

of the GOI may apply for an import permit. Upon satisfaction of the Director that the preconditions of paragraph (b) of this section have been met, we will accept an application for import of Icelandic eiderdown. You must submit your completed application to the Regional Director—Attention Migratory Bird Permit Office in the Region where your business is headquartered, or, for private individuals, where you live (see § 2.2 of this chapter for the Regional boundaries and addresses).

(1) Each application must contain the information required under § 13.12(a) of this subchapter.

(2) Each applicant must sign the following certification statement: “I hereby certify that, to the best of my knowledge, the eiderdown I import under the authorization of this permit was collected and exported according to the conditions for the importation of Icelandic eiderdown as set forth in 50 CFR 21.33(b).” We will not issue a permit under this section without this signed certification statement.

(3) You must submit a check or money order made payable to the “U.S. Fish and Wildlife Service” in the amount of the application fee for permits issued under this section listed in § 13.11(d) of this subchapter.

(d) *What are the permit provisions?* A permit issued under this section authorizes the holder to import, possess, transport, sell, or dispose of processed Icelandic eiderdown collected from the common eider sea duck (*Somateria mollissima borealis*) for commercial or personal purposes.

(1) We will not issue a permit for these purposes unless the applicant certifies that the feathers were gathered according to the protocol detailed in paragraph (b) of this section by signing the certification provided in paragraph (c)(2) of this section. In addition, each shipment of eiderdown to a U.S. company or individual must include an Icelandic eiderdown export permit and an import permit issued by the Service.

(2) To acquire a permit application, contact the Migratory Bird Permit Office in the Region where your business is headquartered, or, for private individuals, where you live (see § 2.2 of this chapter for Regional boundaries and addresses, or go to the Internet at <http://permits.fws.gov/mbpermits/birdbasics.html>, then click on Regional Bird Permit Offices, for the address).

(3) You may, without a permit, sell in interstate commerce lawfully imported processed eiderdown in either raw processed form or that has been fashioned into finished products produced from down.

(e) *What are the permit conditions and importation regulations?*

(1) *Collection.* All eiderdown imported under this permit must be collected and exported from Iceland according to the “sustainable harvest” conditions set forth in paragraph (b) of this section.

(2) *Certification.* Eiderdown imported under this section must be accompanied by a certification of inspection and weight by legally appointed Icelandic down inspectors as specified by *Instructions for Eiderdown Inspectors* (Icelandic Ministry of Agriculture, 10 March 1972) and by *Iceland’s Law on Quality Inspection of Eiderdown* (NR 39, p. 310, 11 May 1970).

(3) *Shipping and labeling.* All eiderdown imported from Iceland must be packaged in transparent shipping bags. Every bag must be sealed and labeled with the guarantee, “Grade One Icelandic Common Eiderdown,” and in addition must include the package weight of each down-filled bag. That weight must be marked on the label as specified on the “Inspector’s Weighing and Quality Certificate” currently utilized by the GOI. A signed, original “Veterinary Certificate,” which certifies that the down is disease free, must be attached to each packing bag. Each shipment of imported eiderdown must include an Icelandic eiderdown export permit and a copy of your import permit issued by a USFWS Regional Migratory Bird Permit Office. Import permits may be used for multiple shipments of eiderdown and are issued on a calendar year-to-year basis.

(4) *Commercial export prohibition.* You may not export from the United States for commercial purposes any raw eiderdown imported under this permit. You may not export from the United States for commercial purposes any finished product containing the eiderdown.

(5) *Recordkeeping.* You must maintain complete and accurate records of all eiderdown that you import, including the date received, disposition, date of disposition, and copies of the permits and certificates included with each shipment from the GOI. You must retain these records for 5 years following the end of the calendar year covered by the records.

(6) *Annual report.* You must submit a completed Form 3–202-xx by January 31 of each year for the preceding year to your issuing Migratory Bird Permit Program Office.

(7) *Term of permit.* We will issue permits under this section on a calendar year-to-year basis.

(f) *Does this rule contain information collection requirements?*

Yes. The OMB control number for the information collection associated with these regulations (50 CFR Parts 13 and 21) is 1018–XXXX. A federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Dated: August 21, 2003.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 030821210–3210–01; I.D.081103A]

RIN 0648–AR36

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 16–1

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 16–1 to the Pacific Coast Groundfish Fishery Management Plan (FMP). Amendment 16–1 would set a process for and standards by which the Council will specify rebuilding plans for groundfish stocks declared overfished by the Secretary of Commerce. Amendment 16–1 is intended to ensure that Pacific Coast groundfish overfished species rebuilding plans meet the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), in particular National Standard 1 on overfishing and § 304(e), which addresses rebuilding overfished fisheries. Amendment 16–1 is also intended to partially respond to a court order in which NMFS was ordered to provide Pacific Coast groundfish rebuilding plans as FMPs, FMP amendments, or regulations, per the Magnuson-Stevens Act.

DATES: Comments must be submitted in writing by October 6, 2003.

ADDRESSES: Comments on Amendment 16–1 or supporting documents should be sent to D. Robert Lohn, Administrator, Northwest Region,

NMFS, Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070.

Copies of Amendment 16-1 and the environmental assessment/ regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Portland, OR 97220, phone: 503-820-2280.

FOR FURTHER INFORMATION CONTACT:

Yvonne deReynier (Northwest Region, NMFS), phone: 206-526-6150; fax: 206-526-6736 and; e-mail: yvonne.dereynier@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the Internet at the Office of the **Federal Register's** website at: [http://www/access.gpo.gov/su_docs/aces140.html](http://www.access.gpo.gov/su_docs/aces140.html).

NMFS is proposing this rule to implement Amendment 16-1 to the FMP. Amendment 16-1 mainly revises the FMP and not Federal regulations. However, the specific standards that govern the harvest levels for overfished species rebuilding plans would be codified in the Code of Federal Regulations (CFR). Thus, this proposed rule would establish a new section in the Federal groundfish regulations at 50 CFR 660.370 for overfished species rebuilding plans. This proposed rule to implement Amendment 16-1 will be shortly followed by a proposed rule to implement Amendment 16-2, which was adopted by the Council in June 2003. If approved, Amendment 16-2 would place rebuilding plans for canary rockfish, darkblotched rockfish, lingcod, and Pacific ocean perch in the FMP and in Federal regulations. NMFS expects to publish a Notice of Availability for Amendment 16-2 in autumn 2003. This proposed rule is based on recommendations of the Council, under the authority of the Pacific Coast Groundfish FMP and the Magnuson-Stevens Act. The background and rationale for the Council's recommendations are summarized below. Further detail appears in the EA/RIR/IRFA prepared by the Council for Amendment 16-1.

Background

Amendment 12 to the FMP was intended to provide a process for developing overfished species rebuilding plans. Under Amendment 12, rebuilding plans were to be stand-alone documents that described an overfished stock's status and articulated rebuilding goals and strategies for achieving those

goals. Amendment 12 was challenged, and the court ordered NMFS to develop rebuilding plans as fishery management plans, plan amendments, or regulations. Amendment 16-1 is intended to partially respond to this Court order (*Natural Resources Defense Council, Inc. v. Evans*, 168 F. Supp. 2d 1149 (N.D. Cal 2001).)

Amendment 16-1 would require that Pacific Coast groundfish overfished species rebuilding plans be added into the FMP via FMP amendment, and then implemented through Federal regulations. For each approved overfished species rebuilding plan, the following parameters would be specified in the FMP: estimates of unfished biomass (B_0) and target biomass (B_{MSY}), the year the stock would be rebuilt in the absence of fishing (T_{MIN}), the year the stock would be rebuilt if the maximum time period permissible under National Standard Guidelines were applied (T_{MAX}) and the year in which the stock would be rebuilt based on the application of stock rebuilding measures (T_{Target}). These estimated values will serve as management benchmarks in the FMP. The FMP would not be amended if, as is likely to happen, the values for these parameters change after new stock assessments. Other relevant information listed in Amendment 16-1 will also be included in the FMP.

The two rebuilding parameters that control the establishment of the annual or biennial optimum yield of each overfished species will be codified in the CFR: the target year for rebuilding and the harvest control rule to be used to rebuild the stock. If, after a new stock assessment, the Council and NMFS conclude that these should be revised, the revision will be done through a rulemaking, and the updated values codified in the CFR.

Amendment 16-1 additionally sets schedules and standards for reviewing rebuilding plans. The current FMP sets five goals for evaluating rebuilding plans: (1) Achieve the population size and structure that will support the maximum sustainable yield (MSY) within the specified time period; (2) minimize, to the extent practicable, the social and economic impacts associated with rebuilding, including adverse impacts on fishing communities; (3) fairly and equitably distribute both the conservation burdens (overfishing restrictions) and recovery benefits among commercial, recreational, and charter fishing sectors; (4) protect the quantity and quality of habitat necessary to support the stock at healthy levels in the future, and; (5) promote widespread public awareness, understanding, and

support for the rebuilding program. Amendment 16-1 would require that the Council review rebuilding plan goals 2-5 every two years, but goal 1 only with new stock assessments, since new stock assessment data would be needed to determine whether rebuilding trajectories were being met. Stock assessments are generally updated every 2-4 years, with overfished species having higher priority in assessment scheduling.

As stated above, the first goal of rebuilding plans is to: "Achieve the population size and structure that will support the maximum sustainable yield (MSY) within the specified time period." Amendment 16-1 specifies that the rebuilding plan for each species will set a species-specific standard for determining the adequacy of rebuilding progress for the particular species toward that goal. The Council had considered whether to set a single standard that would apply to all species, but decided that the variations in life histories, productivity, and abundances of the different overfished species warranted a species-specific rebuilding standard in each rebuilding plan.

Amendment 16-1 also considered how rebuilding plans would operate if an overfished species were to become listed as either threatened or endangered under the Endangered Species Act (ESA). Under Amendment 16-1, ESA jeopardy standards and/or recovery plans would take precedence over rebuilding plans if they establish higher recovery standards than those already set in the rebuilding plans. If a species is listed as threatened or endangered under the ESA and is subsequently de-listed, but still not rebuilt to BMSY under the Magnuson-Stevens Act, then the rebuilding plan would continue to provide standards for the management and rebuilding of that species.

Finally, Amendment 16-1 included several minor changes to the FMP text. These changes include: (1) revising the list of species managed under the FMP to correct mis-spellings and to specify certain rockfish species already managed under the FMP as part of the FMP's generic inclusion of all species of the family *Scorpaenidae*; (2) revising the FMP definitions of "Maximum Fishing Mortality Threshold" or "MFMT" and of "Minimum Stock Size Threshold" or "MSST" to ensure that they match the definition of these terms in the National Standard Guidelines; (3) revising the requirements for items to be included in the annual Stock Assessment and Fishery Evaluation (SAFE) report and the schedule for delivery of different sections of that

report; (4) requiring the federal groundfish observer program in the FMP, matching existing Federal regulations at 50 CFR 660.360, and; (5) reorganizing sections of Chapters 4 and 5 of the FMP for a more logical progression of information, without a revision to the requirements or effects of the FMP.

Federal Regulations under Amendment 16-1

Regulations to implement Amendment 16-1 would establish a new section of the Federal groundfish regulations at 50 CFR 660.370, "Overfished Species Rebuilding Plans." Because Amendment 16-1 provides a framework for future rebuilding plans, the regulations implemented through this proposed rule would similarly provide a framework within federal groundfish regulations for future species-specific rebuilding plans. Amendment 16-2, which NMFS plans to make available for public review in autumn 2003, would propose implementation of the first four overfished species rebuilding plans (canary rockfish, darkblotched rockfish, lingcod, Pacific ocean perch) within 50 CFR 660.370. In the future, overfished species rebuilding plans would be reviewed under the schedule set by Amendment 16-1 and Federal regulations implementing species-specific rebuilding plans would be amended through a public notice-and-comment rulemaking.

Classification

At this time, NMFS has not determined whether Amendment 16-1, which this proposed rule would implement, is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

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

The Council has prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA is available from the Council (see ADDRESSES). A summary of the IRFA follows:

A description of the action, why it is being considered, and the legal basis for this action are contained in the SUMMARY and BACKGROUND at the beginning of this proposed rule. There are no recordkeeping, reporting, or other compliance issues forthcoming from this proposed rule. This proposed rule

does not duplicate, overlap, or conflict with other Federal rules.

A fish-harvesting business is considered a "small" business by the Small Business Administration (SBA) if it has annual receipts not in excess of \$3.5 million. 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 SBA. This proposed rule is not expected to yield disproportionate economic impacts between those small and large entities. In the 2001 recreational fisheries, there were 106 Washington charter vessels engaged in salt water fishing outside of Puget Sound, 232 charter vessels active on the Oregon coast and 415 charter vessels active on the California coast.

The proposed action in this amendment affects only the administrative process by which individual species rebuilding plans are formulated, and so does not have significant adverse economic effects on consumers, producers or processors of groundfish. The EA/RIR/IRFA defines four issues for which alternatives were identified and selected by the Council. Of these four issues, only the alternatives identified under Issue 1 have regulatory implications. Under Issue 1, the Council considered the form (FMP amendments, regulations, a combination thereof) and required elements of a rebuilding plan. The remaining issues are concerned with setting internal Council standards for periodic review and modification of rebuilding plans (Issues 2 and 3), and defining the interaction of a rebuilding plan with recovery plans for a rebuilding species that is subsequently listed under the ESA (Issue 4).

The Council considered 4 alternatives under Issue 1, including a status quo alternative. All alternatives, with the exception of the status quo, would implement overfished species rebuilding plans as either FMP amendments or Federal regulations. One alternative (Issue 1, Alternative b) would have implemented rebuilding plans as FMP amendments, with rebuilding parameters specified in the FMP. Another alternative (Issue 1, Alternative c) would have implemented rebuilding plans as Federal regulations, with T_{TARGET} and a harvest control rule for each overfished species

specified in regulations. The final and preferred alternative (Issue 1, Alternative d) would specify T_{TARGET} and the harvest control for each overfished species in regulations, and would require the Council to describe the formulas and methodology for determining other rebuilding parameters in the FMP. This was the preferred alternative because it ensures that basic rebuilding plan information is provided in the FMP for each overfished species, while still allowing updates to some rebuilding parameters through notice and comment rulemaking. In this fashion, Amendment 16-1 complies with the Magnuson-Stevens Act requirement at Section 304(e)(3) that overfished species rebuilding plans take the form of "a fishery management plan, plan amendment, or proposed regulations."

While there will be no direct impact on small entities as a result of adopting any particular process for formulating rebuilding plans, the implementation of specific rebuilding plans for overfished species may entail substantial economic impacts for groundfish processors, commercial harvesters and recreational charter vessels. These type of impacts are specific to particular stocks or species and so will be addressed in the individual rebuilding plans themselves. While there may be slight differences between the alternatives in the amount of administrative capacity required to formulate and implement individual species rebuilding strategies, these differences are not quantifiable and will depend more on the variability of periodic stock assessments once a particular rebuilding plan is adopted than on the effects of these proposed actions or the subsequent adoption of individual rebuilding plans.

Based on the analysis within the IRFA, the agency does not believe the rule has a significant impact on a substantial number of small entities and has so advised the SBA. However, NMFS welcomes comments on this issue (see ADDRESSES) and will notify the public of its final determination in the final rule for this action.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: August 29, 2003.

Rebecca Lent,

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

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

**PART 660—FISHERIES OFF WEST
COAST STATES AND IN THE
WESTERN PACIFIC**

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section § 660.370, “Overfished Species Rebuilding Plans” is added to read as follows:

§ 660.370 Overfished Species Rebuilding Plans.

For each overfished groundfish stock with an approved rebuilding plan, this section contains the standards to be used to establish annual or biennial OYs, specifically the target date for rebuilding the stock to its MSY level and the harvest control rule to be used to rebuild the stock.

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