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David M. Stone,

Acting Administrator, Transportation Security Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 031216314-3314-01; I.D. 050704A]

RIN 0648-AR54

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Inseason Adjustments

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

ACTION: Inseason adjustments to management measures and request for comments.

SUMMARY: NMFS announces inseason adjustments to the Pacific Coast limited entry trawl groundfish fishery. These actions, which are authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP), will allow fisheries access to more abundant groundfish stocks while protecting overfished and depleted stocks.

DATES: Changes to management measures are effective May 12, 2004, until the 2005-2006 specifications and management measures are effective, unless modified, superseded, or rescinded through a publication in the **Federal Register**. Comments on this rule will be accepted through June 11, 2004.

ADDRESSES: You may submit comments, identified by [docket number and/or RIN number], by any of the following methods:

- E-mail:

GroundfishInseason#3.nwr@noaa.gov. Include [docket number and/or RIN number] in the subject line of the message.

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

- Fax: 206-526-6736

- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE,

Seattle, WA 98115-0070; or Rod McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT:

Carrie Nordeen (Northwest Region, NMFS), phone: 206-526-6144; fax: 206-526-6736; and e-mail:

carrie.nordeen@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is available on the Government Printing Office's website at: *www.gpoaccess.gov/fr/index.html*.

Background information and documents are available at the NMFS Northwest Region website at: *www.nwr.noaa.gov/1sustfsh/gdfsh01.htm* and at the Pacific Fishery Management Council's website at: *www.pcouncil.org*.

Background

The Pacific Coast Groundfish FMP and its implementing regulations at 50 CFR part 660, subpart G, regulate fishing for over 80 species of groundfish off the coasts of Washington, Oregon, and California. Groundfish specifications and management measures are developed by the Pacific Fishery Management Council (Pacific Council), and are implemented by NMFS. The specifications and management measures for the 2004 fishing year (January 1-December 31, 2004) were initially published in the **Federal Register** as an emergency rule for January 1-February 29, 2004 (69 FR 1322, January 8, 2004) and as a proposed rule for March 1-December 31, 2004 (69 FR 1380, January 8, 2004). The emergency rule was amended at 69 FR 4084, January 28, 2004. The final rule for March 1-December 31, 2004 was published in the **Federal Register** on March 9, 2004 (69 FR 11064) and amended at 69 FR 23440, April 29, 2004 and at 69 FR 25013, May 5, 2004.

The Pacific Council, in consultation with Pacific Coast Treaty Tribes and the States of Washington, Oregon, and California, at its April 4-9, 2004, meeting in Sacramento, CA recommended a number of changes to groundfish management measures. Most of these were implemented through an inseason adjustment published in the **Federal Register** at 69 FR 25013, May 5, 2004. However, the trawl trip limit adjustments for slope species contained in this document were mistakenly omitted from the May 5, 2004, **Federal Register** document. Therefore, NMFS is

now implementing these remaining inseason adjustments.

The limited entry trawl cumulative trip limit increases for DTS (Dover sole, thornyheads, sablefish) and "other flatfish" species are in response to several factors influencing projected catch of groundfish during 2004. These factors include (1) an updated trawl bycatch model, (2) projected catch in the limited entry trawl fishery based on new observer data, and (3) a reduction in limited entry trawl fleet effort due to the limited entry trawl permit and vessel buyback program. Pacific Coast groundfish landings will be monitored throughout the year, and further adjustments to trip limits or management measures will be made as necessary to allow achievement of or avoid exceeding the 2004 optimum yields (OYs).

Limited Entry Trawl Fishery

The trawl bycatch model, used to calculate total catch, discard, and incidental catch rates of groundfish species in the limited entry trawl fisheries, was updated during the winter of 2004. Major changes to the model included a revision of the trawl participation and catch database as well as changes to the incidental catch rates of overfished groundfish species. The trawl participation and catch database is used as an indicator of past limited entry trawl permit participation and landed catch. This database tracks a weighted average (based on activity during the last several years) of landed catch per limited entry trawl permit, bimonthly period, subarea, and depth. Because this database is one of the basic foundations of the trawl bycatch model, the model operates under the assumption that past performance is a reasonable proxy for what level of effort may occur in the future. The trawl bycatch model was updated to reflect changes in fleet structure as a result of the limited entry trawl permit and vessel buyback program conducted in late 2003. However, because buyback related fleet structure changes are continuing to occur, higher levels of uncertainty are associated with the trawl bycatch model's predictions of projected catch during 2004 than in previous years.

The incidental catch rates of overfished groundfish species used in the trawl bycatch model were updated by stratifying them by depth, subarea, and cumulative limit period. This is a change from the previous trawl bycatch model that only stratified incidental catch rates by depth and subarea. In early 2004, new West Coast Groundfish Observer Program data were available

and incorporated in the trawl bycatch model. With two years of data being used in the model, the Pacific Council sought the guidance of the Scientific and Statistical Committee about how to treat each year of data. Because more recent information is more likely to be representative of fishing behavior and catch data in the upcoming year, the SSC recommended a weighting scheme for observer data wherein the most recent data are weighted more heavily than older data. Therefore, NMFS estimated the incidental catch rates of overfished species from both years of observer data, applied a 2/3 weight to the 2003 rates, and a 1/3 weight to the 2002 rates, then summed those years to derive estimated incidental catch rates for overfished species.

Following the 2004 updates to the trawl bycatch model, catch projections generated by the model were compared to landings data reported in the Pacific Coast Fisheries Information Network (PacFIN). The landed catch of DTS (Dover sole, thornyheads, sablefish) species was predicted to be higher than that reported in PacFIN and the landed catch of Petrale sole and "other flatfish" species were predicted to be lower than that reported in PacFIN. Therefore, model predictions were scaled to account for these differences based on PacFIN landed catch estimates from January through February 2004 and landed catch estimates during the same period in 2003.

Changes to the bycatch model were based on new observer data, effort estimates following trawl buyback program, and landed catch data through the end of February 2004. Because of updated trawl bycatch model results, limited entry trawl cumulative trip limits for certain slope species, specifically DTS and "other flatfish" species, can be increased for the remainder of the year. Higher 2004 OYs for darkblotched rockfish and Pacific ocean perch combined with lower projected incidental catch rates for darkblotched rockfish and Pacific ocean perch, in areas seaward of the trawl Rockfish Conservation Area, allow higher slope trip limits to be put in place. Cumulative trip limit increases for the limited entry trawl fleet would enable the OYs for DTS and "other flatfish" to be achieved but not exceeded while still protecting overfished species by keeping the total mortality of overfished species within their rebuilding OYs.

Therefore, with this inseason action, NMFS is implementing the following Pacific Council recommended limited entry trawl cumulative trip limit increases in the area between the U.S.

border with Canada and 40°10' N. lat. The limited entry trawl large footrope and midwater trawl trip limit for sablefish will be increased from 8,700 lb (3,946 kg) per two months to 16,000 lb (7,257 kg) per two months for May through October and increased from 6,200 lb (2,812 kg) per two months to 11,000 lb (4,990 kg) per two months during November and December. The limited entry small footrope trawl trip limit for sablefish will be increased from 5,000 lb (2,268 kg) per two months to 10,000 lb (4,536 kg) per two months for May through October and increased from 2,000 lb (907 kg) per two months to 5,000 lb (2,268 kg) per two months during November and December. The limited entry trawl large footrope and midwater trawl trip limit for longspine thornyhead will be increased from 10,000 lb (4,536 kg) per two months to 18,000 lb (8,165 kg) per two months for May through December. The limited entry large footrope and midwater trawl trip limit for shortspine thornyhead will be increased from 2,100 lb (907 kg) per two months to 4,500 lb (2,041 kg) per two months for May through December. The limited entry trawl small footrope trawl trip limit for shortspine thornyhead will be increased from 1,000 lb (454 kg) per two months to 3,000 lb (1,361 kg) per two months for May through October. The limited entry trawl large footrope and midwater trawl trip limit for Dover sole will be increased from 21,000 lb (9,525 kg) per two months to 32,000 lb (14,515 kg) per two months for May through October and increased from 45,000 lb (20,412 kg) per two months to 50,000 lb (22,680 kg) per two months for November and December. The limited entry small footrope trawl trip limit for Dover sole will be increased from 21,000 lb (9,525 kg) per two months to 27,000 lb (12,247 kg) per two months for May through October and increased from 10,000 lb (4,536 kg) per two months to 18,000 lb (8,165 kg) per two months for November and December. The limited entry trawl small footrope trip limit for arrowtooth flounder will be increased from 6,000 lb (2,722 kg) per two months to 11,000 lb (4,990 kg) per two months for May through October and increased from 4,000 lb (1,814 kg) per two months to 8,000 lb (3,629 kg) per two months for November and December. The limited entry trawl small footrope trip limit for "other flatfish" will be increased from 60,000 lb (27,216 kg) per two months, no more than 25,000 lb (11,340 kg) per two months of which may be petrale sole, to 80,000 lb (36,287 kg) per two months, no more than 30,000 lb (13,608 kg) per two months of which may be

petrale sole, for May through October. For November and December, the limited entry trawl small footrope trip limit for "other flatfish" will be increased from 30,000 lb (13,608 kg) per two months, no more than 10,000 lb (4,536 kg) per two months of which may be petrale sole, to 70,000 lb (31,752 kg) per two months, no more than 20,000 lb (9,072 kg) per two months of which may be petrale sole.

With this inseason action, in the area between 40°10' N. lat. and the U.S. border with Mexico, NMFS is implementing the following limited entry trawl cumulative trip limit increases recommended by the Pacific Council. The limited entry trawl trip limit for sablefish will be increased from 7,500 lb (3,402 kg) per two months to 14,500 lb (6,578 kg) per two months for May through December. The limited entry trawl trip limit for longspine thornyhead will be increased from 10,000 lb (4,536 kg) per two months to 18,000 lb (8,165 kg) per two months for May through December. The limited entry trawl trip limit for shortspine thornyhead will be increased from 2,000 lb (907 kg) per two months to 4,500 lb (2,041 kg) per two months for May through December. The limited entry trawl trip limit for Dover sole will be increased from 26,000 lb (11,793 kg) per two months to 49,000 lb (22,226 kg) per two months for May through December. The limited entry trawl trip limit for "other flatfish" will be increased from 100,000 lb (45,359 kg) per two months, no more than 20,000 lb (9,072 kg) per two months of which may be petrale sole, to 120,000 lb (54,431 kg) per two months, no more than 20,000 lb (9,072 kg) per two months of which may be petrale sole, for May through October. For November and December, the limited entry trawl trip limit for "other flatfish" will be increased from 100,000 lb (45,359 kg) per two months to 120,000 lb (54,431 kg) per two months. The limited entry trawl catch of petrale sole for November and December will remain unlimited.

Limited entry trawl trip limits had been set at a precautionary level at the beginning of 2004, pending the release of new observer data. Because the new observer data indicate that the incidental catch of overfished species, specifically darkblotched rockfish and Pacific ocean perch, by the limited entry trawl fleet along the slope is lower than expected, limited entry trawl limits for slope species can be increased for the remainder of the year. These cumulative trip limit increases generate much needed revenue for the limited entry trawl fleet, a fleet that has been severely restricted in recent years to limit the

catch of overfished species and enable the rebuilding of those stocks. The incidental catch of overfished species will continue to be minimized by the trawl RCA in areas and during seasons when the incidental catch of overfished species is high, as well as conservative trip limits for target species known to co-occur with overfished species. These inseason adjustments are predicted to help achieve, but not exceed, the 2004 OYs for Pacific Coast groundfish species. Landings in the Pacific Coast

groundfish fisheries will continue to be monitored throughout the year and adjustments to trip limits will be made to keep catch within OYs, as necessary.

NMFS Actions

For the reasons stated herein, NMFS concurs with the Pacific Council's recommendations and hereby announces the following changes to the 2004 specifications and management measures (69 FR 11064, March 9, 2004, as amended at 69 FR 23440, April 29,

2004, and at 69 FR 25013, May 5, 2004) to read as follows:

1. On pages 11108–11114, in section IV., under B. Limited Entry Fishery, at the end of paragraph (1), Table 3 (North) and Table 3 (South) are revised to read as follows:

IV. NMFS Actions

B. Limited Entry Fishery

(1) * * *

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Table 3 (North). 2004 Trip Limits and Gear Requirements^{1/} for Limited Entry Trawl Gear North of 40°10' N. Latitude^{2/}

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

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	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area^{10/} (RCA):						
North of 40°10' N. lat.	75 fm - modified 200 fm ^{11/}	60 fm - 200 fm	60 fm - 150 fm	75 fm - 150 fm		
Small footrope or midwater trawl gear is required shoreward of the RCA; all trawl gear (large footrope, midwater trawl, and small footrope gear) is permitted seaward of the RCA.						
A vessel may have more than one type of limited entry bottom trawl gear on board, but the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative trip limit for that gear. A vessel that is trawling within the RCA (or other closed area) with trawl gear authorized for use within the RCA (or other closed area) may not have any other type of trawl gear on board. See IV.A.(14)(iv) for details.						
1 Minor slope rockfish^{3/}	4,000 lb/ 2 months		8,000 lb/ 2 months			
2 Pacific ocean perch	3,000 lb/ 2 months					
3 DTS complex	Providing only large footrope or midwater trawl gear is used to land any groundfish species during the entire limit period, then large footrope trawl trip limits apply. If small footrope gear ^{7/} is used at any time in any area (North or South of 40°10' N. lat., shoreward or seaward of RCA) during the entire limit period, then small footrope trawl limits apply.					
4 Sablefish						
5 large footrope or midwater trawl gear	9,300 lb/ 2 months		16,000 lb/ 2 months			11,000 lb/ 2 months
6 small footrope gear ^{7/}	2,000 lb/ 2 months		10,000 lb/ 2 months			5,000 lb/ 2 months
7 Longspine thornyhead						
8 large footrope or midwater trawl gear	15,000 lb/ 2 months		18,000 lb/ 2 months			
9 small footrope gear ^{7/}	1,000 lb/ 2 months					
10 Shortspine thornyhead						
11 large footrope or midwater trawl gear	3,150 lb/ 2 months		4,500 lb/ 2 months			
12 small footrope gear ^{7/}	1,000 lb/ 2 months		3,000 lb/ 2 months			1,000 lb/ 2 months
13 Dover sole						
14 large footrope or midwater trawl gear	67,500 lb/ 2 months		32,000 lb/ 2 months			50,000 lb/ 2 months
15 small footrope gear ^{7/}	10,000 lb/ 2 months		27,000 lb/ 2 months			18,000 lb/ 2 months
16 Flatfish	Providing only large footrope or midwater trawl gear is used to land any groundfish species during the entire limit period, then large footrope trawl trip limits apply. If small footrope gear ^{7/} is used at any time in any area (North or South of 40°10' N. lat., shoreward or seaward of RCA) during the entire limit period, then small footrope trawl limits apply.					
17 All other flatfish, Petrale sole, & Rex sole						
18 large footrope or midwater trawl gear for All other flatfish ^{4/} & Rex sole	100,000 lb/ 2 months					
19 large footrope or midwater trawl gear for Petrale sole	Not limited	100,000 lb/ 2 months				Not limited
20 small footrope gear ^{7/}	30,000 lb/ 2 months, no more than 10,000 lb/ 2 months of which may be petrale sole.		80,000 lb/ 2 months, no more than 30,000 lb/ 2 months of which may be petrale sole.			70,000 lb/ 2 months, no more than 20,000 lb/ 2 months of which may be petrale sole.
21 Arrowtooth flounder						
22 large footrope or midwater trawl gear	Not limited	150,000 lb/ 2 months				Not limited
23 small footrope gear ^{7/}	4,000 lb/ 2 months	11,000 lb/ 2 months				8,000 lb/ 2 months

Table 3 (North). Continued

24	Whiting ^{5/}	Before the primary whiting season: 20,000 lb/trip -- During the primary season: mid-water trawl permitted in the RCA. See IV.B.(3)(b) for season and trip limit details. -- After the primary whiting season: 10,000 lb/trip		
25	Minor shelf rockfish ^{3/} & Widow rockfish			
26	large footrope trawl	CLOSED ^{6/}		
27	midwater trawl for Widow rockfish	Before the primary whiting season: CLOSED ^{6/} -- 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. Mid-water trawl permitted in the RCA. See IV.B.(3)(b) for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED ^{6/}		12,000 lb/ 2 months
28	midwater for Minor shelf rockfish or small footrope trawl ^{7/} for minor shelf & widow	300 lb/ month	1,000 lb/ month, no more than 200 lb/ month of which may be yelloweye rockfish	300 lb/ month
29	Canary rockfish			
30	large footrope trawl	CLOSED ^{6/}		
31	midwater or small footrope trawl ^{7/}	100 lb/ month	300 lb/ month	100 lb/ month
32	Yellowtail			
33	large footrope trawl	CLOSED ^{6/}		
34	midwater trawl	Before the primary whiting season: CLOSED ^{6/} -- 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. Mid-water trawl permitted in the RCA. See IV.B.(3)(b) for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED ^{6/}		18,000 lb/ 2 months
35	small footrope trawl ^{7/}	In landings 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. Total yellowtail landings not to exceed 10,000 lb/ 2 months, no more than 1,000 lb/ month of which may be landed without flatfish.		
36	Minor nearshore rockfish			
37	large footrope trawl	CLOSED ^{6/}		
38	midwater or small footrope trawl ^{7/}	300 lb/ month		
39	Lingcod ^{8/}			
40	large footrope trawl	CLOSED ^{6/}		
41	midwater or small footrope trawl ^{7/}	800 lb/ 2 months	1,000 lb/ 2 months	800 lb/ 2 months
42	Other Fish ^{9/}	Not limited		

1/ Gear requirements and prohibitions are explained above. See IV. A.(14).

2/ "North" means 40°10' N. lat. to the U.S.-Canada border. 40°10' N. lat. is about 20 nm south of Cape Mendocino, CA.

3/ Bocaccio and chilipepper are included in the trip limits for minor shelf rockfish and splitnose rockfish is included in the trip limits for minor slope rockfish.

4/ "Other" flatfish means all flatfish at 50 CFR 660.302 except those in this Table 3 with species specific management measures, including trip limits.

5/ The whiting "per trip" limit in the Eureka area shoreward of 100 fm is 10,000 lb/ trip all year. Outside Eureka area, the 20,000 lb/ trip limit applies. See IV. B.(3).

6/ 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).

7/ Small footrope trawl means a bottom trawl net with a footrope no larger than 8 inches (20 cm) in diameter.

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

9/ Other fish are defined at 50 CFR 660.302, as those groundfish species or species groups for which there is no trip limit, size limit, quota, or harvest guideline.

10/ The "Rockfish Conservation Area" is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at IV. A.(17)(f), that may vary seasonally.

11/ The "modified 200 fm" line is modified to exclude certain petrale sole areas from the RCA.

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

Table 3 (South). 2004 Trip Limits and Gear Requirements^{1/} for Limited Entry Trawl Gear South of 40°10' N. Latitude^{2/}
Other Limits and Requirements Apply -- Read Sections IV. A. and B. NMFS Actions before using this table

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	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area^{10/} (RCA):						
40°10' - 34°27' N. lat.	75 fm - 150 fm (additional closure between the shoreline and 10 fm around the Farallon Islands)		100 fm - 150 fm (additional closure between the shoreline and 10 fm around the Farallon Islands)		75 fm - 150 fm (additional closure between the shoreline and 10 fm around the Farallon Islands)	
South of 34°27' N. lat.	75 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands		100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands		75 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands	
Small footrope or midwater trawl gear is required shoreward of the RCA; all trawl gear (large footrope, midwater trawl, and small footrope gear) is permitted seaward of the RCA.						
A vessel may have more than one type of limited entry bottom trawl gear on board, but the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative trip limit for that gear. A vessel that is trawling within the RCA (or other closed area) with trawl gear authorized for use within the RCA (or other closed area) may not have any other type of trawl gear on board. See IV.A.(14)(iv) for details.						
1 Minor slope rockfish^{3/}						
2 40°10' - 38° N. lat.	7,000 lb/ 2 months		50,000 lb/ 2 months			
3 South of 38° N. lat.	40,000 lb/ 2 months					
4 Splitnose						
5 40°10' - 38° N. lat.	7,000 lb/ 2 months		50,000 lb/ 2 months			
6 South of 38° N. lat.	40,000 lb/ 2 months					
7 DTS complex						
If fishing North of 40°10' N. lat. at any time during the cumulative limit period, differential trip limits based on footrope size and crossover provisions will apply during the entire limit period. See Table 3 (North) and Section A. (12) for more details						
8 Sablefish	11,250 lb/ 2 months		14,500 lb/ 2 months			
9 Longspine thornyhead	15,000 lb / 2 months		18,000 lb / 2 months			
10 Shortspine thornyhead	3,000 lb/ 2 months		4,500 lb/ 2 months			
11 Dover sole	39,000 lb/ 2 months		49,000 lb/ 2 months			
12 Flatfish						
If fishing North of 40°10' N. lat. at any time during the cumulative limit period, differential trip limits based on footrope size and crossover provisions will apply during the entire limit period. See Table 3 (North) and Section A. (12) for more details						
13 All other flatfish ^{4/} & Rex sole	100,000 lb/ 2 months	All other flatfish plus petrale & rex sole: 100,000 lb/ 2 months, no more than 20,000 lb/ 2 months of which may be petrale sole	All other flatfish plus petrale & rex sole: 120,000 lb/ 2 months, no more than 20,000 lb/ 2 months of which may be petrale sole			120,000 lb/ 2 months
14 Petrale sole	No limit					No limit
15 Arrowtooth flounder	No limit					10,000 lb/ 2 months
16 Whiting^{5/}						
Before the primary whiting season: 20,000 lb/trip -- During the primary whiting season: mid-water trawl permitted in the RCA. See IV.B.(3)(b) for season and trip limit details. -- After the primary whiting season: 10,000 lb/trip						
17 Minor shelf rockfish, Widow, and Chilipepper rockfish^{3/}						
Providing only large footrope trawl gear is used to land any groundfish species during the entire limit period, then large footrope limit applies.						
18 large footrope trawl for Minor shelf rockfish	300 lb/ month					
19 large footrope trawl for Chilipepper rockfish	2,000 lb/ 2 months		12,000 lb/ 2 months		8,000 lb/ 2 months	
20 large footrope or midwater trawl for Widow rockfish	CLOSED ^{6/}					
21 midwater for Minor shelf or Chilipepper rockfish or small footrope trawl ^{7/} for minor shelf, widow & chilipepper	300 lb/ month					

Table 3 (South). Continued

25	Canary rockfish			
26	large footrope trawl		CLOSED ^{6/}	
27	midwater or small footrope trawl ^{7/}	100 lb/ month	300 lb/ month	100 lb/ month
28	Cowcod		CLOSED ^{6/}	
29	Minor nearshore rockfish			
30	large footrope trawl		CLOSED ^{6/}	
31	midwater or small footrope trawl ^{7/}		300 lb/ month	
32	Lingcod ^{8/}			
33	large footrope trawl		CLOSED ^{6/}	
34	midwater or small footrope trawl ^{7/}	800 lb/ 2 months	1,000 lb/ 2 months	800 lb/ 2 months
35	Other Fish ^{9/}		Not limited	

1/ Gear requirements and prohibitions are explained above. See IV. A.(14).

2/ "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.

3/ Yellowtail is included in the trip limits for minor shelf rockfish and POP is included in the trip limits for minor slope rockfish.

4/ "Other" flatfish means all flatfish at 50 CFR 660.302 except those in this Table 3 with species specific management measures, including trip limits.

5/ The whiting "per trip" limit in the Eureka area shoreward of 100 fm is 10,000 lb/ trip all year. Outside Eureka area, the 20,000 lb/ trip limit applies. See IV. B.(3).

6/ 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).

7/ Small footrope trawl means a bottom trawl net with a footrope no larger than 8 inches (20 cm) in diameter.

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

9/ Other fish are defined at 50 CFR 660.302, as those groundfish species or species groups for which there is no trip limit, size limit, quota, or harvest guideline.

10/ The "Rockfish Conservation Area" is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat./long. coordinates set out at IV. A.(17)(f), that may vary seasonally.

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

BILLING CODE 3510-22-C

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Classification

These actions are authorized by the Pacific Coast groundfish FMP and its implementing regulations and are based on the most recent data available. The aggregate data upon which these actions are based are available for public inspection at the Office of the Administrator, Northwest Region, NMFS, (see ADDRESSES) during business hours.

The Assistant Administrator for Fisheries, NOAA, finds good cause to waive the requirement to provide prior notice and opportunity for public comment on this action pursuant to 5 U.S.C. 553(b)(3)(B), because providing prior notice and opportunity for comment would be impracticable. Providing prior notice and comment on the inseason adjustments would be impracticable because the data upon

which these recommendations were based were provided to the Pacific Council and the Pacific Council made its recommendations at its April 4-9, 2004, meeting in Sacramento, CA. There was not sufficient time after that meeting to draft this inseason notice and undergo proposed and final rulemaking before the beginning of the next cumulative limit period, May 1, 2004. This inseason action increases some cumulative trip limits, which allows the limited entry trawl fleet to harvest additional fish during each two-month period. These harvest opportunities are a result, in part, of the limited entry trawl permit and vessel buyback conducted in 2003 and provide much needed revenue for the limited entry trawl fleet by providing access to healthy, deepwater groundfish stocks with minimal impacts on overfished species. Delays in implementing these additional harvest opportunities would

likely prevent many members of the trawl fleet from harvesting the increased limits for the May-June cumulative limit period, thereby causing undue economic hardships on coastal communities relying on economic benefits resulting from the trawl buyback program.

For these reasons, good cause also exists to waive the 30 day delay in effectiveness requirement under 5 U.S.C. 553 (d)(3).

These actions are taken under the authority of 50 CFR 300.63(a)(3) and 660.323(b)(1) and are exempt from review under Executive Order 12866.

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

Dated: May 11, 2004.

Alan D. Risenhoover,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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