on recreational fishing (*e.g.,* longer closures or lower bag limits) would prevent charter vessels operators from running charter fishing trips for a long enough period that they could go out of business. Under further restrictions, passengers may refuse to pay the price to fish or may not make enough trips in open seasons to allow operators to cover their costs. Not only would charter vessel operators be affected by changes to recreational fishery management, but supporting businesses such as bait shops and tackle suppliers, hotels, restaurants, and charter company agents, etc. would also likely suffer. The closed seasons generally cover the months that have historically accounted for the largest seasonal catches of bocaccio and other rockfishes.

Allowable commercial catches of many groundfish are even lower than in 2001, but the Council has tried to restructure the timing of differential trip limits to provide commercial fisheries with greater flexibility in their fishing patterns while not increasing the overall catches. Again, this restructuring is intended to limit the extent to which businesses such as tackle suppliers and bait shops that supply and support the fishing industry would suffer. Many commercial groundfish fishers have other fishing opportunities during the year, and these opportunities were taken into account. For example, the small-scale commercial fishers (and recreational fishers) in southern California would (under state regulations) still be able to fish for certain species in nearshore waters while the shelf is closed to protect overfished species.

Nonetheless, the effects of these 2002 management measures on some fishers and communities will be severe, particularly for those without other opportunities. For the 2002 fishery, the Council proposed stringent harvest levels intended to protect and rebuild overfished and depleted stocks. In addition to reducing OYs for overfished stocks, the Council also severely constrained harvest on healthy stocks associated with overfished stocks. These measures were needed to ensure that

rebuilding of overfished and depleted stocks could occur. However, they will cause serious socio-economic repercussions as a result of these lower harvest levels and the consequent lower landings limits.

Distribution of the economic effect of the 2002 management measures will depend on how well the fishers can adapt to the restrictions. Some user groups, particularly those able to use midwater trawl gear, will have a greater opportunity to harvest than they would have had without gear restrictions, because proposed restrictions allow fishers to use gear that reduces incidental catch of the depleted rockfish. Other fishers will not be able to maintain a viable operation at the reduced harvest levels. The Council prepared an EA/RIR/IRFA for this action, which includes a discussion of the economic and social effects of these management measures on coastal communities (see **ADDRESSES**).

Trip Limit Tables and Management Measures

Cumulative trip limits are set into tables, with explanations in section IV. However, the industry is cautioned not to rely on the tables alone. The text in section IV provides cumulative trip limit definitions and periods, size limit definitions and conversions, and other information that cannot be readily included in a table but must be understood in order to correctly use the tables. The sablefish allocations and nontrawl sablefish management, Pacific whiting allocations and seasons, and ''per trip'' limits for black rockfish off Washington State are still presented in text in paragraphs IV.B. Trip limits for exempted trawl gear in the open access fishery (paragraphs IV.B. Trip limits for exempted trawl gear in the open access fishery (paragraph IV.C.), recreational management measures (paragraph IV.D.), and tribal allocations and management measures (paragraph V.) still remain in the text.

Cumulative trip limits are applied during the time periods and in the areas indicated in Tables 3–5 of section IV. The cumulative trip limit may be taken at any time within the applicable cumulative trip limit period. All cumulative trip limit periods start at 0001 hours, local time, on the specified beginning date, except for ''B'' platoon trawl vessels whose limits start on the 16th of the month (see paragraph IV.A.(16).

Example 1: Line 2 of Table 3 for the limited entry trawl fishery means: North of 40°10′ N. lat., the cumulative trip limit for minor slope rockfish is 1,800 lb (816 kg) per 2-month period; the 2-month periods are January 1–February 28 and March 1–April 30, etc.

Example 2: The trip limits for bocaccio on Table 4 for limited entry fixed gear mean: From January 1 through February 28, the trip limit for bocaccio between 40°10′ N. lat and 34°27′ N. lat. is 200 lb (91 kg) each month. However, the fishery for bocaccio is closed from March 1 to June 30, which means bocaccio may not be taken, retained, possessed or landed between 40°10′ N. lat. and 34°27′ N. lat. during that time period. The cumulative trip limit returns at 200 lb (91 kg) per month on July 1, but a fisher may not fish ahead on that amount (see paragraph IV.A(2)). Bocaccio taken and retained north of 40°10′ N. lat. are not explicitly mentioned in the table, however they are included in the trip limit for ''minor shelf rockfish-north'' (see footnote 5 of Table 4).

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 2002, including measures that are unchanged from 2001 and new measures.

A. General Definitions and Provisions

The following definitions and provisions apply to the 2002 management measures, unless otherwise specified in a subsequent **Federal Register** document:

(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 follows:

(a) A per trip limit is the total allowable amount of a groundfish species or species group, 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 l.t. 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 weekly trip limit is the maximum amount that may be taken and retained, possessed, or landed per vessel in 7 consecutive days, starting at 0001 hours l.t. on Sunday and ending at 2400 hours l.t. on Saturday. Weekly trip limits may not be accumulated during multiple week trips. If a calendar week includes days within two different months, a vessel is not entitled to two separate weekly limits during that week.

(d) 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, unless otherwise specified. The cumulative trip limit periods for limited entry and open access fisheries, which start at 0001 hours l.t. and end at 2400 hours l.t., are as follows, unless otherwise specified:

(i) The 2-month periods are: January 1–February 28, March 1–April 30, May 1–June 30, July 1–August 31, September 1–October 31, and November 1–December 31.

(ii) One month means the first day through the last day of the calendar month.

(iii) One week means 7 consecutive days, Sunday through Saturday.

(2) *Fishing ahead.* 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 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 period. As stated at 50 CFR 660.302 (in the definition of ''landing''), once the offloading of any species begins, all fish aboard the vessel are counted as part of the landing. Fishing ahead is not allowed during or before a closed period (see paragraph IV.A. (7)). See paragraph IV.A.(9) for information on inseason changes to limits.

(3) *Weights.* All weights are round weights or round-weight equivalents unless otherwise specified.

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

(5) *Legal fish. Legal fish* means fish legally taken and retained, possessed, or landed in accordance with the provisions of 50 CFR part 660, the Magnuson-Stevens Act, any document 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 groundwater fisheries apply to the ''total length,'' which is 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. For conversions not listed here, contact the state where the fish will be landed.

(a) *Whole fish.* 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) *''Headed'' fish.* 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.

(c) *Filets.* A filet is the flesh from one side of a fish extending from the head to the tail, which has been removed from the body (head, tail, and backbone) in a single continuous piece. Filet lengths may be subject to size limits for some groundfish taken in the recreational fishery off California (see paragraph IV. D.(1)). A filet is measured along the length of the longest part of the filet, in a relaxed position; stretching or other wise manipulating the filet to increase its length is not permitted.

(d) *Sablefish weight limit conversions.* The following conversions apply to both the limited entry and open access fisheries when trip limits are effective for those fisheries. For headed and gutted (eviscerated) sablefish, 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; fishers should contact fishery enforcement officials in the state where the fish will be landed to determine that state's official conversion factor.)

(e) *Lingcod size and weight 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 is 19.5 inches (49.5 cm), which corresponds to 24 inches (61 cm) total length for whole fish.

(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 headed and gutted lingcod, or lingcod that is 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.

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

(7) *Closure.* ''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. The provisions at paragraph IV.A. (2) for fishing ahead do not apply during a closed period. It is unlawful to transit through a closed area with the prohibited species on board, no matter where that species was caught, except as provided for in the CCA at IV.A. (20).

(8) *Fishery management area.* 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) *Routine management measures.* Most trip, bag, and size limits in the groundfish fishery have been designated ''routine,'' which means they may be changed rapidly after a single Council meeting. (See 50 CFR 660.323(b).) Council meetings in 2002 will be held in the months of March, April, June, September, and November. Inseason changes to routine management measures are announced in the **Federal Register**. Information concerning changes to routine management measures 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 that, 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) *Limited entry limits.* 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. If a vessel has a limited entry permit and uses open entry limit, the open access limit cannot be exceeded and counts toward the limited entry limit. If a vessel has a limited entry permit and uses open access gear, but the open access limit is larger than the limited entry limit, the smaller limited entry limit applies, even if taken entirely with open access gear.

(12) *Operating in areas with different trip limits.* Trip limits for a species or a species group 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 group. Such crossover provisions do not apply to species that are subject only to daily trip limits, or to the trip limits for black rockfish off Washington (see 50 CFR 660.323(a)(1)). In 2002, the cumulative trip limit periods for the limited entry and open access fisheries are specified in paragraph IV.A(1)(d), but may be changed during the year if announced in the **Federal Register**.

(a) *Going from a more restrictive to a more liberal area.* If a vessel takes and retains any groundfish species or species group 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 groundfish species or species group in an area where a higher trip limit or no trip limit applies, and takes and retains, possesses or lands the same species or species group in an area where a more restrictive trip limit applies, 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.

(c) *Minor rockfish.* Several rockfish species are designed with species-specific limits on one side of the 40°10′ N. lat. management line, and are included as part of a minor rockfish complex on the other side of the line.

(i) If a vessel takes and retains minor slope rockfish north of 40°10′ N. lat., that vessel is also permitted to take and retain, possess or land splitnose rockfish up to its cumulative limit south of 40°10′ N. lat., even if splitnose rockfish were a part of the landings from minor slope rockfish taken and retained north of 40°10′ N. lat. [Note: A vessel that takes and retains minor slope rockfish on both sides of the management line in a single cumulative limit period is subject to the more restrictive cumulative limit for minor slope rockfish during that period.]

(ii) If a vessel takes and retains minor slope rockfish south of 40°10′ N. lat., that vessel is also permitted to take and retain, possess or land POP up to its cumulative limit north of 40°10′ N. lat., even if POP were a part of the landings from minor slope rockfish taken and retained south of 40°10′ N. lat.

Note: A vessel that takes and retains minor slope rockfish on both sides of the management line in a single cumulative limit period is subject to the more restrictive cumulative limit for minor slope rockfish during that period.

(iii) If a vessel takes and retains minor shelf rockfish north of 40°10′ N. lat., that vessel is also permitted to take and retain, possess, or land chilipepper rockfish and bocaccio up to their respective cumulative limits south of 40°10′ N. lat., even if either species is part of the landings from minor shelf rockfish taken and retained north of 40°10′ N. lat.

Note: A vessel that takes and retains minor shelf rockfish on both sides of the management line in a single cumulative limit period is subject to the more restrictive cumulative limit for minor shelf rockfish during that period.

(iv) If a vessel takes and retains minor shelf rockfish south of 40°10′ N. lat., that vessel is also permitted to take and retain, possess, or land yellowtail rockfish up to its respective cumulative limits north of 40°10′ N. lat., even if yellowtail rockfish is part of the landings from minor shelf rockfish taken and retained south of 40°10′ N. lat.

Note: A vessel that takes and retains minor shelf rockfish on both sides of the management line in a single cumulative limit period is subject to the more restrictive cumulative limit for minor shelf rockfish during that period.

(d) ''*DTS complex.*'' For 2002, there are differential trip limits for the ''DTS complex'' (Dover sole, shortspine thornyhead, longspine thornyhead, sablefish) north and south of the management line at 40°10′ N. lat. Vessels operating in the limited entry trawl fishery are subject to the crossover provisions in this paragraph IV.A. (12) when making landings that include any one of the four species in the ''DTS complex.''

(13) *Sorting.* It is unlawful for any person to ''fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, quota, or commercial OY, if the vessel fished or landed in an area during a time when such trip limit, size limit, commercial optimum yield, or quota applied.'' This provision applies to both the limited entry and open access fisheries. (See 50 CFR 660.306(h).) The following species must be sorted in 2002:

(a) For vessels with a limited entry permit:

(i) Coastwide—widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, shortbelly rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, shortspine and longspine thornyhead, Dover sole, arrowtooth flounder, rex sole, petrale sole, other flatfish, lingcod, sablefish, and Pacific whiting.

Note: Although both yelloweye and darkblotched rockfish are considered minor rockfish managed under the minor shelf and minor slope rockfish complexes, respectively, they have separate OYs and therefore must be sorted by species.

(ii) North of 40°10′ N. lat.—POP, yellowtail rockfish, and, for fixed gear, black rockfish and blue rockfish;

(iii) South of 40°10′ N. lat.—chilipepper rockfish, bocaccio rockfish, splitnose rockfish, and Pacific sanddabs.

(b) For open access vessels (vessels without a limited entry permit):

(i) Coastwide—widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, arrowtooth flounder, other flatfish, lingcod, sablefish, Pacific whiting, and Pacific sanddabs;

(ii) North of 40°10′ N. lat.—black rockfish, blue rockfish, POP, yellowtail rockfish;

(iii) South of 40°10′ N. lat.—chilipepper rockfish, bocaccio rockfish, splitnose rockfish;

(iv) South of Point Conception—thornyheads.

(14) *Limited Entry Trawl Gear Restrictions.* Limited entry trip limits may vary depending on the type of trawl gear that is on board a vessel during a fishing trip: large footrope, small footrope, or midwater trawl gear.

(a) *Types of trawl gear*—(i) Large footrope trawl gear is bottom trawl gear, as specified at 50 CFR 660.302 and 660.322(b), with a footrope diameter larger than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope).

(ii) Small footrope trawl gear is bottom trawl gear, as specified at 50 CFR 660.302 and 660.322(b), with a footrope diameter 8 inches (20 cm) or smaller (including rollers, bobbins or other material encircling or tied along the length of the footrope), except chafing gear may be used only on the last 50 meshes of a small footrope trawl, measured from the terminal (closed) end of the codend. Other lines or ropes that run parallel to the footrope may not be augmented or modified to violate footrope size restrictions.

(iii) Midwater trawl gear is pelagic trawl gear, as specified at 50 CFR 660.302 and 660.322(b)(2). The footrope of midwater trawl gear may not be enlarged by encircling it with chains or by any other means. Ropes or lines running parallel to the footrope of midwater trawl gear must be bare and may not be suspended with chains or other materials.

(b) *Cumulative trip limits and prohibitions by trawl gear type*–(i) *Large footrope trawl.* It is unlawful to take and retain, possess or land any species of shelf or nearshore rockfish (defined at IV.A. (21) and Table 2 to section IV) except chilipepper rockfish south of 40°10′ N. Lat. (as specified in Table 3) from a fishing trip if large footrope gear is on board; this restriction applies coastwide from January 1 to December 31. It is unlawful to take and retain, possess or land petrale sole, rex sole, or arrowtooth flounder from a fishing trip if large footrope gear is onboard and the trip is conducted at least in part between May 1 and October 31; cumulative limits for ''all other flatfish'' (all flatfish except those with cumulative trip limits in Table 3 to section IV) are lower for vessels with large footrope gear on board throughout the year. (See Table 3.) It is unlawful for any vessel using large footrope gear to exceed large footrope gear limits for any species or to use large footrope gear to exceed small footrope gear or midwater trawl gear limits for any species. The presence of rollers or bobbins larger than 8 inches (20 cm) in diameter on board the vessel, even if not attached to a trawl, will be considered to mean a large footrope trawl is on board. Dates are adjusted for the ''B'' platoon (See IV.A. (16)).

(ii) *Small footrope or midwater trawl gear.* Cumulative trip limits for canary rockfish, widow rockfish, yellowtail rockfish, bocaccio, minor shelf rockfish, minor nearshore rockfish, and lingcod, and higher cumulative trip limits for chilipepper rockfish and flatfish, as indicated in Table 3 to section IV, are allowed only if small footrope gear or midwater trawl gear is used, and if that gear meets the specifications in paragraphs IV.A (14).

(iii) *Midwater trawl gear.* Higher cumulative trip limits are available for limited entry vessels using midwater trawl gear to harvest widow or chilipepper rockfish. Each landing that contains widow or chilipepper rockfish is attributed to the gear on board with the most restrictive trip limit for those species. Landings attributed to small footrope trawl must not exceed the small footrope limit, and landings attributed to midwater trawl must not exceed the midwater trawl limit. If a vessel has landings attributed to both types of trawls during a cumulative trip limit period, all landings are counted toward the most restrictive gear-specific cumulative limit.

(iv) *More than one type of trawl gear on board.* The cumulative trip limits in Table 3 of section IV must not be exceeded. A fisher may have more than one type of limited entry trawl gear on board, but the most restrictive trip limit associated with the gear on board applies for the trip and will count toward the cumulative trip limit for that gear.

Example: If a vessel has large footrope gear on board, it cannot land yellowtail rockfish, even if the yellowtail rockfish is caught with a small footrope trawl. If a vessel has both small footrope trawl and midwater trawl gear on board, the landing is attributed to the most restrictive gear-specific limit, regardless of which gear type was used.

(c) *Measurement.* The footrope will be measured in a straight line from the outside edge to the opposite outside edge at the widest part on any individual part, including any individual disk, roller, bobbin, or any other device.

(d) *State landing receipts.* Washington, Oregon, and California will require the type of trawl gear on board with the most restrictive limit to be recorded on the State landing receipt(s) for each trip or an attachment to the State landing receipt.

(e) *Gear inspection.* All trawl gear and trawl gear components, including unattached rollers or bobbins, must be readily accessible and made available for inspection at the request of an authorized officer. No trawl gear may be removed from the vessel prior to offloading. All footropes shall be uncovered and clearly visible except when in use for fishing.

(15) *Permit transfers.* Limited entry permit transfers are to take effect no earlier than the first day of a major cumulative limit period following the day NMFS receives the transfer form and original permit (50 CFR 660.335(e)(3)). Those days in 2002 are January 1, March 1, May 1, July 1, September 1, and November 1, and are delayed by 15 days (starting on the 16th of a month) for the ''B'' platoon.

(16) *Platooning—limited entry trawl vessels.* Limited entry trawl vessels are automatically in the ''A'' platoon, unless the ''B'' platoon is indicated on the limited entry permit. 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 at 0001 hours, l.t., and end at 2400 hours, l.t., on the 15th of the month. Therefore, the management measures announced herein that are effective on January 1, 2002, for the ''A'' platoon will be effective on January 16, 2002, 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, unless otherwise specified.

(b) A vessel authorized to operate in the ''B'' platoon may take and retain, but may not land, groundfish from January 1, 2002, through January 15, 2002.

(c) A vessel authorized to operate in the ''B'' platoon will have the same cumulative trip limits for the November 16, 2002, through December 31, 2002, period as a vessel operating in the ''A'' platoon has for the November 1, 2002, through December 31, 2002 period.

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

(18) *Application of requirements.* Paragraphs IV.B. and IV.C. pertain to the commercial groundfish fishery, but not to Washington coastal tribal fisheries, which are described in section V. The provisions in paragraphs IV.B. and 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 recreation fishery.

(19) *Commonly used geographic coordinates.*

(a) Cape Falcon, OR—45°46′ N. lat.

(b) Cape Lookout, OR—45°20′15″ N. lat.

(c) Cape Blanco, OR—42°50′ N. lat.

(d) Cape Mendocino, CA—40°30′ N. lat.

(e) North/South management line—40°10′ N. lat.

(f) Point Arena, CA—38°57′30″ N. lat.

(g) Point Conception, CA—34°27′ N. lat.

(h) 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°00′ N. lat. N. lat.

(iv) Monterey—40°30′ 36°00′ N. lat. N. lat.

(v) Conception—36°00′ N. lat. to the U.S.-Mexico border.

(20) *Cowcod Conservation Areas.* Recreational and commercial fishing for groundfish is prohibited within the Cowcod Conservation Areas (CCAs), except that recreational and commercial fishing for rockfish and lingcod is permitted in waters inside 20 fathoms (36.9 m). It is unlawful to take and retain, possess, or land groundfish inside the CCAs, except for rockfish and lingcod taken in waters inside the 20-fathom (36.9 m) depth contour, when those waters are open to fishing. Commercial fishing vessels may transit through the Western CCA with their gear stowed and groundfish on board only in a corridor through the Western CCA bounded on the north by the latitude line at 33°00′30″ N. lat., and bounded on the south by the latitude line at 32°59′30'' N. lat.

(i) The Western CCA is an area south of Point Conception that is bound by straight lines connecting all of the following points in the order listed:

33°50′ N. lat., 119°30′ W. long.;
33°50′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 119°30′ W. long.;
33°00′ N. lat., 119°30′ W. long.;
33°00′ N. lat., 119°50′ W. long.;
33°30′ N. lat., 119°50′ W. long.;
33°30′ N. lat., 119°30′ W. long.; and connecting back to 33°50′ N. lat., 119°30′ W. long.

(ii) The Eastern CCA is a smaller area west of San Diego that is bound by straight lines connecting all of the following points in the order listed:

32°40′ N. lat., 118°00′ W. long.;

32°40′ N. lat., 117°50′ W. long.;
32°36′42″ N. lat., 117°50′ W. long.;
32°30′ N. lat., 117°53′30″ W. long.;
32°30′ N. lat., 118°00′ W. long.; and connecting back to 32°40′ N. lat., 118°00′ W. long.;

(21) *Rockfish categories.* Rockfish (except thornyheads) are divided into categories north and south of 40°10′ N. lat., depending on the depth where they most often are caught: nearshore, shelf, or slope. (Scientific names appear in Table 2.) Trip limits are established for ''minor rockfish'' species according to these categories (see Tables 2–5).

(a) Nearshore rockfish consists entirely of the minor nearshore rockfish species listed in Table 2.

(b) Shelf rockfish consists of canary rockfish, shortbelly rockfish, widow rockfish, yelloweye rockfish, yellowtail rockfish, bocaccio, chilipepper, cowcod, and the minor shelf rockfish species listed in Table 2.

(c) Slope rockfish consists of POP, splitnose rockfish, darkblotched rockfish, and the minor slope rockfish species listed in Table 2.

BILLING CODE 3510–22–M

Table 2 – Minor Rockfish Species (excludes thornyheads)

North of 40°10' N. lat.	South of 40°10' N. lat.
NEARSHORE	
black, Sebastes melanops	black, Sebastes melanops
black and yellow, S. chrysolmelas	black and yellow, S. chrysolmelas
blue, S. mystinus	blue, S. mystinus
brown, S. auriculatus	brown, S. auriculatus
calico, S. dalli	calico, S. dalli
China, S. nebulosus	California scorpionfish, Scorpaena guttata
copper, S. caurinus	China, Sebastes nebulosus
gopher, S. carnatus	copper, S. caurinus
grass, S. rastrelliger	gopher, S. carnatus
kelp, S. atrovirens	grass, S. rastrelliger
olive, S. serranoides	kelp, S. atrovirens
quillback, S. maliger	olive, S. serranoides
treefish, S. serriceps	quillback, S. maliger
	treefish, S. serriceps
SHELF	
bronzespotted, S. gilli	bronzespotted, S. gilli
bocaccio, S. paucispinis	chameleon, S. phillipsi
chameleon, S. phillipsi	dwarf-red, S. rufianus
chilipepper, S. goodei	flag, S. rubrivinctus
cowcod, S. levis	freckled, S. lentiginosus
dwarf-red, S. rufianus	greenblotched, S. rosenblatti
flag, S. rubrivinctus	greenspotted, S. chlorostictus
freckled, S. lentiginosus	greenstriped, S. elongatus
greenblotched, S. rosenblatti	halfbanded, S. semicinctus
greenspotted, S. chlorostictus	honeycomb, S. umbrosus
greenstriped, S. elongatus	Mexican, S. macdonaldi
halfbanded, S. semicinctus	pink, S. eos
honeycomb, S. umbrosus	pinkrose, S. simulator
Mexican, S. macdonaldi	pygmy, S. wilsoni
pink, S. eos	redstriped, S. proriger
pinkrose, S. simulator	rosethorn, S. helvomaculatus
pygmy, S. wilsoni	rosy, S. rosaceus
redstriped, S. proriger	silvergrey, S. brevispinus
rosethorn, S. helvomaculatus	speckled, S. ovalis
rosy, S. rosaceus	squarespot, S. hopkinsi
silvergrey, S. brevispinis	starry, S. constellatus
speckled, S. ovalis	stripetail, S. saxicola
squarespot, S. hopkinsi	swordspine, S. ensifer
starry, S. constellatus	tiger, S. nigorcinctus
stripetail, S. saxicola	vermilion, S. miniatus
swordspine, S. ensifer	yelloweye, S. ruberrimus
tiger, S. nigorcinctus	yellowtail, S. flavidus
vermilion, S. miniatus	
yelloweye, S. ruberrimus	
SLOPE	
aurora, S. aurora	aurora, S. aurora
bank, S. rufus	bank, S. rufus
blackgill, S. melanostomus	blackgill, S. melanostomus
darkblotched, S. crameri	darkblotched, S. crameri
redbanded, S. babcocki	Pacific ocean perch (POP), S. alutus
rougheye, S. aleutianus	redbanded, S. babcocki
sharpchin, S. zacentrus	rougheye, S. aleutianus
shortraker, S. borealis	sharpchin, S. zacentrus
splitnose, S. diploproa	shortraker, S. borealis
yellowmouth, S. reedi	yellowmouth, S. reedi

B. Limited Entry Fishery

(1) *General.* Most species taken in limited entry fisheries will be managed with cumulative trip limits (see paragraph IV.A.(1)(d),) size limits (see paragraph IV.A(6)), and seasons (see paragraph IV.A.(7)). The trawl fishery has gear requirements and trip limits that differ by the type of trawl gear on board (see paragraph (IV.A.(14)). Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph IV.A.(20)). Yelloweye rockfish retention is prohibited in the limited entry fixed gear fisheries. Most of the management measures for the limited entry fishery are listed above and in Tables 3 and 4, and may be changed during the year by announcement in the **Federal Register**. However, the management regimes for several fisheries (nontrawl sablefish, Pacific whiting, and black rockfish) do not neatly fit into these tables and are addressed immediately following 3 and 4.

Table 3. Trip Limits [1/] and Gear Requirements [2/] for Limited Entry Trawl Gear
Other Limits and Requirements Apply -- Read Sections IV. A. and B. NMFS Actions before using this table

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	1,800 lb/ 2 months					
3	South	50,000 lb/ 2 months					
4	**Splitnose - South**	25,000 lb/ 2 months					
5	**Pacific ocean perch - North[6/]**	2,000 lb/ month		4,000 lb/ month			2,000 lb/ month
6	**Chilipepper - South[6/]**						
7	mid-water trawl	25,000 lb/ 2 months					
8	small footrope trawl	7,500 lb/ 2 months					
9	large footrope trawl	500 lb/ trip, not to exceed small footrope cumulative 2-month limits at any time during the year.					
10	**DTS complex - North**						
11	Sablefish	6,000 lb/ 2 months		3,500 lb/ 2 months	6,000 lb/ 2 months	3,500 lb/ 2 months	2,500 lb/ 2 months
12	Longspine thornyhead	10,000 lb/ 2 months		6,000 lb/ 2 months	3,000 lb/ 2 months	10,000 lb/ 2 months	2,000 lb/ 2 months
13	Shortspine thornyhead	2,600 lb/ 2 months		2,000 lb/ 2 months	2,600 lb/ 2 months	2,600 lb/ 2 months	1,500 lb/ 2 months
14	Dover sole	30,000 lb/ 2 months	28,000 lb/ 2 months	14,000 lb/ 2 months	28,000 lb/ 2 months	20,000 lb/ 2 months	14,000 lb/ 2 months
15	**DTS complex - South**						
16	Sablefish	4,500 lb/ 2 months					
17	Longspine thornyhead	10,000 lb/ 2 months					
18	Shortspine thornyhead	2,600 lb/ 2 months					
19	Dover sole	22,000 lb/ 2 months					
20	**Flatfish - North**						
21	All other flatfish [3/]	Small footrope required: 15,000 lb/ month	35,000 lb/ month	30,000 lb/ month, no more than 10,000 of which may be petrale sole	40,000 lb/ month, no more than 15,000 of which may be petrale sole	50,000 lb/ month, no more than 20,000 of which may be petrale sole	Small footrope required: 50,000 lb/ month
22	Petrale sole	Not limited					Not limited
23	Rex sole	Not limited					Not limited
24	Arrowtooth flounder	30,000 lb/ trip		Small footrope required: 7,500 lb/ trip, no more than 30,000 lb/ month			30,000 lb/ trip
25	**Flatfish - South**						
26	All other flatfish [3/]	Small footrope: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs		Small footrope: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs. Of the species other than Pacific sanddabs, no more than 15,000 lb may be petrale sole.			Small footrope: 70,000 lb/ month, no more than 40,000 lb of which may be species other than Pacific sanddabs
27	Petrale sole	Not limited					Not limited
28	Rex sole	Not limited					Not limited
29	Arrowtooth flounder	30,000 lb/ trip		Small footrope required: 7,500 lb/ trip, no more than 30,000 lb/ month			30,000 lb/ trip
30	**All other flatfish [3/], including petrale sole - North and South**	Large footrope: 1,000 lb/trip, not to exceed small footrope cumulative monthly limits at any time during the year.					
31	**Whiting shoreside [4/]**	20,000 lb/ trip		Primary Season			20,000 lb/ trip
32	**USE OF SMALL FOOTROPE BOTTOM TRAWL [5/] OR MIDWATER TRAWL REQUIRED FOR LANDING ALL OF THE FOLLOWING SPECIES:**						
33	**Minor shelf rockfish**						
34	North	300 lb/ month		1,000 lb/ month			300 lb/ month
35	South	500 lb/ month		1,000 lb/ month			500 lb/ month
36	**Canary rockfish**	200 lb/ 2 months		600 lb/ 2 months			200 lb/ 2 months
37	**Widow rockfish**						
38	mid-water trawl	CLOSED[7/]		During primary whiting season, in trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month			CLOSED7/
39	small footrope trawl	1,000 lb/ month					
40	**Yellowtail - North[6/]**						
41	mid-water trawl	CLOSED[7/]		During primary whiting season, in trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative yellowtail limit of 2,000 lb/ month			CLOSED7/
42	small footrope trawl	Without flatfish, 1,000 lb/ month. As flatfish bycatch, per trip limit is the sum of 33% (by weight) of all flatfish except arrowtooth flounder, plus 10% (by weight) of arrowtooth flounder, not to exceed 30,000 lb/ 2 months.					
43	**Bocaccio - South[6/]**	600 lb/ 2 months		1,000 lb/ 2 months			600 lb/ 2 months
44	**Cowcod**	**CLOSED7/**					
45	**Minor nearshore rockfish**						
46	North	300 lb/ month		1,000 lb/ month			300 lb/ month
47	South	300 lb/ month		1,000 lb/ month			300 lb/ month
48	**Lingcod[8/]**	800 lb/ 2 months					

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. to the U.S.-Canada border. "South" means 40°10' N. lat. to the U.S.-Mexico border. 40°10' N. lat. is about 20 nm south of Cape Mendocino, CA.

2/ Gear requirements and prohibitions are explained above.

3/ "Other" flatfish means all flatfish at 50 CFR 660.302 except those in this Table 3 with a trip limit.

4/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year. Outside Eureka area, the 20,000 lb/ trip limit applies before and after the primary season.

5/ Small footrope trawl means a bottom trawl net with a footrope no larger than 8 inches (20 cm) in diameter. Midwater gear also may be used; the footrope must be bare. See above.

6/ Yellowtail rockfish and POP in the south, and bocaccio and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area.

7/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).

8/ The minimum size limit for lingcod is 24 inches (61 cm) total length.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 4. Trip Limits[1/] for Limited Entry Fixed Gear
Other Limits and Requirements Apply – Read Sections IV. A. and B. NMFS Actions before using this table

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	1,000 lb/ month		5,000 lb/ 2 months			2,000 lb/ 2 months
3	South	25,000 lb/ 2 months					
4	**Splitnose - South**	25,000 lb/ 2 months					
5	**Pacific ocean perch - North 5/**	2,000 lb/ month		4,000 lb/ month			2,000 lb/ month
6	**Sablefish**						
7	North of 36° N. lat.	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months					
8	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb					
9	**Longspine thornyhead**	9,000 lb/ 2 months					
10	**Shortspine thornyhead**	2,000 lb/ 2 months					
11	**Dover sole**	5,000 lb/ month (all flatfish)					
12	**Arrowtooth flounder**						
13	**Petrale sole**						
14	**Rex sole**						
15	**All other flatfish 2/**						
16	**Whiting 3/**	20,000 lb/ trip					
17	**Shelf rockfish, including minor shelf rockfish, widow and yellowtail rockfish[5/]**						
18	North	200 lb/ month					
19	South						
20	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED 4/		200 lb/ month	CLOSED 4/	
21	South of 34°27' N. lat.	CLOSED 4/	1,000 lb/ month				CLOSED 4/
22	**Canary rockfish**	CLOSED 4/					
23	**Yelloweye rockfish**	CLOSED 4/					
24	**Cowcod**	CLOSED 4/					
25	**Bocaccio - South 5/**						
26	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED 4/		200 lb/ month	CLOSED 4/	
27	South of 34°27' N. lat.	CLOSED 4/	200 lb/ month				CLOSED 4/
28	**Chilipepper - South 5/**						
29	40°10' - 34°27' N. lat.	500 lb/ month	CLOSED 4/		500 lb/ month	CLOSED 4/	
30	South of 34°27' N. lat.	CLOSED 4/	2,500 lb/ month				CLOSED 4/
31	**Minor nearshore rockfish**						
32	North	5,000 lb/ month, no more than 2,000 lb of which may be species other than black or blue rockfish 6/					
33	South						
34	40°10' - 34°27' N. lat.	1,600 lb/ 2 months	CLOSED 4/	Shoreward of 20 fm depth, 1,600 lb/ 2 months, otherwise CLOSED 4/	1,600 lb/ 2 months	Shoreward of 20 fm depth, 1,600 lb/ 2 months, otherwise CLOSED 4/	CLOSED 4/
35	South of 34°27' N. lat.	CLOSED 4/	2,000 lb/ 2 months				CLOSED 4/
36	**Lingcod 7/**						
37	North	CLOSED 4/		400 lb/ month			CLOSED 4/
38	South						
39	40°10' - 34°27' N. lat.	CLOSED 4/		Shoreward of 20 fm depth, 400 lb/ month, otherwise CLOSED 4/	400 lb/ month	Shoreward of 20 fm depth, 400 lb/ month, otherwise CLOSED 4/	CLOSED 4/
40	South of 34°27' N. lat.	CLOSED 4/		400 lb/ month			CLOSED 4/

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. to the U.S.-Canada border. "South" means 40°10' N. lat. to the U.S.-Mexico border. 40°10' N. lat is about 20 nm south of Cape Mendocino, CA.
2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 4 with a trip limit.
3/ The whiting "per trip" limit in the Eureka area inside 100 fm is 10,000 lb/ trip throughout the year.
4/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7).
5/ Yellowtail rockfish and widow rockfish coastwide, POP in the south, and bocaccio and chilipepper rockfishes in the north are included in the trip limits for shelf rockfish in the appropriate area.
6/ For black rockfish north of Cape Alava (48°09'30" N.lat.), and between Destruction Island (47°40'00" N.lat.) and Leadbetter Point (46°38'10" N.lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.
7/ The minimum size limit for lingcod is 24 inches (61 cm) total length.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

BILLING CODE 3310–22–C

(2) *Sablefish.* The limited entry sablefish allocation is further allocated 58 percent to trawl gear and 42 percent to nontrawl gear. See footnote e/ of Table 1a.

(a) *Trawl trip and size limits.* Management measures for the limited entry trawl fishery for sablefish are listed in Table 3.

(b) *Nontrawl (fixed gear) trip and size limits.* To take, retain, possess, or land sablefish during the primary season for the limited entry fixed gear 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 663.323(a)(2)(i).) A sablefish endorsement is not required to participate in the limited entry daily trip limit fishery.

(i) *Primary season.* The primary season begins at 12 noon l.t. on April 1, 2002, and ends at 12 noon l.t. on October 31, 2002. There are no pre-season or post-season closures. During the primary season, each vessel with at least one limited entry permit with a sablefish endorsement that is registered for use with that vessel may land up to the cumulative trip limit for each of the sablefish-endorsed limited entry permits registered for use with that vessel, for the tier(s) to which the permit(s) are assigned. For 2002, the following limits would be in effect: Tier 1, 36,000 lb. (16,329 kg); Tier 2, 16,500 lb (7,484 kg); Tier 3, 9,500 lb (4,309 kg). All limits are in round weight. If a Vessel is registered for use with a sablefish-endorsed limited entry permit, all sablefish taken after April 1, 2002, count against the cumulative limits associated with the permit(s) registered for use with that vessel. A vessel that is eligible to participate in the primary sablefish season may participate in the daily trip limit fishery for sablefish once that vessel's primary season sablefish limit(s) have been taken or after October 31, 2001, whichever occurs first. No vessel may land sablefish against both its primary season cumulative sablefish limits and against the daily trip limit fishery limits within the same 24 hour period of 0001 hour l.t. to 2400 hours l.t.

(ii) *Daily trip limit.* Daily and/or weekly sablefish trip limits listed in Table 4 apply to any limited entry fixed gear vessels not participating in the primary sablefish season described in paragraph (i) of this section. North of 36° N. lat., the daily and/or weekly trip limits apply to fixed gear vessels that are not registered for use with a sablefish-endorsed limited entry permit, and to fixed gear vessels that are registered for use with a sablefish-endorsed limited entry permit when those vessels are not fishing against their primary sablefish season cumulative limits. South of 36° N. lat., the daily and/or weekly trip limits for taking and retaining sablefish that are listed in Table 4 apply throughout the year to all vessels registered for use with a limited entry fixed gear permit.

(3) *Whiting.* Additional regulations that apply to the whiting fishery are found at 50 CFR 660.306 and at 50 CFR 660.323(a)(3) and (a)(4). All allocations described in this section and in the tribal fisheries allocation description at paragraph V. will not be finalized until the Council finalizes the 2002 whiting ABC and OY at its March 2002 meeting.

(a) *Allocations.* Whiting allocations will be based on the percentages detailed in 50 CFR 660.323(a)(4)(i), and will be announced inseason when the final OY is announced.

(b) *Seasons.* The 2002 primary seasons for the whiting fishery start on the same dates as in 2001, 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.; April 15 south of 40°30′ N. lat.; April 15 south of 40°30′ N. lat.

(c) *Trip limits*—(i) *Before and after the regular season.* The ''per trip'' limit for whiting before and after the regular season for the shore-based sector is announced in Table 3, as authorized at 50 CFR 660.323(a)(3) and (a)(4). This trip limit includes any whiting caught shoreward of 100 fathoms (183 m) in the Eureka area.

(ii) *Inside the Eureka 100 fm (183 m) 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 area.

(4) *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 ''per trip'' limits apply to limited entry and open access fisheries, in conjunction with the cumulative trip limits and other management measures listed in Tables 4 and 5 of section IV. The crossover provisions at paragraphs IV.A. (12) do not apply to the black rockfish per-trip limits.

C. Trip Limits in the Open Access Fishery

(1) *General.* Open access gear is gear used to take and retain groundfish from a vessel that does not have a valid 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 trammel 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 any trip limit, frequency limit, and/or size limit for the open access fishery. Groundfish species taken in open access fisheries will be managed with cumulative trip limits (see paragraph IV.A.(1)(d) size limits (see paragraph IV.A.(6)), and seasons (see paragraph IV.A.(7)). Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph IV.A.(201)). Yelloweye rockfish retention is prohibited in all open access fisheries. The trip limits, size limits, seasons, and other management measures for open access groundfish gear, except exempted trawl gear, are listed in Table 5. The trip limit at 50 CFR 660.323(a)(i) for black rockfish caught with hook-and-line gear also applies. (The black rockfish limit is repeated at paragraph IV.B.4.)

BILLING CODE 3510–22–M

Table 5. Trip Limits[1/] for Open Access Gears

Other Limits and Requirements Apply – Read Sections IV. A. and C. NMFS Actions before using this table

Exceptions for exempted gears at Section IV.C.

line	Species/groups	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
1	**Minor slope rockfish**						
2	North	Per trip, no more than 25% of weight of the sablefish landed					
3	South	10,000 lb/ 2 months					
4	**Splitnose - South**	200 lb/ month					
5	**Pacific ocean perch - North 5/**	100 lb/ month					
6	**Sablefish**						
7	North of 36° N. lat.	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months					
8	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb					
9	**Thornyheads**						
10	North of 34° 27' N. lat.	CLOSED 3/					
11	South of 34° 27' N. lat.	50 lb/ day, no more than 2,000 lb/ 2 months					
12	**Dover sole**	3,000 lb/ month, no more than 300 lb of which may be species other than Pacific sanddabs					
13	**Arrowtooth flounder**						
14	**Petrale sole**						
15	**Rex sole**						
16	**All other flatfish 2/**						
17	**Whiting**	300 lb/ month					
18	**Shelf rockfish, including minor shelf rockfish, widow and yellowtail rockfish[4/]**						
19	North	200 lb/ month					
20	South						
21	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED 3/	Shoreward of 20 ftm depth, 200 lb/ month, otherwise CLOSED 3/	200 lb/ month	Shoreward of 20 ftm depth, 200 lb/ month, otherwise CLOSED 3/	CLOSED 3/
22	South of 34°27' N. lat.	CLOSED 3/	500 lb/ month				CLOSED 3/
23	**Canary rockfish**	CLOSED 3/					
24	**Yelloweye rockfish**	CLOSED 3/					
25	**Cowcod**	CLOSED 3/					
26	**Bocaccio - South 5/**						
27	40°10' - 34°27' N. lat.	200 lb/ month	CLOSED 3/		200 lb/ month	CLOSED 3/	
	South of 34°27' N. lat.	CLOSED 3/	200 lb/ month				CLOSED 3/
28	**Chilipepper - South 5/**						
29	40°10' - 34°27' N. lat.	500 lb/ month	CLOSED 3/		500 lb/ month	CLOSED 3/	
30	South of 34°27' N. lat.	CLOSED 3/	2,500 lb/ month				CLOSED 3/
31	**Minor nearshore rockfish**						
32	North	3,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish 5/		4,000 lb/ 2 months, no more than 1,600 lb of which may be species other than black or blue rockfish 5/			3,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish 5/
33	South						
34	40°10' - 34°27' N. lat.	1,200 lb/ 2 months	CLOSED 3/	Shoreward of 20 ftm depth, 1,200 lb/ 2 months, otherwise CLOSED 3/	1,200 lb/ 2 months	Shoreward of 20 ftm depth, 1,200 lb/ 2 months, otherwise CLOSED 3/	CLOSED 3/
35	South of 34°27' N. lat.	CLOSED 3/	1,200 lb/ 2 months				CLOSED 3/
36	**Lingcod 7/**						
37	North	CLOSED 3/		300 lb/ month			CLOSED 3/
38	South						
39	40°10' - 34°27' N. lat.	CLOSED 3/		Shoreward of 20 ftm depth, 300 lb/ month, otherwise CLOSED 3/	300 lb/ month	Shoreward of 20 ftm depth, 300 lb/ month, otherwise CLOSED 3/	CLOSED 3/
40	South of 34°27' N. lat.	CLOSED 3/		300 lb/ month			CLOSED 3/

1/ Trip limits apply coastwide unless otherwise specified. "North" means 40°10' N. lat. To the U.S.-Canada border. "South" means 40°10' N. lat. To the U.S.-Mexico border. 40°10' N. lat is about 20 nm south of Cape Mendocino, CA.

2/ "Other flatfish" means all flatfish at 50 CFR 660.302 except those in this Table 5 with a trip limit.

3/ Closed means that it is prohibited to take and retain, possess, or land the designated species in the time or area indicated. See IV.A.(7). in the time or area indicated.

4/ Yellowtail rockfish and POP in the south, and bocaccio, and chilipepper rockfishes in the north are included in the trip limits for minor shelf rockfish in the appropriate area.

5/ For black rockfish north of Cape Alava (48°09'30" N.lat.), and between Destruction Island (47°40'00" N.lat.) and Leadbetter Point (46°38'10" N.lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

6/ The size limit for lingcod is 24 inches (61 cm) total length.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

BILLING CODE 3510–22–C

(2) *Groundfish taken with exempted trawl gear by vessels engaged in fishing for spot and ridgeback prawns, California halibut, or sea cucumbers*—(a) *Trip limits.* The trip limit is 300 lb (136 kg) of groundfish per fishing trip. Limits in Table 5 also apply and are counted toward the 300 lb (136 kg) groundfish limit. In any landing by a vessel engaged in fishing for spot and ridgeback prawns, California halibut, or sea cucumbers with exempted trawl gear, the amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish (Squalas acanthias) landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb (136 kg) per trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish ''per trip'' limit may not be multiplied by the number of days of the fishing trip. The closures listed in Table 5 also apply, except for the species listed below in subparagraphs (i) through (v). The following sublimits also apply and are counted toward the overall 300 lb (136 kg) per trip groundfish limit:

(i) Shelf rockfish (including minor shelf rockfish, widow and yellowtail)—

(A) Between 40°10′ N. lat. and 34°27′ N. lat.: 200 lb (91 kg) per month.

(B) South of 34°27′ N. lat.: 500 lb (227 kg) per month.

(ii) Bocaccio south of 40 deg. 10′ N. lat.—200 lb (91 kg) per month.

(iii) Chilipepper—

(A) Between 40°10′ N. lat. and 34°27′ N. lat.: 500 lb (227 kg) per month.

(B) South of 34°27′ N. lat.: 2,500 lb (1,134 kg) per month.

(iv) Minor nearshore rockfish south of 40 deg. 10′ N. lat.—1,200 lb (544 kg) per 2 months.

(v) Lingcod south of 40 deg. 10′ N. lat.—May 1 through October 31, 2002: 300 lb (136 kg) per month, otherwise closed.

(b) *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.

(c) *Participation in the California halibut fishery.* 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 660.333 for trawl gear;

(ii) All fishing on the trip takes place south of Pt. 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 (56 cm) in total length, unless it weighs 4 lbs (1.8144 kg) or more in the round, 3 and one-half lbs (1.587 kg) or more dressed with the head on, or 3 lbs (1.3608 kg) 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.''

(d) *Participation in the sea cucumber fishery.* 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 660.333 for trawl gear;

(ii) All fishing on the trip takes place south of Pt. 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.

(3) *Groundfish taken with exempted trawl gear by vessels engaged in fishing for pink shrimp.* (a) The trip limit is 500 lb (227 kg) of groundfish per day, multiplied by the number of days of the fishing trip, but not to exceed 1,500 lb (680 kg) of groundfish per trip. The following sublimits also apply and are counted toward the overall 500 lb (227 kg) per day and 1,500 lb (680 kg) per trip groundfish limits:

(i) Canary rockfish—

(A) April 1 through 30, 2002: 50 lb (23 kg) per month

(B) Starting May 1, 2002 through October 31, 2002: 200 lb (91 kg) per month

(ii) Lingcod—April 1 through October 31, 2002: 400 lb (181 kg) per month, with a minimum size limit (total length) of 24 inches (61 cm).

(iii) Sablefish—April 1, 2002 through October 31, 2002: 2,000 lb (907 kg) per month.

(iv) Thornyheads—Closed north of Pt. Conception (34°27′ N. lat.)

(b) All other groundfish species taken with exempted trawl gear by vessels engaged in fishing for pink shrimp are managed under the overall 500 lb (227 kg) per day and 1,500 lb (680 kg) per trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits.

(c) In any trip in which pink shrimp trawl gear is used, the amount of groundfish landed may not exceed the amount of pink shrimp landed.

(d) Operating in pink shrimp and other fisheries during the same cumulative trip limit period. Notwithstanding section IV.A.(11), a vessel that takes and retains pink shrimp and also takes and retains groundfish in either the limited entry or another open access fishery during the same applicable cumulative limit period that it takes and retains pink shrimp (which may be 1 month or 2 months, depending on the fishery and the time of year), may retain the larger of the two limits, but only if the limit(s) for each gear or fishery are not exceeded when operating in that fishery or with that gear. The limits are not additive; the vessel may not retain a separate trip limit for each fishery.

D. Recreational Fishery

(a) *California.*

Note: California law provides that, in times and areas when the recreational fishery is open, there is a 20-fish bag limit for all species of finfish, within which no more than 10 fish of any one species may be taken or possessed by any one person.

For each person engaged in recreational fishing seaward of California, the following seasons and bag limits apply:

(a) *Rockfish*—(i) *Cowcod Conservation Areas.* Recreational fishing for groundfish is prohibited within the CCAs, as described above at IV.A.(20), except that fishing for rockfish is permitted in waters inside the 20-fathom (37 m) depth contour within the CCAs from March 1 through October 31, 2002, subject to the bag limits in paragraph (iii) of this section.

(ii) *Seasons.* North of 40°10′ N. lat., recreational fishing for rockfish is open from January 1 through December 31. South of 40°10′ N. lat. and north of Point Conception (34°27′ N. lat.), recreational fishing for rockfish is closed from March 1 through April 30, and from November 1 through December 31. This area is also closed to recreational rockfish fishing from May 1 through June 30 and from September 1 through October 31, except that fishing for rockfish is permitted inside the 20 fathom (37 m) depth contour, subject to the bag limits and retention prohibitions of paragraph (iii) of this section. South of Point Conception (34°27′ N. lat.), recreational fishing for rockfish is closed from January 1 through February 28 and from November 1 through December 31. Recreational fishing for cowcod is prohibited all year in all areas.

(iii) *Bag limits, boat limits, hook limits.* In times and areas when the recreational season for rockfish is open, there is a 2-hood limit per fishing line, and the bag limit is 10 rockfish per day,

of which not more than 2 may be bocaccio, no more than 1 may be canary rockfish, and no more than 1 may be yelloweye rockfish. No more than 2 yelloweye may be retained per vessel. Cowcod may not be retained. Bocaccio, canary rockfish, and yelloweye may not be retained, and no more than 2 shelf rockfish may be retained, in the area between 40°10′ N. lat. and Point Conception (34°27′ N. lat.) from May 1 through June 30, or September 1 through October 31.

Note: California scorpionfish, are subject to California's 10 fish bag limit per species, but are not counted toward the 10 rockfish bag limit.

Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(iv) *Size limits.* The following rockfish size limits apply: bacaccio may be no smaller than 10 inches (25 cm), and California scorpionfish may be no smaller than 10 inches (25 cm).

(v) *Dressing/Fileting.* Rockfish skin may not be removed when fileting or otherwise dressing rockfish taken in the recreational fishery. The following rockfish filet size limits apply: bocaccio filets may be no smaller than 5 inches (12.8 cm); California scorpionfish filets may be no smaller than 5 inches (12.8 cm); and brown-skinned rockfish filets may be no smaller than 6.5 inches (16.6 cm). ''Brown-skinned'' rockfish include the following species: brown, calico, copper, gopher, kelp, olive, speckled, squarespot, and yellowtail.

(b) *Roundfish* (Lingcod, cabezon, kelp greenling) (i) *Cowcod Conservation Areas.* Recreational fishing for groundfish is prohibited within the CCAs, as described above at IV.A. (20), except that fishing for lingcod is permitted in waters inside the 20 fathom (37 m) depth contour within the CCAs from March 1 through October 31, 2002, subject to the bag limits in paragraph (ii) of this section. Fishing for cabezon and kelp greenling is allowed in waters inside the 20 fathom (37 m) depth contour within the CCAs year round.

(ii) *Seasons.* South of 40°10′ N. lat. and north of Point Conception (34°27′ N. lat.), recreational fishing for lingcod is closed from March 1 through April 30, and from November 1 through December 31. This area is also closed to recreational lingcod fishing from May 1 through June 30 and from September 1 though October 31, except that fishing for lingcod is permitted inside the 20 fathom (36.9 m) depth contour, subject to the bag limits in paragraph (iii) of this section. South of Point Conception (34°27′ N. lat.), recreational fishing for lingcod is closed from January 1 though February 28 and from November 1 through December 31.

(iii) *Bag limits, boat limits, hook limits.* In times and areas when the recreational season for lingcod is open, there is a 2-hook limit per fishing line, and the bag limit is 2 lingcod per day. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(iv) *Size limits.* The following roundfish size limits apply: lingcod may be no smaller than 24 inches (61 cm) total length, cabezon may be no smaller than 15 inches (38 cm); and kelp greenling may be no smaller than 12 inches (30 cm).

(v) *Dressing/Fileting.* Cabezon and kelp greenling taken in the recreational fishery may not be fileted at sea. Lingcod filets may be no smaller than 15 inches (38.1 cm).

(2) *Oregon.* The bag limits for each person engaged in recreational fishing seaward of Oregon are 1 lingcod per day, which may be no smaller than 24 inches (61 cm) total length; and 10 rockfish per day, of which no more than 1 may be canary rockfish and no more than 1 may be yelloweye rockfish. During the all-depth recreational fisheries for Pacific halibut (*Hippoglossus stenolopis*), vessels with halibut on board may not take, retain, possess or land yelloweye rockfish.

(3) *Washington.* For each person engaged in recreational fishing seaward of Washington, the following seasons and bag limits apply:

(a) *Rockfish.* There is a rockfish bag limit of no more than 10 rockfish per day, of which no more than 2 may be canary rockfish, or no more than 1 may be canary rockfish and 1 may be yelloweye rockfish. Taking and retaining yelloweye rockfish is prohibited from a vessel with Pacific halibut retained on board.

(b) *Lingcod.* Recreational fishing for lingcod is closed between January 1 and April 15, and between October 16 and December 31. When the recreational season for lingcod is open, there is a bag limit of 2 lingcod per day, which may be no smaller than 24 inches (61 cm) total length.

V. Washington Coastal Tribal Fisheries

In 1994, the U.S. government formally recognized that the four Washington Coastal Tribes (Makah, Quileute, Hoh, and Qinault) have treaty rights to fish for groundfish, and concluded that, in general terms, the quantification of those rights is 50 percent of the harvestable surplus of groundfish available in the tribes' usual and accustomed (U and A) fishing areas (described at 60 CFR 660.324).

A tribal allocation is subtracted from the species OY before limited entry and open access allocations are derived for areas that coincide with U and As. The treaty tribal fisheries for sablefish, black rockfish, and whiting are separate fisheries and are not governed by the limited entry or open access regulations or allocations. The tribes regulate these fisheries so as not to exceed their allocations.

The tribal allocation for black rockfish is the same in 2002 as in 2001. Also similar to 2001, the tribal sablefish allocation is 10 percent of the total catch OY (437 mt), less 3 percent for estimated discard mortality, or 424 mt. In 1999 through 2001, the tribal whiting allocation was based on a 5-year sliding scale proposal presented by the Makah Tribe in 1998 (for the years 1999–2003) that determines the tribal allocation based on the level of the overall U.S. OY, up to 17.5 percent tribal harvest ceiling. Although the 2002 whiting ABC and OY have not yet been set, the tribes proposed using the same sliding scale allocation for 2002. As discussed earlier in footnote d/ to Table 1a, the Council will recommend the whiting ABC and OY at its March 2002 meeting, based on the results of a new whiting stock assessment. In 2001, applying the Makah sliding scale allocation to a 190,400 mt overall OY resulted in a 27,500 mt tribal whiting allocation. No other tribes proposed to harvest whiting in 2001.

The right of the Washington coastal treaty tribes to harvest Pacific whiting in accordance with the legal principles established in the ongoing case of *U.S.* v. *Washington*, No. 9213, Phase I (W.D. Wash), was sustained in Subproceeding 96–2, Order Granting Makah's Motion for Summary Judgment (Nov. 5, 1996), and also in *Midwater Trawlers Cooperative* v. *Daley*, 139 F.Supp.2d 1136 (W.D. Wash. 2000). In the latter case, the court held that the tribes have a treaty right to harvest Pacific whiting; that the Federal defendants did not act arbitrarily and capriciously in recognizing the tribes' right; that the Secretary of Commerce (Secretary) did not act arbitrarily and capriciously in extending the tribes' usual and accustomed fishing areas into the United States EEZ; that the Secretary appropriately recognized the tribes as co-managers of the shared resources in the final rule providing for tribal groundfish allocations (see 50 CFR 660.324(d)); and that the 1999 tribal allocation, which was based on the

sliding scale proposal first presented by the Makah Tribe in 1998, was not arbitrary and capricious. Non-treaty fishers and the State of Oregon have appealed this decision to the Ninth Circuit Court of Appeals, where it awaits oral argument.

The issue of the appropriate quantifications of the treaty right to Pacific whiting was recently adjudicated in *U.S.* v. *Washington,* 143 F.Supp.2d 1218 (W.D. Wash., Order on Summary Judgment Motions, April 5, 2001), which approved the Makah Tribe's 1998 sliding scale proposal as within the tribal treaty right and consistent with the Magnuson-Stevens Act.

For some species on which the tribes have a modest harvest, no specific allocation has been determined. Rather than try to reserve specific allocations for the tribes, NMFS is establishing trip limits recommended by the tribes and the Council to accommodate modest tribal fisheries. For lingcod, all tribal fisheries are restricted to 300 lb (136 kg) per day and 900 lb (408 kg) per week cumulative limits. Tribal fisheries are expected to take about 4–5 mt of lingcod in 2002. For rockfish species, the 2002 tribal longline and trawl fisheries will operate under trip and cumulative limits. Tribal fisheries will operate under 300 lb (136 kg) per trip limits each for canary rockfish, thornyheads, and the minor rockfish species groups (nearshore, shelf, and slope), and under a 100 lb (45 kg) trip limit for yelloweye rockfish. A 300 lb (136 kg) canary rockfish trip limit is expected to result in landings of 2.5 mt in 2002. A 300 lb (136 kg) thornyheads trip limit is expected to result in landings of 1 mt in 2002. Other rockfish limits are expected to result in the following landings levels: widow rockfish, 27 mt; yelloweye rockfish, 1–1.5 mt; yelloweye rockfish, 300 mt; minor nearshore rockfish, 2 mt; minor shelf rockfish excluding yelloweye, 4 mt; minor slope rockfish, 4 mt. Trace amounts (<1 mt) of POP and darkblotched rockfish may also be landed in tribal commercial fisheries.

The Assistant Administrator announces the following tribal allocations for 2002, including those that are the same as in 2001. Trip limits for certain species were recommended by the tribes and the Council and are specified here with the tribal allocations.

A. Sablefish

The tribal allocation is 424 mt, 10 percent of the total catch OY, less 3 percent estimated discard mortality.

B. Rockfish

(1) For the commercial harvest of black rockfish off Washington State, a harvest guideline 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.).

(2) Thornyheads are subject to a 300 lb (136 kg) trip limit.

(3) Canary rockfish are subject to a 300 lb (136 kg) trip limit.

(4) Yelloweye rockfish are subject to a 100 lb (45 kg) trip limit.

(5) Yellowtail rockfish taken in the tribal mid-water trawl fisheries are subject to a cumulative limit of 30,000 lb (13,608 kg) per two-month period. Landings of widow rockfish must not exceed 10 percent of the weight of yellowtail rockfish landed in any two-month period. These limits may be adjusted by an individual tribe inseason to minimize the incidental catch of canary rockfish and widow rockfish.

(6) Other rockfish, including minor nearshore, minor shelf, and minor slope rockfish groups are subject to a 300 lb (136 kg) trip limit per species or species group, or to the non-tribal limited entry trip limit for those species if those limits are less restrictive than 300 lb (136 kg) per trip.

(7) Rockfish taken during open competition tribal commercial fisheries for Pacific halibut will not be subject to trip limits.

C. Lingcod

Lingcod are subject to a 300 lb (136 kg) daily trip limit and a 900 lb (408 kg) weekly limit.

D. Pacific Whiting

Whiting allocations will be announced when the final OY is announced.

VI. Receipt of an Application for EFPs

At the Council's November 2001 meeting, NMFS received an application requesting renewal of EFPs for the 2002 shore-based Pacific whiting fishery from the States of Washington, Oregon, and California. Issuance of these EFPs would allow unsorted whiting harvests to be delivered to shore-based processing facilities where state-sponsored biologists can collect information on the incidental catch of salmon and groundfish. These EFPs are intended to promote the objectives of the Pacific Coast Groundfish FMP by providing catch data that is otherwise not available for managing the fishery.

Because whiting deteriorates rapidly, it must be handled quickly and immediately chilled to maintain its quality. As a result, many vessels prefer to dump catch directly, or near directly, into the hold and are unable to effectively sort their catch at sea. Delaying sorting until offloading allows whiting quality to be maintained while providing an opportunity for state biologists to collect much needed fishery data. If issued, approximately 20 vessels would be permitted to delay the sorting of prohibited species and groundfish species caught in excess of cumulative trip limits until offloading. Without an EFP, vessels are required to sort prohibited species and return them to sea as soon as practicable with minimum injury (50 CFR 660.306(b)), and they are prohibited from exceeding the groundfish trip limits for individual species or groups (50 CFR 660.306(h)).

Following the opportunity for public comment at the Council's November meeting, the Council recommended that NMFS issue the EFPs requested by the States. A copy of the application is available for review from NMFS (see **ADDRESSES**).

Classification

These proposed specifications and management measures for 2002 are issued under the authority of, and are in accordance with, the Magnuson-Stevens Act, the FMP, and 50 CFR parts 600 and 660 subpart G (the regulations implementing FMP).

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared an initial regulatory flexibility analysis that describes the impact this proposed rule, if adopted, would have on small entities.

NMFS is proposing the 2002 annual specifications and management measures to allow West Coast commercial and recreational fisheries participants to fish the harvestable surplus of healthy groundfish stocks, while also ensuring that those fisheries do not exceed the allowable catch levels intended to protect overfished and depleted stocks. The form of the specifications, in ABCs and OYs, follows the guidance of the Magnuson-Stevens Act, the National Standard Guidelines, and the FMP for protecting and conserving fish stocks. Annual management measures include trip and bag limits, size limits, season restrictions, gear restrictions, and other measures intended to allow year-round West Coast groundfish landings without compromising overfished species rebuilding measures.

Approximately 2,000 vessels participate in the West Coast groundfish fisheries. Of those, about 500 vessels are registered to limited entry permits

issued for either trawl, longline, or pot gear. About 1,500 vessels land groundfish against open access limits while either directly targeting groundfish or taking groundfish incidentally in fisheries directed at non-groundfish species. All but 10–20 of those vessels are considered small businesses by the Small Business Administration. There are also about 700 groundfish buyers on the West Coast, approximately 250 of which annually purchased at least $33,000 of groundfish in 2000. In the 2001 recreational fisheries, there were 106 charter vessels engaged in salt water fishing outside the Puget Sound, 232 charter vessels active on the Oregon coast and 415 charter vessels active on the California coast.

Revenues for many groundfish fishery participants are expected to decline in 2002. Harvest levels for some key species, such as sablefish, Dover sole, and widow rockfish are set significantly lower in 2002 than in 2001 and will affect coastwide groundfish revenues. For example, the proposed 2002 sablefish commercial OY is 37 percent lower than in 2001. Comparing 2000 sablefish revenue data (2001 data is not yet complete) with the available sablefish commercial OY in 2002, 2002 coastwide sablefish revenue could be 39–48 percent lower than in 2000. Overall, groundfish revenues in 2002 are expected to the $31 million, which is a 22.5 percent decrease from estimated 2001 revenues ($40 million) and a 39 percent decrease from 2000 revenues ($51 million).

It is difficult to estimate exactly how this overall decline in landings and revenue will affect individual members of the groundfish fleet. However, the overall decline is significant enough to suggest that small businesses with a substantial portion of their incomes dependent on groundfish will be negatively affected by implementation of the 2002 proposed harvest levels. Limited entry vessels generally harvest in excess of $50,000 of West Coast fish per year and tend to depend on the catch of groundfish for over 35 percent of their gross West Coast revenue. Open access vessels tend to harvest less than $50,000 of West Coast fish per year and those harvesting in excess of $50,000 of West Coast fish per year generally rely on groundfish for less than 5 percent of their exvessel revenue. Thus limited entry vessels and the people relying on these vessels for income are likely to be more adversely affected from the decline in groundfish revenue opportunity than open access vessels. Of the approximately 700 groundfish buyers, about 300 have groundfish as at least 35 percent of their fish products purchase from fishing vessels. If those groundfish buyers are unable to purchase alternative fish species, they will likely also suffer declines in income and employment.

For the recreational fishery, the only significant catch and effort reductions would occur in California. Little change in overall recreational effort is expected in Washington or Oregon. Reduction in effort in California is expected to result in a reduction in revenue for businesses that cater to recreational fishers. In northern and southern California, $10.8 million and $9.5 million, respectively, of community level personal income were associated with the recreational groundfish fishery. These personal income values are a measure of the contribution of recreational fishing to businesses and local communities. Under the proposed action effort is expected to decline by about 15 percent. The decline in effort would be expected to reduce associated community level personal income by similar amounts. Gross receipts for recreational groundfish activities will likely decline in proportion with the decline in number of angler trips, however, net profits may decline more given that certain costs will be fixed on an annual and per trip basis. Revenue declines from groundfish may be offset to the degree that charter vessels operate in other fisheries.

This rule does not propose any new reporting and recordkeeping requirements; however, it does announce EFPs for 2002, which include reporting and recordkeeping requirements. Reporting and recordkeeping requirements associated with EFPs are described in this section, under the Paperwork Reduction Act.

The Council considered three issues, each with several alternatives and sub-options, and ultimately chose alternative that balanced the conservation and socioeconomic risks and benefits associated with all aspects of the 2002 Pacific Coast groundfish fishery. The relevant issues were alternative harvest levels, alternative bycatch and discard rate assumptions, and alternative season options. Each issue had several alternatives with varying degrees of potential risks and benefits to the groundfish fishery that are described in the EA/RIR/IRFA. Less restrictive alternatives tend to buffer, but not necessarily ameliorate, the continued downward trend in economic benefits and fishing opportunities. However, the short term benefits of less restrictive alternatives were weighed against longer term stock conservation risks. The Council adopted alternatives modeled in the EA/RIR/IRFA that are believed to adequately bracket a reasonable range of options for the 2002 groundfish fishery, given anticipated short and long term risks and benefits.

The alternative harvest levels apply to seven stocks that are subject to new stock assessments or rebuilding strategies, sablefish, Pacific ocean perch (POP), widow rockfish, shortspine thornyhead, darkblotched rockfish, yelloweye rockfish, and Dover sole. Four alternatives were considered, the status quo, a low level of acceptable biological catch (ABC) and OY, high levels of ABC/OY, and the proposed action. The proposed action sets ABCs/OYs between the high and low levels, with the ABCs/OYs of the seven stocks at lower levels than the status quo alternative except for shortspine thornyheads and darkblotched rockfish, and represents a 21-percent reduction in commercial exvessel value from the status quo and a commensurate reduction in recreational catch. While the status quo alternative would provide the highest ABCs/OYs, except for shortspine thornyhead, this alternative was not adopted because these levels are higher than those supported by the new stock assessments and rebuilding strategies. Similarly, the high level alternative, which represents a 19-percent reduction in commercial exvessel value, was not considered to sufficiently consider the effects of incidental catches of these species in other fisheries or to be sufficiently risk averse in rebuilding these stocks. The low level alternative would reduce commercial exvessel value by 34 percent of the value of the status quo fishery, with a commensurate reduction in recreational catch. While this alternative would be risk averse from the standpoint of the stocks, it was rejected because its effects on the fishery would likely cause even more severe economic disruptions, particularly in the trawl and fixed gear limited fisheries.

The bycatch and discard rate estimation issue arose by the need to accurately track total mortality of groundfish stocks and by recent legal challenges of past bycatch and discard rate assumptions. The Council recommended bycatch rates and discard mortality for lingcod, bocaccio, canary rockfish, darkblotched rockfish, and POP for the limited entry trawl fishery. The Council used a synthesis of several scientific studies to provide a low-to-high range of bycatch rates. The methodology of this analysis and how the Council arrived at the species-specific bycatch rates and discard mortality is described previously in this

document. Four alternatives were considered, the status quo, a low end range of bycatch rates, a high end range of bycatch rates, and the mid-range proposed action, which represents the Council consensus of the most scientifically reasonable bycatch rates for each of the five stocks considered to apply to the fishery in 2002. In choosing the preferred alternative the Council considered the legal requirements and the biological and economic consequences of over- or underestimating the bycatch rates. The Council rejected using the status quo bycatch and discard rate assumptions of 2001 as not legally defensible. Applying the low end alternative would not be as constraining on the fishery, but represents a greater risk of overfishing the constraining stocks if bycatch rates and total mortality are underestimated. Applying the high end alternative would entail less risk of overfishing, but would be the most constraining on the fishery and incur excess economic losses if the total mortality is overestimated.

The alternative season options resulted from a desire to consider area and time manipulations of the fishery to potentially realize higher trip limits and lessen regulatory discard of groundfish. Six alternatives were considered for the commercial seasons, the status quo, a year-round Groundfish Management Team (GMT) recommended season, a coastwide 6-month season, a year-round Groundfish Advisory Panel (GAP) recommended season based on the preferred OYs, a year-round GAP recommended season based on the high end OYs, and the proposed action, which provides seasons considering the preferred OYs with consideration of bycatch. The status quo alternative was rejected because the best available science (*i.e.,* new stock assessments) was not considered and it violates the legal mandate to consider bycatch and discard mortality rate assumptions. The year-round GMT recommended season was rejected because it did not consider the restrictions needed for managing overfished species. The coastwide 6-month season was rejected because of the potential of processors and vessels to lose skilled workers, loss of markets, and weather constraints leading to inequitable fishing opportunities among the areas. The two year-round GAP recommended seasons were rejected because the landing limits for these seasons implied a higher bycatch of constraining stocks than would be allowed under the range of harvest levels considered.

The fisheries agencies of the states of Oregon, Washington, and California presented several options for recreational fisheries off their respective states. In each case the Council adopted a preferred alternative that considered the preferred ABC/OY level and the bycatch constraints for their fisheries.

Other regulations affecting the West Coast groundfish fisheries are primarily found at 50 CFR 660.301–360. A copy of this analysis is available from the Council (see **ADDRESSES**).

Pursuant to Executive Order 13175, this rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the FMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian tribe with Federally recognized fishing rights from the area of the Council's jurisdiction. In addition, regulations implementing the FMP establish a procedure by which the tribes with treaty fishing rights in the area covered by the FMP request new allocations or regulations specific to the tribes, in writing, before the first of the two fall groundfish meetings of the Council. The regulation at 50 CFR 660.324(d) further states ''the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.'' The tribal management measures in this proposed rule have been developed following these procedures. The tribal representative on the Council made a motion to adopt the tribal management measures, which was passed by the Council, and those management measures, which were developed and proposed by the tribes, are included in this proposed rule.

NMFS issued Biological Opinions (BOs) under the Endangered Species Act on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the groundfish fishery on chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley, California coastal), coho salmon (Central Calfornia coastal, southern Oregon/northern California coastal, Oregon coastal), chum salmon (Hood Canal, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south-central California, northern California, southern California). NMFS has concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any Endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. NMFS has re-initiated consultation on the Pacific whiting fishery associated with the (whiting BO) issued on December 15, 1999. During the 2000 whiting season, the whiting fisheries exceeded the chinook bycatch amount specified in the BO's incidental take statement's incidental take estimates, 11,000 fish, by approximately 500 fish. In the 2001 whiting season, however, the whiting fishery's chinook bycatch was well below the 11,000 fish incidental take estimates. The re-initiation will focus primarily on additional actions that the whiting fisheries would take to reduce chinook interception, such as time/area management. NMFS is gathering data from the 2001 whiting fisheries and expects that the re-initiated whiting BO will be complete by February 2002. During the reinitiation, fishing under the FMP is within the scope of the December 15, 1999, BO, so long as the annual incidental take of chinook stays under the 11,000 fish bycatch limit. NMFS has concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. This action is within the scope of these consultations.

This action refers to a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). Permit requirements have been approved by OMB under control number 0648–203 for Federal fisheries permits. The public reporting burden for applications for exempted fishery permits is estimated at 1 hour per response; the burden for reporting by exempted fishing permittees is estimated at 30 minutes per response. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and revising the collection of information. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden to NMFS and to OMB (see **ADDRESSES**).

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

Dated: December 31, 2001.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 01–32262 Filed 12–31–01; 4:46 pm]

BILLING CODE 3510–22–M