

paragraph (f), suitably modified to reflect the relationship of the parties, in all subcontracts that may involve access to confidential information.

(End of clause)

1852.237-73 Release of Confidential Information.

As prescribed in 1837.203-72(b), insert the following clause:

RELEASE OF CONFIDENTIAL INFORMATION (XX/XX)

(a) As used in this clause, "confidential information" refers to information, not currently in the public domain, that the Contractor has developed at private expense, may embody trade secrets or commercial or financial information, and that may be confidential or privileged.

(b) In accomplishing management activities and administrative functions, NASA relies heavily on the services of various contractors. To perform these services, contractors, as well as their subcontractors and their individual employees, may need access to confidential information submitted by the Contractor under this contract.

(c)(1) The Contractor shall mark or otherwise identify any confidential information submitted in support of this proposal or in performing this contract. The Contracting Officer will evaluate the Contractor's claim to have submitted "confidential information," as defined above, in deciding whether NASA and its service contractors must protect and safeguard the information in accordance with the clause at 1852.237-72, Access to Confidential Information. Unless the Contracting Officer decides to challenge the Contractor's "confidential information" marking, NASA and its service contractors and their employees shall apply all of the conditions and safeguards listed in the clause at 1852.237-72.

(2) For information already in NASA's possession, the Contracting Officer shall attempt to identify the owner and afford that entity a reasonable opportunity to assert confidentiality in accordance with the principles and criteria delineated in the FAR. For purposes of asserting confidentiality, the parties may agree to use the procedures delineated in the clause at FAR 52.227-14 as a guide.

(d) Any entity that receives access to confidential information needed to assist NASA in accomplishing management activities and administrative functions must be operating under a contract that contains the clause at 1852.237-72, Access to Confidential Information. This clause obligates the receiving entity to do the following:

(1) Comply with all procedures and obligations specified in its contract, including the Organizational Conflict of Interest Avoidance Plan, which the Contracting Officer has approved and incorporated into its contract.

(2) Utilize any confidential information coming into its possession only for the purposes of performing the services specified in its contract.

(3) Safeguard confidential information coming into its possession from unauthorized use and disclosure.

(4) Allow access to confidential information only to those employees that need it to perform services under its contract.

(5) Preclude access and disclosure of confidential information to persons and entities outside of the contractor's organization.

(6) Train employees who may require access to confidential information about their obligations to utilize it only to perform the services specified in its contract and to safeguard it from unauthorized use and disclosure.

(7) Obtain an express, binding written agreement from each employee who receives access to confidential information to protect it from unauthorized use or disclosure and to utilize it only for the purposes of performing the contract.

(8) Establish a monitoring process to ensure that employees comply with all reasonable security procedures, report any breaches to the Contracting Officer, and implement any necessary corrective actions.

(e) When the receiving entity will have primary operational responsibility for an information technology system for NASA that contains confidential information, the entity's contract shall include the clause at 1852.204-76, Security Requirements for Unclassified Information Technology Resources. The Security Requirements clause requires the receiving entity to implement an Information Technology Security Plan to protect information processed, stored, or transmitted from unauthorized access, alteration, disclosure, or use. Receiving entity personnel requiring privileged access or limited privileged access to these information technology systems are subject to screening using the standard National Agency Check (NAC) forms appropriate to the level of risk for all. The Contracting Officer may allow the receiving entity to conduct its own screening, provided this entity employs substantially equivalent screening procedures.

(f) This clause does not affect NASA's responsibilities under the Freedom of Information Act.

(g) The Contractor shall insert this clause, including this paragraph (g), suitably modified to reflect the relationship of the parties, in all subcontracts that may require the furnishing of confidential information. (End of clause)

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 031125288-3288-01; I.D. 110303A]

RIN 0648-AR35

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 16-2

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 16-2 to the Pacific Coast Groundfish Fishery Management Plan (FMP). Amendment 16-2 amends the FMP to include overfished species rebuilding plans for lingcod, canary rockfish, darkblotched rockfish, and Pacific ocean perch (POP) within the FMP. Amendment 16-2 is intended to address the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to protect and rebuild overfished species managed under a Federal FMP. Amendment 16-2 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 January 5, 2004.

ADDRESSES: Comments on Amendment 16-2 or supporting documents should be sent to D. Robert Lohn, Administrator, Northwest Region, NMFS, Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070. Attn: Becky Renko.

Copies of Amendment 16-2 and its associated environmental impact statement/regulatory impact analysis/initial regulatory flexibility analysis (EIS/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: Becky Renko (Northwest Region, NMFS), phone: 206-526-6150; fax: 206-526-6736 and; e-mail: becky.renko@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the internet at the website of the Office of the **Federal Register's** website at: <http://www.gpoaccess.gov/fr/index.html>.

Amendment 16–2 revises the FMP to include overfished species rebuilding plans for lingcod, canary rockfish, darkblotched rockfish, and POP and adds specific rebuilding parameters to the Code of Federal Regulations (CFR) at 50 CFR 660.370, for each overfished species. This rulemaking is necessary to implement the rebuilding plans specified by Amendment 16–2.

Amendment 16–2 address the requirements of the Magnuson-Stevens Act) to protect and rebuild overfished species managed under a Federal FMP. Amendment 16–2 is also intended to partially respond to a Court order in *Natural Resources Defense Council, Inc. v. Evans*, 168 F. Supp. 2d 1149 (N.D. Cal. 2001.), in which NOAA Fisheries was ordered to provide Pacific Coast groundfish rebuilding plans as FMPs, FMP amendments, or regulations, per the Magnuson-Stevens Act. A Notice of Availability for Amendment 16–2 was published on November 7, 2003 (68 FR 63053).

This proposed rule is based on recommendations of the Council, under the authority of the Pacific Coast Groundfish FMP and the Magnuson-Stevens Act. Background information and the Council's recommendations are summarized below. Further detail appears in the EIS/RIR/IRFA prepared by Council staff for Amendment 16–2.

Background

In the fall of 2000, NMFS had approved the first three rebuilding plans for lingcod, bocaccio, and POP (September 5, 2000, 65 FR 53646). Subsequently, requirements for developing overfished species rebuilding plans were addressed in Amendment 12 to the FMP, which were submitted for public review (September 8, 2000, 65 FR 54475) and approved by NMFS on December 7, 2000.

During NMFS's review of Amendment 12, the agency considered whether the three previously approved rebuilding plans met the requirements of Amendment 12 and concluded that the plans did not. As a result, NMFS instructed the Council to re-submit the rebuilding plans for lingcod, bocaccio, and POP. The final rule to implement Amendment 12 describes NMFS's revocation of the lingcod, bocaccio, and POP rebuilding plans (December 29, 2000, 65 FR 82947). In the absence of final rebuilding plans approved by

NMFS, the groundfish fishery has continued to operate under interim rebuilding measures for these species.

While NMFS and the Council were developing rebuilding plans that were consistent with the requirements of Amendment 12, NMFS notified the Council that canary rockfish and cowcod were overfished and that Council must submit rebuilding plans for these species (On January 4, 2000 65 FR 221). On January 11, 2001 (66 FR 2338), NMFS notified the Council that darkblotched and widow rockfish were overfished and that Council must submit rebuilding plans for these species.

On August 20, 2001, a Federal magistrate ruled in *Natural Resources Defense Council, Inc. v. Evans* (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). In accordance with the Court ruling, the magistrate issued an order setting aside those portions of Amendment 12 dealing with rebuilding plans (Amendment 12 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 was required to amend the FMP to make rebuilding plans consistent with the Magnuson-Stevens Act.

On January 11, 2002 (67 FR 1555), NMFS notified the Council that yelloweye rockfish was overfished and that the Council must submit a rebuilding plan. On April 15, 2002 (67 FR 18117), NMFS notified the Council that Pacific whiting was overfished and that the Council must submit a rebuilding plan.

Amendment 16–1 was prepared in part to respond to the court order. Amendment 16 1 establishes a process for and standards by which the Council will specify rebuilding plans for groundfish stocks that are declared overfished. Amendment 16–1 also amends the FMP to require that Pacific Coast groundfish overfished species rebuilding plans be added into the FMP via FMP amendment, and implemented through Federal regulations.

Amendment 16 1 is intended to ensure that overfished species rebuilding plans meet the requirements of the Magnuson-Stevens Act, in particular National Standard 1 on overfishing and section 304(e), which addresses rebuilding of overfished fisheries. NMFS approved Amendment 16–1 on November 14, 2003. A proposed rule to codify provisions of Amendment 16–1 was

published in the **Federal Register** on September 5, 2003 (68 FR 52732).

For each approved overfished species rebuilding plan, the following parameters will 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 target year in which the stock would be rebuilt under the adopted rebuilding plan (T_{Target}). Other relevant information listed in Amendment 16–1 will also be included in the FMP, including the probability of the stock attaining B_{MSY} by T_{MAX} (P_{MAX}). These estimated rebuilding parameters will serve as management benchmarks in the FMP and the FMP will not be amended if the values for these parameters change after new stock assessments are completed, as is likely to happen.

As required by the standards established by Amendment 16–1, the rebuilding plans being adopted under Amendment 16–2 for lingcod, canary rockfish, darkblotched rockfish, and POP include B_0 , B_{MSY} , T_{MIN} , T_{MAX} , and T_{Target} for each species. If adopted, Amendment 16–2 would add these parameters to section 4.5.4. of the FMP. Other relevant information on each of these overfished stocks, such as stock distribution, fishery interaction, and the rebuilding strategy would also be added to section 4.5.4 of the FMP if the rebuilding plans proposed under Amendment 16–2 are adopted.

Amendment 16–1 specified two rebuilding parameters that are to be codified in Federal regulations for individual species rebuilding plans. This proposed rule adds these rebuilding parameters to the Code of Federal Regulations (CFR) at 50 CFR 660.370. These parameters are the target year for rebuilding and the harvest control rule that is to be used during the rebuilding period. The target rebuilding year is the year in which there is a 50 percent likelihood that the stock will have been rebuilt with a given mortality rate. The harvest control rule expresses a given fishing mortality rate that is to be used over the course of rebuilding. These parameters would be used to establish the annual optimum yields (OYs). Conservation and management goals defined in the FMP require the Council and NMFS to manage to the appropriate harvest levels for a species or species groups, including those harvest levels established for rebuilding overfished species.

If, after a new stock assessment, the Council and NMFS conclude that either

or both of the parameters defined in regulation should be revised, the revision will be implemented through the Federal rulemaking process, and the updated values codified in the Federal regulation. Generally, the target year should only be changed in unusual circumstances. Two such unusual circumstances include (1) if, it is determined, based on new information, that the existing target year is later than the maximum rebuilding time (T_{MAX}), (2) or if the harvest control rule calculated from the new information is estimated to result in such a low OY as to cause substantial socio-economic impacts. Any change to a harvest control rule must be fully supported by a corresponding analysis and updated through the Federal rulemaking process which would include opportunity for public notice and comment.

An approved rebuilding plan will be implemented through setting OYs and establishing management measures necessary to maintain the fishing mortality within the OYs to achieve objectives related to rebuilding requirements.

At the Council's June 2003 meeting, rebuilding plans for lingcod, canary rockfish, darkblotched rockfish, and POP were adopted and include the parameters listed below. When making the recommendation to implement these rebuilding plans, the Council sought to balance the rebuilding risks to each stock with the short and long-term socio-economic costs borne by groundfish buyers, commercial harvesters, and recreational operators as a result of constraining the fisheries to reduce total mortality of these overfished species.

Amendment 16-2 will be followed by Amendment 16-3. A notice of intent to prepare an Environmental Impact Statement (EIS) was published on September 12, 2003 (68 FR 53712) for Amendment 16-3. If approved, Amendment 16-3 will contain rebuilding plans for bocaccio, cowcod, widow rockfish and yelloweye rockfish. The Council is scheduled to take final action on the Amendment 16-3 rebuilding plans at its April 2004 meeting. A Draft EIS is scheduled for publication in June 2004.

Lingcod

Lingcod are irregularly distributed coastwide in hard bottom areas and around rocky reefs and are encountered in a variety of commercial and recreational fisheries. Lingcod is also an important recreational species coastwide. North of 40°10' N. lat., limited entry trawl and limited entry fixed gear vessels have historically

landed a substantial portion of the lingcod landings in that area. The open access sector, which is comprised of many types of fixed gear and uses a variety of strategies, has also accounted for a substantial portion of the lingcod mortality.

Date declared overfished: March 3, 1999.

Status of the stock when declared overfished: In 1999 the biomass was believed to be at 10 percent of its unfished biomass level. A coastwide assessment was conducted in 2000 and confirmed that the stock was overfished coastwide.

B_0 : 22,882 mt north and 20,971 mt south

B_{MSY} : 9,153 mt north and 8,389 mt south

T_{MIN} : 2007

T_{MAX} : 2009

P_{MAX} : 60 percent

T_{TARGET} : 2009

Harvest control rule: $F=0.00531$ north and $F=0.061$ south

Rebuilding strategy at the time of rebuilding plan adoption: Management measures intended to limit bycatch of lingcod include the use of Rockfish Conservation Areas (RCAs) to restrict fishing in areas where overfished species are most likely to occur, and the use of cumulative trip limits. Small trip limits are allowed in the trawl fishery to accommodate true incidental catch. Lingcod landings by the limited entry fixed gear and open access fisheries are severely limited during the summer months and have been prohibited during the winter months. Lingcod are vulnerable to these gears during the winter nesting period, but have a high rate of survival when released alive. In addition to recreational bag limits, similar season restrictions have been used in the California and Washington recreational fisheries during the winter months.

Canary rockfish

Canary rockfish prefer rocky areas on the continental shelf (shelf) and are encountered in a wide variety of commercial and recreational fisheries. Limited entry vessels targeting flatfish and arrowtooth flounder have accounted for a large portion of the landed catch north of 40°10' N. lat. Smaller amounts are taken during the primary whiting season and DTS (Dover sole-thornyhead-sablefish complex) trawl fishery, as well as by fixed gear vessels targeting groundfish on the shelf. Recreational vessels, mainly off the coast of northern California, account for most of the recreational catch of canary rockfish.

Date declared overfished: January 4, 2000 (65 FR 221)

Status of the stock when declared overfished: 22 percent of its unfished biomass level north of Cape Blanco and 8 percent of its unfished biomass level south of Cape Blanco.

B_0 : 31,550 mt

B_{MSY} : 12,620 mt

T_{MIN} : 2057

T_{MAX} : 2076

P_{MAX} : 60 percent

T_{TARGET} : 2074

Harvest control rule: $F=0.022$

Rebuilding strategy at the time of rebuilding plan adoption: Management measures intended to limit bycatch of canary rockfish include the use of RCAs and cumulative trip limits. Bottom trawling is prohibited in the trawl RCA, which covers depths where canary rockfish have been most frequently caught. Cumulative limits are structured to discourage targeting while allowing very low levels of incidental take to be landed. In addition, differential trip limits have been used for large and small footrope trawl gear. By allowing greater limits for large footrope gear and prohibiting its use in nearshore areas, there is an incentive for vessels to fish in deeper waters, beyond the range of canary rockfish.

Recreational fisheries are managed through bag limits, size limits and seasons. As necessary, seasons can be shortened and bag limits reduced to stay within the OY.

Darkblotched rockfish

Darkblotched rockfish occurs on the outer shelf and continental slope (slope), mainly north of Point Reyes (38° N. lat.). Because of their deeper distribution, they are caught exclusively by commercial vessels. Most landings have been made by bottom trawl vessels targeting flatfish on the shelf, and rockfish and the DTS species on the slope.

Date declared overfished: January 11, 2001 (66 FR 2338)

Status of the stock when declared overfished: following a 2000 stock assessment the coastwide stock was believed to be at 22 percent of its unfished biomass level.

B_0 : 29,044 mt

B_{MSY} : 11,618 mt

T_{MIN} : 2014

T_{MAX} : 2047

P_{MAX} : 80 percent

T_{TARGET} : 2030

Harvest control rule: $F=0.027$

Rebuilding strategy at the time of rebuilding plan adoption: Management measures intended to limit bycatch of darkblotched rockfish include the use of RCAs and cumulative trip limits. The boundaries of the RCAs vary by season and fishing sector and may be modified in response to new information about

geographical and seasonal distribution of bycatch. The seaward boundary of the trawl RCA was set at a depth that was likely to keep fishing effort in deeper waters and away from areas where the bycatch of darkblotched rockfish was highest. During the winter months, modifications to the line allow for the harvest of flatfish while minimizing the impacts on darkblotched rockfish.

Cumulative limits for the minor slope rockfish species (the complex that darkblotched rockfish is managed under) north of 40°10' N. lat. and splitnose rockfish were lowered to reduce the potential take of darkblotched rockfish. As needed, trip limits for other co-occurring species may be adjusted to reduce darkblotched rockfish bycatch.

POP

POP tend to occur in similar depths as darkblotched rockfish, although they have a more northern geographic distribution. POP are caught in similar fisheries as darkblotched rockfish north of 40°10' N. lat. Limited entry trawl vessels targeting flatfish, including petrale sole and arrowtooth flounder, account for more than 90 percent of all POP landings. POP are not an important component of the recreational fisheries.

Date declared overfished: March 3, 1999

Status of the stock when declared overfished: following a 1998 stock assessment of POP in the Vancouver and Columbia area, the stock was believed to be at 13 percent of unfished biomass level.

B₀: 60,212 units of spawning output

B_{MSY}: 24,084 units of spawning output

T_{MIN}: 2012

T_{MAX}: 2042

P_{MAX}: 70 percent

T_{TARGET}: 2027

Harvest control rule: $F=0.0082$

Rebuilding strategy at the time of rebuilding plan adoption: Management measures intended to limit the bycatch of POP include the use of RCAs to restrict fishing in areas where overfished species are found and cumulative trip limits. Because POP co-occur with darkblotched rockfish, measures to reduce the incidental catch of darkblotched rockfish benefit POP. These measures include seaward trawl RCA boundaries that are established to keep fishing effort in deeper water where POP are less abundant, and cumulative limits for POP and minor slope rockfish that are intended to discourage targeting while allowing low levels of incidental catch to be landed. As needed, trip limits for other co-

occurring species may be adjusted to reduce darkblotched rockfish bycatch.

Classification

At this time, NMFS has not determined whether Amendment 16–2, 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.

The Council prepared a draft Environmental Impact Statement (EIS) that discusses the effects on the environment as a result of this action. A notice of availability was published on September 19, 2003 (68 FR 54900). A copy of the EIS is available from the Council office. (see ADDRESSES)

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

The Council has prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A copy of the full analysis is available from the Council office (see ADDRESSES). A summary of the analysis follows.

The purpose of this proposed action is to implement rebuilding plans for four overfished species, lingcod, canary rockfish, darkblotched rockfish and POP. This action is necessary to meet the Magnuson-Seven Act requirements for overfished stocks which are defined in the National Standard Guidelines (50 CFR 600.310). National Standard 1 requires that remedial action be taken by preparing an FMP, FMP amendment or proposed regulation to end overfishing if it is occurring, rebuild overfished stocks to the maximum sustainable yield (MSY) level within an appropriate time frame, and to prevent stocks from becoming overfished if they are approaching an overfished threshold. The objective of this proposed rule is to implement rebuilding parameters that will result in lingcod, canary rockfish, darkblotched rockfish and POP stocks returning to their MSY biomass levels.

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.

The EIS/RIR/IRFA for this rule defines six alternative actions that were considered for each of the four overfished species. The alternatives present a range of rebuilding strategies in terms of rebuilding probabilities for

each species. The no action alternative would be based on the “40–10 harvest policy”, which is the default rebuilding policy for setting OYs. Under the 40–10 harvest policy, stocks with biomass levels below B40% have OYs set in relation to the biomass level. At B40%, an OY may be set equal to the ABC. However, if a stock's spawning biomass declines below B40%, the OY is scaled downward until at 10 percent (B10%) the harvest OY is set at zero unless modified for a species-specific rebuilding plan. In comparison to the other alternatives, (except the maximum conservation alternative) the 40–10 policy can result in lower OYs in the short term, when a stock is at a low biomass level, but allow greater harvests when a stock is at higher biomass levels. For further information on the 40–10 policy see the preamble for the annual specifications and management measures published on January 8, 1999 (64 FR 1316) or Section 5.3 of the FMP. The 40–10 policy alternative could require short-term reductions in OYs for stocks at lower biomass levels than would be required under the other alternatives, except the maximum conservation alternative. Such reductions could result in reduced profits, income, and employment in a wide range of groundfish fisheries over a longer period of time than would occur with the other alternatives.

The maximum conservation alternative, based on a harvest mortality rate of zero, would be in place for each stock until the individual stock was rebuilt, resulting in the target rebuilding period for each stock being equal to T_{MIN}. Each stock could be expected to rebuild fastest under this alternative, but at considerable socioeconomic cost. Because canary and darkblotched rockfish are caught in a wide range of other fisheries, a zero harvest mortality rate would likely result in the closure of other fisheries. The rebuilding of these stocks, even in the absence of fishing, is likely to result in many current participants in the commercial recreational fisheries as well as supporting businesses going out of business.

The maximum harvest alternative for each overfished species was based on a 50 percent probability of rebuilding the stocks to their MSY biomass levels by T_{MAX}. This alternative would delay rebuilding for the longest period of time with the intent of keeping harvests at the highest allowable levels for the duration of rebuilding. As a result, this alternative would have the least socioeconomic impact, in the short-term. Delaying the rebuilding period under the maximum harvest alternative

can also be expressed as the level of risk to the overfished stocks. Further delay in rebuilding could have a greater socioeconomic impact than the other alternatives, if currently healthy stocks were overfished.

Intermediate alternatives were defined for each overfished species and were based on 60-, 70- and 80-percent probabilities of rebuilding the stocks to their MSY biomass by T_{MAX} . The socioeconomic impacts of the intermediate values fall within the range of the other alternatives that were fully analyzed in EIS analysis. Quantifying the differences between these alternatives is difficult given the lack of detailed socioeconomic data.

The mixed stock exception alternative would allow higher harvests of canary rockfish and could be combined with any of alternatives (except the no action alternative). Since the demands of rebuilding canary rockfish will affect a range of fisheries, (because it constrains stocks), relaxing this constraint under any of the alternatives would allow a higher harvest level in some fisheries. However, fisheries with little or no canary rockfish bycatch, but with bycatch of other overfished species, would not necessarily benefit. This alternative was not considered for POP or lingcod, since they do not constrain stocks in fisheries where they are targeted or incidentally caught.

The last set of alternatives considered were the Council's preferred alternatives for each species and are as follows: lingcod - 60 percent probability of rebuilding the stock to its MSY biomass by T_{max} with a T_{TARGET} of 2009 and a harvest rate of 0.0531 in the North and 0.0610 in the south; canary rockfish - 60 percent probability of rebuilding the stock to its MSY biomass by T_{MAX} with a T_{TARGET} of 2074 and a harvest rate of 0.0220, darkblotched rockfish - 80-percent probability of rebuilding the stock to its MSY biomass by T_{MAX} with a T_{TARGET} of 2030 and a harvest rate of 0.027, and POP - 70-percent probability of rebuilding the stock to its MSY biomass by T_{MAX} with a T_{TARGET} of 2027 and a harvest rate of 0.0082. The Council's preferred alternatives, were taken from the range of intermediate alternatives for each species.

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. The economic impacts of implementing these rebuilding plans will be shared among the participants. Approximately 1,560 vessels participate in the West Coast groundfish fisheries. Of those, about 410 vessels are registered to limited entry permits

issued for either trawl, longline, or pot gear. About 1,150 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. Of the 450 groundfish buyers that regularly purchase groundfish, 38 buyers purchased groundfish product in excess of \$1,000,000 in 2002. 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. NMFS does not know the proportion of recreational charter vessel operations that would be considered large businesses, but the agency believes that the majority of these businesses would be considered "small" businesses by the SBA. This proposed rule is not expected to yield disproportionate economic impacts between those small and large entities.

Implementation of specific rebuilding plans may entail substantial economic impacts on some groundfish buyers, commercial harvesters, and recreational operators. The Council preferred rebuilding alternatives specify annual OY levels for the overfished species that are sufficient to mitigate some of the adverse economic impacts on these entities, while not compromising the statutory requirement for timely rebuilding. NMFS welcomes comments on this issue (see **ADDRESSES**) and will notify the public of its final determination as to whether the action will result in a significant impact on a substantial number of small entities and will advise the SBA in the final rule for this action.

This action was developed after meaningful consultation and collaboration with tribal representatives on the Council who have agreed with the provisions that apply to tribal vessels and is, therefore, compliant with Executive Order 13175 (Consultation and coordination with Indian tribal governments).

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: December 2, 2003.

William T. Hogarth,

*Assistant Administrator for Fisheries,
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.

(a) *Canary rockfish*. The target date for rebuilding the canary rockfish stock to B_{MSY} is 2074. The harvest control rule to be used to rebuild the canary rockfish stock is an annual harvest rate of $F=0.022$.

(b) *Darkblotched rockfish*. The target year for rebuilding the darkblotched rockfish stock to B_{MSY} is 2030. The harvest control rule to be used to rebuild the darkblotched rockfish stock is an annual harvest rate of $F=0.027$.

(c) *Lingcod*. The target year for rebuilding the lingcod stock to B_{MSY} is 2009. The harvest control rule to be used to rebuild the lingcod stock is an annual harvest rate of $F=0.0531$ in the area north of 40°10' N. lat. and $F=0.061$ for the area south of 40°10' N. lat.

(d) *Pacific ocean perch (POP)*. The target year for rebuilding the POP stock to B_{MSY} is 2027. The harvest control rule to be used to rebuild the POP stock is an annual harvest rate of $F=0.0082$.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 031125292-3292-01; I.D. 111703E]

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Proposed 2004 Harvest Specifications for Groundfish

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