waters compatible with the Commission's recommendations.

Comments on Harvest Specifications and Overfished Species Rebuilding

Comment 1: The proposed specifications would dramatically lengthen the period of time it will take to rebuild darkblotched rockfish. The increased darkblotched harvest associated with this lengthened rebuilding period would violate the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to prevent overfishing and to rebuild overfished species as quickly as possible. NMFS has also failed to consider the effects of lengthening the rebuilding periods on darkblotched rockfish and on species that may co-occur with darkblotched rockfish. Additionally, NMFS has not explained why the tables of trip limits do not include darkblotched rockfish.

Response: The goals of rebuilding programs are to achieve the population size and structure that will support the maximum sustainable yield (MSY) within a specified time period. The statute requires this time period to be ''as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, * * * and the interaction of the overfished stock of fish within the marine ecosystem.'' The period shall not exceed 10 years, ''except in cases where the biology of the stock of fish, other environmental conditions * * * dictate otherwise.'' NMFS has further interpreted this in its National Standard Guidelines found at 50 CFR 600.310(e)(iv)(2). Under these guidelines, if the minimum possible time to rebuild is 10 years or greater, as is the case with darkblotched rockfish, then the specified time period for rebuilding may be adjusted upward to address the needs of fishing communities and recommendations from international organizations, providing the maximum time to rebuild does not exceed the minimum time to rebuild plus one mean generation time. The minimum possible time to rebuild a stock in the absence of fishing is determined by the status and biology of the stock and its interaction with other components of the ecosystem. NMFS guidance on rebuilding plans specifies that the minimum possible time to rebuild is the elapsed time until the MSY biomass level would be achieved with a 50 percent probability. (Technical Guidance On the Use of Precautionary Approaches to Implementing National Standard 1 of the Magnuson-Stevens Act NOAA Technical Memorandum NMFS-F/SPO-## July 17, 1998) For darkblotched rockfish the minimum time to rebuild is 14 years (2014). The mean generation time for darkblotched rockfish is 33 years, therefore the maximum allowable time to rebuild would be 47 years (2047).

A draft rebuilding analysis was prepared in May 2001 and presented to the Council at its June 2001 meeting. This draft analysis was revised by NMFS in August 2001 and was adopted by the Council at its September 2001 meeting. The Council's SSC reviewed the revised rebuilding analysis and concluded that it was technically sound. Unlike the preliminary analysis, the final analysis incorporated survey data from 2000 and addressed assessment concerns identified by the author of the draft analysis. The new analysis indicated that the stock was more depleted than originally estimated (12 percent of virgin biomass vs 22 percent of virgin biomass). It also indicated that the stock could not be rebuilt within 10 years, even in the absence of all fishing mortality. Therefore, based on the new analysis, and consistent with the National Standard Guidelines, the rebuilding period could be lengthened from what had originally been anticipated, within the constraints set by the statute and the National Standard Guidelines. The Council recommended a rebuilding period longer than the minimum, but shorter than the maximum period allowed under the Guidelines, because of the severe adverse economic impacts to the fishing communities, described below, that would result from a lower OY for darkblotched rockfish.

The 2002 OY of 168 mt, based on the revised rebuilding analysis, is expected to provide a high probability of preventing further stock declines while maintaining a high probability (70 percent) of rebuilding the stock within the maximum allowable time period. The target rebuilding time associated with an OY of 168 mt can be expressed as a 70 percent probability of rebuilding the stock within the maximum allowable time or as 50 percent probability of rebuilding to the target level in the target rebuilding time of 34 years (2034).

Fishing communities have suffered severe declines in groundfish revenue over the past several years. Although the fishing communities are not heavily dependent on revenue from darkblotched rockfish directly, they have a strong dependence on revenue from species with which darkblotched rockfish co-occur. The DTS (Dover sole-thornyheads-sablefish) fishery, which targets Dover sole, and the deep-water flatfish fishery, comprise the major sources of estimated darkblotched bycatch. Bycatch modeling conducted as part of the 2002 specification process addressed the bycatch interaction between these species and darkblotched rockfish. In order to constrain the projected bycatch of darkblotched rockfish to remain within the adopted total catch OY of 168 mt, trawl landing limits for these species were shifted substantially to periods of the year in which bycatch of darkblotched rockfish was expected to be relatively low.

The Council and NMFS also considered the likely financial effects on the trawl fleet and these communities that would be associated with lowering the darkblotched rockfish OY from 168 mt to the 130 mt specified for 2001. Darkblotched rockfish bycatch rates in the DTS fishery that were used in the bycatch modeling of the preferred suite of management alternatives range from 1.5 percent to 2.65 percent, depending on the season. Using these endpoints to bound the effect on the DTS fishery, achieving a reduction of 38 mt of darkblotched from the 168 mt level would require foregoing between 1,400 mt (18 percent) and 2,500 mt (31 percent) of projected DTS landings. Since DTS targeting opportunities were already shifted substantially away from the highest bycatch periods, it is unlikely that the effect on DTS landings would fall towards the low end of this range. This loss would amount to between $1.9 million and $3.3 million in ex-vessel revenues. Because of the importance of these species to the processing sector, this loss could accelerate the rate of plant closures and unemployment in the region.

On August 20, 2001, the Federal magistrate ruled in *National Resources Defense Council, Inc.* v. *Evans* (N.D. Cal. 2001) that rebuilding plans under the Pacific Coast Groundfish Fishery Management Plan (FMP) must be in the form of plan amendments or proposed regulations, as required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) at 16 U.S.C. 1854 (e)(3). As a result of the magistrate's decision, the Council and NMFS are developing FMP amendments that contain the rebuilding plans for species that have been declared overfished. The rebuilding measures and alternative rebuilding periods will be discussed in detail in the documents supporting these amendments.

The effects on co-occurring species of the 2002 OY for darkblotched rockfish were considered in both the supporting analytical documents for the annual

specifications and management measures.

As set out in IV.A.(21)(c), darkblotched rockfish is considered a slope rockfish and is listed as a minor slope rockfish in both the northern and southern areas on Table 2. Trip limits for commercial fisheries are set out in Tables 3–5, including trip limits for minor slope rockfish. This information, the minor rockfish table, and the trip limit tables were all published in the proposed rule. The separation of minor rockfish species into nearshore, shelf, and slope groups was first implemented in 2000, as documented in that year's annual specifications and management measures (65 FR 221, January 4, 2000). The total harvest of darkblotched rockfish in 2002 will be constrained by management measures designed to limit the directed and incidental harvest of minor slope rockfish as a complex and of darkblotched rockfish in particular.

Comment 2: The OYs associated with lingcod, Pacific ocean perch (POP), widow rockfish, bocaccio, and darkblotched rockfish, are based on overfished species rebuilding analysis and provide too high of probabilities (60 percent or greater) of rebuilding these stocks to the MSY biomass within the maximum allowable time periods. The Federal courts have twice ruled that the probability of rebuilding need only be 50 percent.

Response: As explained above in the response to Comment 1, the Magnuson-Stevens Act requires overfished stocks to be rebuilt in as short a time as possible, ''taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem.'' NMFS guidance on rebuilding plans specifies that the minimum possible time to rebuild is the elapsed time until the MSY biomass level is achieved with a 50 percent probability. If the minimum possible time to rebuild is 10 years or greater, as is the case with POP, widow rockfish, and bocaccio, then the time period for rebuilding may be adjusted upward to address the needs of fishing communities and recommendations from international organizations, providing the maximum time to rebuild does not exceed the minimum time to rebuild plus one mean generation time. In determining the target rebuilding time period for a species with a minimum rebuilding time of 10 years or greater, NMFS guidance recommends that the target fishing time be shorter than the maximum allowable time.

The target rebuilding time associated with an OY can be expressed as a probability of rebuilding the stock within the maximum allowable time or as a target rebuilding time based on the median time to rebuild with a 50 percent probability. Setting the OYs at the 50 percent level would be equivalent to setting the rebuilding period to the maximum allowable time and is therefore not consistent with the NMFS technical guidance. Only under special circumstances detailed in 50 CFR 600.310 (e)(4) of the National Standards Guidelines, can the target rebuilding time period be set equal to the maximum allowable rebuilding time. Because of the extreme economic hardship on commercial and recreational fishing industries associated with the rebuilding measures for canary rockfish, the Council recommended a target rebuilding period that was slightly less than the maximum allowable rebuilding time with a 52 percent probability of rebuilding the canary rockfish stock to the MSY biomass within the maximum allowable rebuilding time.

Because the minimum rebuilding time for lingcod was less than 10 years, the Magnuson-Stevens Act requires that target rebuilding time period be 10 years or less. The 2002 OY of 577 mt is based on a constant fishing mortality rate rebuilding strategy recommended by the Council which is approximately 6 percent of the population per year (See Council documents: Revised Rebuilding Plan for West Coast lingcod Exhibit C.10 Attachment 5, June 2001). As noted in the response to Comment 1, the Council and NMFS are developing FMP amendments that contain the rebuilding plans for species that have been declared overfished. The rebuilding measures and alternative rebuilding periods will be discussed in detail in the documents supporting these amendments.

Comment 3: NMFS has failed to justify and analyze increasing POP harvest levels; the proposed harvest level will not prevent overfishing and will fail to rebuild POP.

Response: NMFS disagrees; the proposed harvest level is not expected to result in overfishing of POP. Overfishing is a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield (MSY) on a continuing basis. When setting the 2002 ABCs, the Council maintained a policy of using a default harvest rate as a proxy (also referred to as an MSY control rule) for the fishing mortality rate that is expected to achieve the MSY. The default harvest rate proxies used by the Council for rockfish, including POP, are fully described in the preamble to the 2001 annual specifications and management measures (66 FR 2338, January 11). The 2002 OY for POP was then set at a level that is expected to prevent overfishing, substantially less than the ABC. In addition, the OYs for all overfished species were set at levels that are intended to rebuild those species.

The original POP rebuilding analysis prepared in October, 1999 was based on a 1997 stock assessment. As stated above in the responses to Comments 1 and 2, the NMFS guidance on rebuilding plans specifies that the minimum possible time to rebuild in the absence of fishing is the elapsed time until the MSY biomass level is achieved with a 50 percent probability. The minimum time to rebuild POP to the MSY biomass level in the absence of fishing, with a 50 percent probability, was calculated to be 18 years (2017) in the original rebuilding analysis. The mean generation time was estimated to be 29 years. This resulted in the maximum allowable time being estimated at 47 years (2046). The rebuilding measures recommended by the Council beginning in 2000 (65 FR 221, January 4, 2000) were expected to provide a high probability of preventing further stock declines while maintaining a high probability (79 percent) of rebuilding the stock within the maximum allowable time period. The target rebuilding time recommended in 2000 can also be expressed as 43 years (2042) for the median time (50 percent level) to rebuild.

In 2001, the POP rebuilding analysis was updated with more recent scientific information. As a result of the new analysis, the minimum time to rebuild POP to the MSY biomass level in the absence of fishing, with a 50 percent probability, was 13 years (2014). The preferred POP OY of 350 mt for 2002, reflects a 70 percent probability of rebuilding by the year 2042. The target rebuilding time associated with the 350 mt OY for 2002 can also be expressed as 27 years (2028) for the median time (50 percent level) to rebuild. Therefore, the 2002 OY of 350 mt based on the revised rebuilding analysis is estimated to result in the stock being rebuilt 15 years earlier than originally estimated. The Council's SSC reviewed the revised rebuilding analysis and concluded that it was technically sound. A constant fishing mortality rate rebuilding strategy, where a constant proportion of the stock is removed over time, was recommended for POP rebuilding. In short, as the overfished stock biomass increases, the amount of fish harvested

(including landed catch and discard) also increases, while still allowing overall the stock biomass to increase.

Comment 4: The OYs for minor rockfish both north and south of 40°10′ N. lat. have been reduced by 50 percent as a precautionary measure. There is no scientific justification for a reduction of this magnitude. This large reduction could exacerbate discard of minor rockfish caught incidentally in fisheries targeting other species. We recommend that the precautionary reduction be no more than 25 percent.

Response: As described in footnotes x/ and y/ to Table 1a, minor rockfish include the ''remaining rockfish'' and ''other rockfish'' categories combined. The ''remaining rockfish'' category generally includes species that have been assessed by less rigorous methods than stock assessments, and the ''other rockfish'' category includes species that do not have quantifiable assessments. The Council's policy for setting ABCs and OYs for rockfish generally and for these minor rockfish in particular are based largely on the conclusions of the March 2000 West Coast Groundfish Harvest Policy Rate Workshop, which was sponsored by the Council's SSC. The panel report from that workshop, authored by several noted stock assessment scientists, recommended that the Council ''establish F= 0.75M as the default, risk-neutral policy for (setting ABCs for) the remaining rockfish management category.'' This policy reduces the remaining rockfish ABCs by 25 percent from the natural mortality rate (M) to derive a sustainable fishing mortality rate (F). To derive remaining rockfish total catch OYs, the remaining rockfish ABCs at F=0.75M are reduced by 25 percent. To derive other rockfish total catch OYs, the other rockfish ABCs are based on recent catch levels reduced by 50 percent. The Council first adopted these adjustments to minor rockfish ABCs and OYs for the 2001 fishing years and based its recommendations on the advice of the Harvest Rate Policy Workshop's panel report and on the advice of its SSC. NMFS believes that these adjustments are appropriately precautionary and reasonable given the level of uncertainty associated with the stock assessments for these species and the practice of setting ABCs for some species based on historical landings levels.

Comment 5: NMFS has considered only one harvest level per species for canary rockfish, bocaccio and cowcod. The National Environmental Policy Act (NEPA) requires an analysis of a range of alternatives.

Response: NMFS believes that the ABC/OY alternatives presented in the NEPA document represent a reasonable range of alternatives. Under each alternative, a full suite of ABC/OYs for all managed species were considered. For species such as canary, bocaccio and cowcod, where no new stock assessment information was available, the outcome and projections from the previous assessments and rebuilding analyses (the best available scientific information) were carried over into the new fishing year. (See Council documents: Appendix to the Status of Pacific Coast Groundfish Fishery Through 1997 and Recommended Acceptable Biological Catches for 1998, Appendix to the Status of Pacific Coast Groundfish Fishery Through 1998 and Recommended Acceptable Biological Catches for 1999, and Appendix to the Status of Pacific Coast Groundfish Fishery Through 1999 and Recommended Acceptable Biological Catches for 2000.)

It is not possible for NMFS and the Council to prepare a new stock assessment for every species each year. Therefore, a stock assessment is prepared with the anticipation that it will be used for a few years. A stock assessment will project the stock condition three years ahead under various harvests. Without new scientific information, there is no reason to reconsider the results of prior stock assessments and the harvest levels based on those assessments every year. The OYs for canary rockfish and bocaccio are based on rebuilding measures that include constant catch strategies for the initial OYs, where catch is held constant over time, and are established for multiple year periods. (For further information on the most recent stock assessments for these species see Council documents: Revised Rebuilding Plan for West Coast Canary Rockfish, September 2001, Exhibit C.5, Attachment 2; Revised Rebuilding Plan for West Coast Bocaccio Rockfish, September 2001, Exhibit C.5, Attachment 4.) The cowcod OY is based on a constant fishing mortality rate rebuilding strategy that is approximately 1 percent of the population (See Council document: Revised Rebuilding Plan for West Coast Cowcod, June 2001, Exhibit C.10, Attachment 3). These OYs are consistent with the long-term rebuilding goals defined for the individual species and recommended by the Council. As noted earlier in the response to Comment 1, the Council and NMFS are developing FMP amendments that contain the rebuilding plans for species that have been declared overfished. As noted in the responses to Comments 1 and 2, rebuilding measures and alternative rebuilding periods will be discussed in detail in the documents supporting these amendments.

Comment 6: A decision in Midwater Trawlers Cooperative v. Daley by the 9th Circuit Court of Appeals is pending. We contend that the use of the ''sliding scale'' to determine whiting allocations is arbitrary and capricious and is not based on the scientific recommendations of NMFS' own scientists.

Response. NMFS agrees that the Court has heard oral argument in the case of *Midwater Trawlers Cooperative* v. *Daley*, and a decision is pending. NMFS does not, however, agree that using the sliding scale to determine the tribal whiting allocation is arbitrary and capricious. In *U.S.* v. *Washington*, 143 F.Supp.2d 1218 (W.D. Wash., Order on Summary Judgment Motions, April 5, 2001) the Court held that ''the sliding scale allocation method advocated by the Secretary and Makah shall govern the United States aspect of the Pacific whiting fishery until the Secretary finds just cause for alteration or abandonment of the plan, the parties agree to a permissible alternative, or further order issues from this court.''

Comments on Bycatch

Comment 7: NMFS has failed to adequately account for bycatch and discard mortality in setting the harvest limits for overfished species and targeted stocks in the Pacific groundfish fishery. For five of the eight overfished species, NMFS has performed a new bycatch analysis that concludes that discard mortality is lower than NMFS has previously assumed for these species. Based on this analysis, NMFS has proposed to adopt the same discard-rate assumptions it has used previously, 16 percent of landed catch for most species. NMFS has failed to consider whether this traditional discard rate assumption is adequately precautionary. NMFS has also failed to consider more protective discard rate assumptions. We have numerous disagreements with the validity of the underlying assumptions in the bycatch analysis and with the validity of the data analyzed.

Response: 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.

In managing the groundfish fishery to ensure the timely rebuilding of an overfished stock, NMFS must ensure that the total catch (landed catch plus discard) of that stock does not exceed its rebuilding OY. While the National Standards call for the minimization of discard and discard mortality to the extent practicable, it makes no difference to stock health or productivity whether discard mortality comprises 0 percent, 10 percent, 50 percent, or 100 percent of the total allowable catch. Discard, where avoidable, is undesirable from economic and social perspectives, and is discouraged by the statute. However, management measures that are needed to limit the total harvest of overfished groundfish species and to discourage the targeting of these overfished, but economically valuable, groundfish species may result in discard.

NMFS' approach to bycatch management in the 2002 specifications and management measures is a radical departure from historic bycatch management practices. The primary emphasis of the bycatch modeling that NMFS used in the development of the 2002 management measures is the estimation of the total amounts of bycatch species that will be caught coincidentally with available target species. The new management approach structures the amount and timing of cumulative landings limits for target species so that the expected total catch of the five overfished species (canary rockfish, POP, lingcod, boccacio and darkblotched rockfish) will not exceed their allowable annual harvests. This new approach better accounts for the total mortality of the overfished stocks taken as bycatch than the previous method of applying estimated discard rates to the annual OY to calculate landed catch harvest guidelines.

In the past, NMFS would assume that a certain percent of a species' total catch OY would be dead from fishery discard, rather than dead because it was caught and landed. This percent of assumed dead discarded fish would be deducted from a species annual OY at the beginning of the fishing year in order to calculate the species' landed catch OY for the year. The fishery would be managed throughout the year so that actual landings would not exceed the landed catch OY for each species. This approach can result in the annual OY for the bycatch species being exceeded if the amount of discards is not accurately estimated, and it may not account for the actual ratio of co-occurrence of target and bycatch species in the catch. Thus, NMFS believes that setting cumulative landing limits for both target and bycatch species based on their co-occurrence in the catch is a superior first line of defense in ensuring that annual OYs for bycatch species are not exceeded.

Although no longer the first line of defense, calculating landed catch OYs based on estimated discard rates is still a strong second line of defense. NMFS' new modeling approach for 2002 provided insight into the expected level of discards that are associated with total amounts of catch. Results from the modeling were drawn upon as described later in this response to estimate landed catch OYs for the five overfished species in the commercial fishery. Should landings of any species progress at a pace that threatens to exceed its landed catch OY, inseason action will be taken to reduce fishing effort for one or more of the target species.

The third line of defense is the revision of the procedures used for evaluating inseason progress of the fishery and for making management adjustments for the target species. In previous years, when inseason monitoring had revealed that landings of a target species, or complex, were progressing at a rate that was too fast or too slow, adjustments were made to the cumulative landings limits based primarily on achieving the annual OY for the target species with little consideration of the bycatch implications of changing those limits. For 2002 inseason actions, the bycatch model will be used to evaluate the bycatch consequences of deviations from the projected target fishery landings that have occurred, and of any proposed changes in target species limits during the remainder of the year. Target species landings limits will not be adjusted upwards if an adjustment means that an associated bycatch species total catch OY will be exceeded, even if the annual OY for the target species will not be achieved. As in the 2000 and 2001 fisheries, trip limits for overfished species that are intended to provide for minimal bycatch retention of these species will not be increased during the year even if it appears that their landings will be less than their landed catch OYs.

Since the early 1990s, discard estimates for West Coast groundfish have been derived from several different data sources. Recent rockfish discard estimates of 16 percent of a total catch OY were initially derived from a 1985–87 observed trawl study, commonly known as ''the Pikitch study'' for its principal investigator. Some discard estimates were updated with data from the 1995–1998 Experimental Data Collection Program (EDCP). NMFS began a significant new effort to quantify total catch and discards in the groundfish fishery in August 2001, when it introduced a mandatory observer program. Data from the new coastwide observer program will not be available for use until after the program has been operational for at least a full year. For the 2002 specifications and management measures, NMFS new bycatch analysis and modeling compared data from the Pikitch study, the EDCP, and trawl logbooks in greater depth and more comprehensively than in the past.

The NMFS bycatch modeling for 2002 provided an assessment of the amount of regulatory-induced discards (i.e., the amounts of catch that must be discarded because they exceed a vessel's cumulative landing limit). The model provided this assessment by applying uniform bycatch rates to projected target landings. The resulting implied discard rates are thought to underestimate the amount of discard that would occur with less uniform distributions of bycatch. However, the bycatch analysis also included additional simulation modeling intended to provide insight on the extent of this underestimation. It is important to note, however, that as long as the average bycatch rate applied to the target landings accurately reflects the overall average rate of bycatch in that fishery/region/time-period, the distribution of discard rates for individual tows or vessels around that average will not affect the accurate calculation of total bycatch. Because several different approaches were used in conducting the bycatch analysis, it was possible to compare bycatch rates under sets of assumptions that reflected both the bycatch uniformity of the model and a much more realistic non-uniform distribution of bycatch. Consequently NMFS reported a range of expected discards that is explained in more detail in the preamble to the proposed rule (67 FR 1570–71). In all cases, except darkblotched rockfish, the upper ends of the ranges estimated for regulatory-induced discards were below the discard rates applied by NMFS in prior years. For darkblotched rockfish, the upper end was at the 16 percent rate applied in prior years.

NMFS decided to continue to use the 16 percent discard estimate from prior years for canary rockfish, bocaccio, and

POP. For lingcod, NMFS used the 20 percent rate used in prior years, and for darkblotched rockfish, NMFS used a higher rate of 20 percent as explained in the preamble to the proposed rule. All of these discard rates are higher than the ranges estimated from the new bycatch and discard analysis, as a precautionary measure for two basic reasons. First, the bycatch analysis which yielded lower discard rates is new and not yet validated by actual data from the new observer program. Second, the analysis does not take into account size- or market-related discards for which there is little existing data. Thus, NMFS believes that using the 16 percent and 20 percent discard estimates described above for the five overfished species covered by the new analysis in 2002 is appropriately conservative and precautionary.

Comment 8: The total catch OY for chilipepper rockfish has been artificially reduced to 2,000 mt to reflect alleged incidental catch of bocaccio rockfish. The data being used to support this reduction do not reflect changes in fishing gear and patterns. An OY reduction of this magnitude is unnecessary and additional harvest of chilipepper should be allowed.

Response: As described in footnote n/ of Table 1a, the chilipepper rockfish ABC of 2,700 mt for the Monterey-Conception area is based on the 1998 chilipepper 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.

Reducing the chilipepper rockfish OY to protect co-occurring bocaccio is one of several measures the Council has recommended to protect and rebuild bocaccio. Bocaccio and chilipepper management measures for 2002 were based on the Council's initial adoption of bocaccio rebuilding measures in November 1999. (See Council documents: Draft Bocaccio Rebuilding Plan, November 1999, Attachment G.2.c.; Final Groundfish Management Team ABC and OY Recommendations for 2000, November 1999, Groundfish Management Team (GMT) Report G.3.(1); Scientific and Statistical Committee Report on Final Harvest Levels for 2000, November 1999, Supplemental SSC Report G.3). During its November 1999 meeting, the Council and its advisory entities discussed rebuilding measures for bocaccio rockfish and determined that reducing the chilipepper harvest target from an F50% OY of 2,700 mt to 2,000 mt would provide a measure of protection for bocaccio rockfish. This same adjustment was carried through into 2001 and 2002, based on the Council's adopted rebuilding measures for bocaccio. (Bocaccio rebuilding plan updated at: Revised Rebuilding Plan for Southern West Coast Bocaccio, *Sebastes paucispinis*, September 2001, Exhibit C.5., Supplemental Attachment 4). The Council will likely re-consider this adjustment to the chilipepper rockfish OY when it re-considers overall bocaccio rebuilding measures as part of its FMP amendment for rebuilding plans, scheduled for Council consideration in April and June of 2002. For the 2002 specifications and management measures, NMFS notes that this adjustment to the chilipepper OY is based on the best available scientific information. Reducing fisheries effort on and harvest levels of healthy stock that co-occur with depleted stocks is one of the hallmarks of the Council's overall strategy for rebuilding overfished groundfish species.

Comment 9: NMFS has failed to perform any bycatch analysis for widow rockfish, proposing instead to use the 16 percent discard rate assumption. NMFS has failed to consider whether the cumulative limits for widow rockfish and co-occurring species that have been lowered over time have resulted in an increase in the discard rate over time. In considering only this single bycatch rate for widow rockfish, NMFS has also violated NEPA.

Response: NMFS's bycatch analysis for 2002 focused on lingcod, bocaccio, canary rockfish, darkblotched rockfish, and POP. NMFS has not, however, failed to consider the bycatch of widow rockfish in the groundfish fisheries. Historically, widow rockfish has been a target species, not a bycatch species. The 16 percent discard rate assumption for widow rockfish is based on a 1985–1987 observed trawl study of widow rockfish discard in trawl fisheries targeting widow rockfish as well as numerous other rockfish and non-rockfish species, commonly known as ''the Pikitch study'' for its principal investigator. NMFS's bycatch analysis for 2002 used data from the Pikitch study, the 1995–1998 Experimental Data Collection Program (EDCP) and trawl logbooks. Preliminary evaluation of data from the EDCP and Pikitch studies in preparation for the bycatch analysis showed widow rockfish as having a discard rate in fisheries where it was a bycatch species that was far enough below the 16 percent assumed by the Pikitch study to conclude that the 16 percent discard rate assumption was reasonably conservative and precautionary. (See Draft Summary Minutes for August 6–10, 2001 GMT meeting).

Directed fishing opportunities for widow rockfish have been eliminated in 2002. Directed fishing opportunities for yellowtail rockfish, which like widow rockfish can be targeted by mid-water trawl and often co-occurs with widow rockfish, have also been eliminated. In 2002, widow rockfish retention will be permitted only in the mid-water trawl fisheries for whiting, which are full-retention fisheries and in small footrope trawl fisheries for flatfish and DTS species, where a 1,000 lb (454 kg) per month limit is provided. Modest amounts of widow rockfish may also be taken in the hook-and-line fisheries for shelf rockfish; however, limits for the shelf rockfish group as a whole are set at incidental catch levels.

Comment 10: The proposed rule does not account for bycatch of yelloweye rockfish and cowcod. For cowcod, the agency has only proposed setting the landed catch OY at zero, prohibiting cowcod retention, and closing certain waters off southern California to groundfish fishing. The agency does not discuss whether the proposed closures constrain discard mortality to the necessary levels. NMFS has violated NEPA in not considering alternative closed areas.

Response: NMFS disagrees. As discussed in the preamble to the proposed rule (see 67 FR 1572, 1574, and 1575), the 2002 management measures include several regulations intended to minimize yelloweye rockfish interception and retention. 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 are permitted in the trawl fisheries to ensure that if it is encountered, it will be available for scientific sampling. Yelloweye rockfish is caught incidentally in hook-and-line sablefish fisheries and probably directly targeted in hook-and-line rockfish fisheries. Yelloweye rockfish tend to sell for a higher price per pound than other co-occurring rockfish species, which makes them a likely target rockfish species. Thus, yelloweye rockfish retention has been prohibited entirely in the limited

entry fixed gear fisheries. Sablefish hook-and-line fishing has been structured with weekly limits to provide higher limits that are expected to encourage vessels to take the time to travel to continental slope waters, where yelloweye rockfish is less frequently encountered, for the larger and more valuable sablefish. Washington State has recommended prohibiting all yelloweye rockfish in recreational fisheries. Oregon State has recommended a 1–fish bag limit for yelloweye rockfish and prohibiting yelloweye rockfish retention when halibut are on board to discourage anglers on halibut fishing trips from targeting yelloweye rockfish as part of their fishing trips. All of these yelloweye rockfish protection measures are new in 2002.

Cowcod management measures for 2002 were based on the Council's initial adoption of cowcod rebuilding measures in November 2000. (See Council documents: GMT Comments on Cowcod Management Measures for 2001, November 2000, Exhibit C.9.c., Supplemental GMT Report 2; Enforcement Consultants Comments on Cowcod Management Measures for 2001, Exhibit C.9.c., Supplemental Enforcement Consultants Report). During its November 2000 meeting, the Council and its advisory entities discussed alternative cowcod closed areas based on prime cowcod habitat described in the Council's November 2000 draft ''Initial Rebuilding Plan for West Coast Cowcod, Sebastes levis,'' Exhibit C.1., Attachment 2 (Later updated in May 2001, available as the Council's June 2001 Exhibit C.10., Attachment 3). The Council will likely re-consider these closed areas when it re-considers overall cowcod rebuilding measures as part of its FMP amendment for rebuilding plans, scheduled for Council consideration in April and June of 2002. If the Council again adopts closed areas to protect cowcod, it is unlikely that the Council would recommend an annual process of considering new changes to the dimensions of those closed areas.

Comment 11: The proposed rule fails to provide a mechanism for accurately assessing bycatch in the groundfish fishery because the specifications do not provide for an observer program. By failing to consider inclusion of an adequate observer program (one that produces sufficient data to accurately assess the amount and type of bycatch occurring in the fishery), NMFS has violated the NEPA requirement to consider a reasonable range of alternatives.

Response: The annual specifications and management measures regulations package is not intended to, and in fact does not, provide annual revisions to all of the Federal regulations and management programs that affect the West Coast groundfish fisheries. Observer program regulations for the West Coast groundfish fishery are found at 50 CFR 660.360. An observer coverage plan describing the goals of and methodology used in the West Coast Groundfish Observer Program was announced in the **Federal Register** on January 10, 2002 at 67 FR 1329 and is available online at: http://www.nwfsc.noaa.gov/ fram/Observer/ObserverSamplingPlan.pdf or from the NMFS Northwest Fisheries Science Center, 2725 Montlake Blvd., E., Seattle, WA 98112. Further information on the observer program is also available in the Small Entity Compliance Guide for the observer program regulations, found online at: http://www.nwr.noaa. gov/ 1sustfsh/ groundfish/ public2002/ compliance.pdf or from the Northwest Region (See **ADDRESSES**). Any future changes to observer program regulations or to the observer program coverage plan will continue to be developed and considered outside of the context of the annual specifications and management measures regulatory package.

Comment 12: NMFS has not assessed the effect of the proposed increase in shortspine thornyhead harvest levels on the bycatch of co-occurring overfished species.

Response: NMFS disagrees. Shortspine thornyhead is part of the DTS complex. As discussed earlier in the response to Comment 1, the cumulative limits for each of the species in that complex were primarily governed by the rates at which overfished species could be intercepted by the fishery targeting DTS.

Comment 13: NMFS new bycatch analysis assumes that all fish caught by a trawl vessel are retained and landed until the vessel reaches its trip limit for that species, at which point (and only at which point) discard commences for that species. We disagree with this assumption. Fishers may begin discarding well before approaching a cumulative landing limit because of size- or market-related reasons or because they fear that landing a species with a very low OY will cause that OY to be exceeded early in the fishing year and result in closure of the fishery. Thus NMFS bycatch analysis underestimates discards.

Response: As noted by the commenter, the new bycatch analysis does not quantitatively address the issue of size- or market-related discards. The two available sources of discard information that incorporated scientific observers (Pikitch study and EDCP) do not reliably identify the different reasons why discard occurred. NMFS has conducted an analysis of discard in the DTS fishery, based on data from EDCP, which correlates observed discard with the remaining trip limit for the vessel and its total catch of related species. However, the agency did not have enough time to conduct a similar analysis of these species in time for setting the 2002 specifications. As stated in the response to Comment 7, the agency adopted more precautionary landed catch OYs, by using the higher overfished species discard rates of 2001, rather than the discard estimates generated by the new bycatch analysis. The only exception to this use of the more conservative 2001 rates was darkblotched rockfish, for which NMFS used a 20 percent discard rate based on higher observed rates of discard for slope rockfish from EDCP observations. It should also be noted that the generally poor recruitments observed for these overfished stocks during the late 1990s suggest that the likelihood of encountering unmarketable small fish is probably lower now than it was in the past.

In addition to the issue of size- or market-related discards, the commenter suggests that strategic behavior will lead fishers to discard species with low OYs prior to attaining their trip limits, so as to increase the likelihood of a full season for other species. For such a decision to make economic sense, individual fishers, would need to have considerable certainty that all or most other fishery participants will make the same choice, which is unlikely. If they do not, then the fisher will lose fishing time and the value of the catch that has been unnecessarily discarded. Given the high unit-value of these fish and the significant recent declines in fleet revenue, it is speculative to assume that this type of behavior would occur. With the NMFS observer program beginning trawl observation in September 2001, NMFS should be able to begin assessing the likelihood of such behavior by 2003. Until then, even in the unlikely event that all of the catch of these species were discarded, the estimated total amount of bycatch in the fishery will continue to be driven not by the lack of landed catch, but by estimates derived from the bycatch model, thus assuring that the annual OY for the bycatch species is not exceeded.

Comment 14: NMFS new bycatch analysis considers only the limited entry commercial trawl fishery and omits all consideration of bycatch occurring in other portions of the

commercial fishery, in the open access fishery, and in the recreational fishery. The agency has failed to consider or address adequately how these omissions may affect both its bycatch analysis and the amount of bycatch that actually is occurring in the entire groundfish fishery. The shrimp trawl fishery alone has potential to cause substantial bycatch.

Response: Quantitative estimates of bycatch occurring in other commercial, as well as sport, fisheries were not included in the quantitative bycatch modeling because there is little or no data available for bycatch rates in remaining target fisheries. For example, in line gear fisheries, landings receipts may reveal that certain species were landed together, but there is no counterpart to trawl logbooks in these fisheries to confirm that they were actually caught together.

The potential bycatch effects of these other fishery sectors were not ignored in crafting of management recommendations for 2002. Because line gears are better suited for use in rocky habitat than is small footrope trawl gear, more restrictive trip limits for shelf rockfish species were set for these gears to discourage fishing in areas where bycatch of overfished species would most likely occur. Additionally, substantial time and area closures were set for shelf species in the southern management area for all sectors of the fishery except limited entry trawl. Recreational bag limits for combined rockfish have also been lowered coastwide in recent years, in conjunction with sublimits on overfished species, in order to reduce fishing effort in rockfish habitat on the shelf when these fisheries are open.

Recreational and commercial fixed gear fleets have had only minor participation in slope rockfish fisheries. Since 1994, the minor slope rockfish landings of all non-trawl commercial gears in the northern area have amounted to less than 10 percent of the groundfish trawl landings, and line gears have contributed most of that. Since 1995, darkblotched rockfish has not comprised more than 2.5 percent or 2 mt of all northern minor slope rockfish landed by line gears. Only 0.6 mt of darkblotched rockfish has been landed during the entire 1999–2001 period. Similarly, annual landings of POP by line gears have been less than 1 mt since 1996.

NMFS and the Council do not have direct control over fishing practices in the West Coast pink shrimp trawl fishery. However, they have encouraged the three states to implement requirements that will limit the bycatch of rockfish in general and canary rockfish in particular during prosecution of that fishery. During the 2001 fishery, Oregon and Washington implemented mandatory use of finfish excluders. This action was triggered on August 1 when a limit of 2.5 mt of canary landings was reached and remained in effect throughout the remaining three months of the fishery. The same protocol for implementing this requirement will be in place for 2002. For procedural reasons, California was unable to implement similar requirements during the 2001 fishery, but will be requiring the use of finfish excluders in its pink shrimp fishery from the beginning of its 2002 season on April 1.

Comment 15: NMFS' assertion that the new cumulative limits requiring small footropes have reduced bycatch is unsubstantiated. NMFS also fails to adequately consider changes that have occurred since the data were generated that would tend to increase the amount of discard currently occurring in the fishery. Those changes include: the ever lower trip limits that tend to cause discard rates to go up, and the incentive fishers have to discard species earlier once those species are overfished.

Response: The new bycatch analysis is not based on the presumption that small-footrope gear is more effective at avoiding rockfish. It uses bycatch data from fisheries where small-footrope gear was used because that is the gear that trawlers may now use to take and retain shelf groundfish species. There must be correspondence between the gear that is used in the current fishery and the gear that was used when data were collected for the studies that form the basis of the bycatch rates included in the modeling. Small footrope gear need be no more effective at avoiding bycatch in 2002 than it has been in the past for the analysis to be sound.

There are, however, several reasons for believing that the requirement for small footrope usage has altered the distribution of aggregate fishing effort among locations and strategies on the shelf, and that this has had a beneficial effect on the fleet bycatch rates of overfished species. First, rockfish are so named because they frequent rocky habitat. This habitat can be extremely destructive to trawl gear that is not designed for use in such areas. Before implementation of the small footrope requirement, fishers were allowed to and did target this rocky habitat using gear configured with 2–3 ft (6096–9144 m)diameter truck tires protecting the trawl footropes. This style of footrope allows the net to be towed through very rocky areas with far less chance of damaging, snagging, or losing the net completely, along with trawls doors and cables. Nets in this fishery typically cost about $5,000, with doors and cables costing about $7,000. Even minor damage to a net may result in hundreds of dollars in repair costs. A fisher trawling an 8–inch (20.3–cm)footrope through rocky habitat would be wagering the potential for thousands of dollars of gear repair or replacement against the limited economic returns afforded by the current groundfish limits. In the northern management area, the maximum return from the small footrope 2–month limits for widow, yellowtail, canary, minor shelf rockfish, and lingcod range from $1,850 in the winter to $2,350 in the summer.

From a more empirical perspective, WDFW conducted a comparison of trawl fishing locations off Oregon and Washington, as reported in logbooks between 1999 and 2000—before and after implementation of the small footrope requirement. These data are limited in that they only identify the starting position of each tow. However, these logbooks represent the only comprehensive source of fishing locations for any West Coast groundfish fleet, commercial or sport. The analysis found substantial changes in fishing locations and in particular, a shift in trawl effort from areas of higher to lower canary rockfish bycatch.

The commenter also criticized the lack of consideration given to ''countervailing factors that could have increased bycatch in particular, the lower landing limits that have been established for various species since then.'' While lower trip limits may in some cases result in higher discards, there is no logical connection between lower retention limits and higher rates of bycatch. The dynamics by which the sizes of trip limits may affect the rate of discard are discussed on pages A–4 and A–5 of the EA/RIR/IRFA.

Comment 16: We disagree with the NMFS assertion that the decrease in landings limits in recent years for all shelf rockfish species has resulted in fewer incentives for fishers to target those species than there were at the time of the Pikitch study and a decrease in the amount of bycatch in the fishery. What matters is not the absolute amount of fishing opportunity that is available for a given species, but the relative amount of fishing opportunity for co-occurring species. So long as there are fishing harvest limits for co-occurring species that are higher than the limits for one or more overfished species, there will be incentive for fishers to fish in a manner likely to result in bycatch and discard of the overfished species. We

also note that NMFS assumes that all overfished species are located on the shelf, which is not the case. Dark-blotched rockfish and POP are both slope species. Finally, there is still substantial fishing effort occurring on the shelf, as shown by Oregon Department of Fish and Wildlife data. NMFS has failed to address this data and has failed to point to adequate data indicating that significant fishing is no longer occurring on the shelf.

Response: The major reductions in trip limits for continental shelf species that have occurred over the past 10–15 years are well-documented in the **Federal Register** and the Council's SAFE reports. These reductions have in turn led to major decreases in landings for shelf rockfish species. As an illustration, consider the combined landings of lingcod, yellowtail, chilipepper, widow, canary, bocaccio, and minor shelf rockfishes, along with flatfish other than Dover sole. Dover sole and other DTS species are not included, because significant amounts of these species are caught on the continental slope. In 1997, during the Pikitch study, landings of these species amounted to 34,000 mt. By 1996, during the EDCP study, they had fallen to 22,800 mt. The largely complete data from the 2001 fishery show 10,800 mt of landings for these species.

While it is true that much of this decline is attributable to species that are now under rebuilding plans, these trends are also apparent in the declining landings of healthy species for which limits have been reduced to afford greater protection to depleted stocks. For example, the species now assigned to the minor shelf rockfish group accounted for more than 1,200 mt of landings in 1987—and no less than 900 mt from that year through 1996. Landings of these species had dropped to less than 100 mt by 2000. More than 12,000 mt of flatfish species other than Dover sole were landed in 1991, but less than 7,500 mt by 2000. Landings of chilipepper rockfish, which co-occurs with bocaccio, have fallen from over 2,100 mt annually between 1989 and 1991, to roughly 400 mt annually since 2000. Landings of yellowtail rockfish, often associated with canary rockfish, averaged 4,300 mt between 1987 and 1996 and fell to less than 2,800 mt in 2000 and 1,700 mt in 2001. During the summer months, a significant percentage of fishing for Dover sole, shortspine thornyhead, and sablefish typically occurs on the shelf. Based on the 1999 logbook data for Oregon and Washington, roughly 60 percent of trawl sablefish and 70 percent of Dover sole were caught in shelf depths between July and September, as opposed to less than 5 percent of each during the first quarter. During the months from May through October, landings of these three species averaged 13,000 mt annually, from 1987 to 1993. During 2000 and 2001, their landings in these months have fallen to less than 5,500 mt.

NMFS is well aware that darkblotched and POP are continental slope species, as indicated in IV.A.(21)(c) and Table 2 of the proposed rule and this final rule. NMFS has taken numerous actions to reduce overall trawl effort on the slope. For instance, trip limits for minor slope rockfish in the northern area, a complex that includes darkblotched rockfish, have been lowered for the express purpose of constraining darkblotched rockfish catch. During the 2001 fishery, only 203 mt of the 975 mt harvest guideline for these other slope rockfish were landed as a result of these restrictions. Similarly, 2001 landings of another slope species—longspine thornyhead—represented only 1,159 mt of its 2,043 mt landed catch OY, due to trip limit reductions to protect other species.

As in the shelf examples, trawl effort and catch of northern slope target species has declined significantly over the past decade. Landings of all slope rockfish in the northern area averaged over 3,200 mt from 1991 to 1993. By 2001, that amount had fallen to just over 400 mt. Removing darkblotched rockfish and POP from this group, landings of the remaining slope species fell from an average of 1,100 mt in 1991–93 to 130 mt in 2001. Additionally, the deep-water harvest of DTS species during the winter months in the northern area has also dropped, from an average of 11,000 mt during 1988–93 to 4,100 mt in 2001.

Finally, the commenter's assertion that ''so long as there exist fishing harvest limits for co-occurring species which are higher than the limits for one or more overfished species, there will be incentive for fishers to fish in a manner likely to result in bycatch and discard of the overfished species'' disregards the structure of the fisheries management regime, which allows the harvest of healthy target species while restraining the bycatch of overfished species to their annual OYs. The OYs of overfished stocks are set to rebuild those overfished stocks to their MSY levels within the constraints set by the national standard guidelines. Certainly, bycatch would be less if target species landing limits were no greater than the limits on bycatch species, but the fishery would forfeit millions of dollars of revenue derived from the harvest of healthy target species and likely suffer economic collapse. The structure of the 2002 fisheries management regime is to set the limits for target and bycatch species based on their actual ratio of co-occurrence in the catch, and at a level that ensures the total catch of the bycatch species does not exceed the annual catch OY.

Comment 17: NMFS' new bycatch analysis fails to address adequately the limitations of the logbook data, particularly logbook data for fishing south of Cape Mendocino and for bocaccio. NMFS has failed to consider adequately and to correct for the inherent limitations of logbook data, most serious of which is that the fishers compiling the data have an incentive to skew the data. NMFS also fails to adequately address the fact that the logbook data do not include discard estimates and could, therefore, yield underestimates of total bycatch.

Response: The NMFS analysis clearly acknowledges the limitations of reliance on logbook data as the sole source of southern bycatch information that captures only landings of bycatch species and not total catch (p. A–8 of the EA). However, until sufficient data are compiled by the NMFS observer program, this is the only available source of bycatch information from the trawl fishery in this region. Although the tow-level retained catches in logbooks are self-reported, as noted in the comments, these ''hailed'' weights are adjusted so that the total poundage corresponds to the amounts recorded on each trip's fish ticket. Additionally, all of the logbook data included in the analysis were screened so that only tows occurring prior to a vessel reaching its limit for a species were included in the calculation of a bycatch rate. This screening eliminates the downward bias in bycatch rates that would result from including tows where discard was necessitated by trip limits. The commenter also questions the use of these southern logbook rates as the midpoints of the considered bycatch range rather than the low end. This expectation that the bycatch rates from the 1999 logbook must represent the low end of the range is not supported by comparison of rates from all three sources where they are available in the northern area (Table 4a, pp A–17 to A–19 in EA).

Comments on Management Measures

Comment 18: The Washington State Fish and Wildlife Commission met on February 9, 2002, and recommended that the Washington State yelloweye rockfish bag limit be reduced from 1 yelloweye rockfish to zero yelloweye rockfish, basically prohibiting yelloweye rockfish retention in all

Washington recreational fisheries. In general, the Council manages recreational fisheries through the recommendations of the individual states. We ask that NMFS implement the Commission's new and more protective recommendation for yelloweye rockfish taken in Federal waters off Washington State to ensure that state and Federal regulations are compatible and equally protective of yelloweye rockfish.

Response: NMFS agrees and has revised paragraph IV.D.(3)(a) for rockfish taken in recreational fisheries off Washington State to comport with these new recommendations of the State's Fish and Wildlife Commission.

Comment 19: Why is the California coastline divided into three management sectors for commercial hook-and-line gears and only two management sectors for commercial trawl gear? And, why is fishing most restricted for commercial hook-and-line vessels operating between 40°10′ N. lat. and Point Conception?

Response: Management measures for West Coast commercial hook-and-line fisheries are set for three different sub-areas: north of 40°10′ N. lat. (near Cape Mendocino), between 40°10′ N. lat. and Point Conception (34°27′ N. lat.), and south of Point Conception. Management measures for West Coast commercial trawl fisheries are set for two different sub-areas: north and south of 40°10′ N. lat. These division lines, 40°10′ N. lat. and Point Conception, were chosen because they represent approximate divisions in marine ecosystems, with different groundfish species mixes found north and south of the division lines. The main reason that there are only two sub-areas for trawlers is that there are very few groundfish trawl vessels operating south of Point Conception. Commercial hook-and-line fishing for rockfish between 40°10′ N. lat. and Point Conception is more restricted than fishing in the northern and southern areas because there is a relatively large number of commercial hook-and-line vessels targeting rockfish in that central area and there are several overfished rockfish found in the central area. Some overfished rockfish species, like darkblotched rockfish, are concentrated in the northern area, but also occur in the central area. Some overfished rockfish species, like bocaccio, are concentrated in the southern and central areas. This overlap between northern and southern species mixes, combined with the many vessels participating in that area, results in a need for more restrictive management measures for vessels operating in that central area.

Comment 20: Why are commercial trawl vessels and recreational vessels allowed to retain canary rockfish when commercial hook-and-line vessels are not allowed to retain canary rockfish?

Response: Commercial trawl vessels and recreational hook-and-line vessels are allowed a minimal amount of canary rockfish retention, so that canary rockfish that is taken incidentally in fisheries targeting other species may be retained. For the commercial hook-and-line fisheries, however, canary rockfish tend to be either directly targeted or caught in combination with yelloweye rockfish, another overfished species. To protect both canary rockfish and yelloweye rockfish, fishing for canary rockfish has been prohibited for those commercial hook-and-line fisheries.

Comment 21: Why is widow rockfish included in minor shelf rockfish for commercial hook-and-line trip limits while it is regulated separately from other rockfish for trawl vessels and not regulated at all for recreational vessels?

Response: For 2002, widow rockfish has been included in overall shelf rockfish limits for both limited entry fixed gear and open access fisheries. The overall shelf rockfish limits apply to widow and yellowtail rockfish as well as to the minor shelf rockfish listed in Table 2. The main reason that these major and minor shelf rockfish have been grouped together for commercial hook-and-line fisheries management is that several shelf rockfish species are overfished (bocaccio, canary rockfish, cowcod, widow, yelloweye rockfish) and commercial hook-and-line vessels have historically been successful at targeting shelf rockfish species. Although hook-and-line vessels are restricted from going out to target shelf rockfish, a small limit for shelf rockfish has been allowed in order to permit retention of the shelf species that are incidentally harvested when the vessels are targeting other species.

Trawl fisheries and recreational hook-and-line fisheries are restricted to shelf rockfish limits that are intended to allow some retention of shelf rockfish caught incidentally to fisheries targeting other species. However, the primary mechanism for restricting shelf rockfish catch in the trawl fisheries, as discussed earlier in the Response to Comment 7, is the constraint of limits for target species such as flatfish and DTS complex species. Recreational fisheries, which are more likely to target nearshore rockfish, have a 1–fish canary rockfish limit to allow some retention of canary rockfish for anglers who may be targeting other rockfish species. Widow rockfish is seldom taken in the recreational fishery.

Comment 22: Why do commercial trawl vessels have a 12–month season and much higher shelf rockfish limits than commercial hook-and-line vessels? It is unfair to restrict California commercial hook-and-line vessels to the same seasons as the recreational vessels. Limited entry fixed gear limits and seasons should be the same as those for limited entry trawlers.

Response: As discussed earlier in the response to Comment 21, shelf rockfish limits for limited entry trawlers are set only high enough to allow the minimum retention of shelf rockfish caught incidentally in fisheries targeting other species, such as the flatfish fisheries. Similarly, shelf rockfish limits for limited entry fixed gear and open access fisheries are set at levels that should allow retention of some incidentally-caught shelf rockfish. Shelf and nearshore rockfish fishing opportunities are closed for commercial hook-and-line fisheries south of 40°10′ N. lat. during some months of the year both to discourage all fishing that might incidentally take shelf and nearshore rockfish during the closed months and to allow higher shelf and nearshore rockfish limits during the open months.

Comment 23: Paragraph IV.A.(14)(b)(iii) states in part, ''If a vessel has landings attributed to both types of trawl (midwater and small footrope) during a cumulative limit period, all landings are counted toward the most restrictive gear specific cumulative limit.'' The wording of this regulation does not match the Council's intent, which was to allow trawlers to fish with both small footrope gear and midwater trawl gear in a single cumulative limit period as long as neither the gear-specific nor the larger of the two limits were exceeded.

Response: NMFS agrees. That sentence has been corrected to read as follows: ''If a vessel uses both small footrope gear and midwater gear for a single species during the same cumulative limit period and the midwater gear limit is higher than the small footrope gear limit, the small footrope gear limit may not be exceeded with small footrope gear and counts toward the midwater gear limit. Conversely, if a vessel uses both small footrope gear and midwater gear for a single species during the same cumulative limit period and the small footrope gear limit is higher than the midwater gear limit, the midwater gear limit may not be exceeded with midwater gear and counts toward the small footrope gear limit.'' NMFS has additionally clarified a sentence in paragraph IV.A.(14)(b)(i) that read in the proposed rule, ''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 gear limits for any species.'' This sentence has been clarified as follows: ''It is unlawful for any vessel with large footrope gear on board to exceed large footrope gear limits for any species, regardless of which type of trawl gear was used to catch those fish. If a species is subject to a large footrope gear per trip limit, it is unlawful for a vessel fishing with large footrope gear under the per trip limit to exceed the small footrope gear cumulative limit during the applicable cumulative limit period.''

Comments on the EA/RIR/IRFA

Comment 24: The EA as a whole is insufficient to support a finding of no significant impact and fails to adequately consider the significant criteria established by the NEPA's implementing regulations. The EA acknowledges that there is uncertainty about the effects of the specifications and management measures on the human environment and that some of the effects of this action are unknown.

Response: The precautionary approach in fisheries management is multi-faceted and broad in scope. In a fisheries context, the precautionary approach implements conservation measures even in the absence of scientific certainty. The EA/RIR/IRFA acknowledges the scientific uncertainty in setting specifications and management measures and discloses the precautionary measures taken to address the inherent uncertainty in fisheries management. For example, the EA's discussion on setting the POP total catch OY reads in part, ''While Alternatives 1.1 [290 mt total catch OY] and 1.3 [350 mt total catch OY] are lower and higher than the no action alternative [303 mt total catch OY,] respectively, the magnitude of difference between the numbers is small. However, the degree to which that difference might affect the POP stock is unknown.'' As discussed above in the response to Comment 3, the selected Alternative 1.3 has a 70 percent probability of rebuilding the POP stock within the time allowed. Precautionary measures to protect POP through constraining directed and incidental harvest are discussed in the EA under the evaluation of alternative bycatch and discard rate assumptions and under the evaluation of alternative fishery management measures.

Although greater scientific certainty can improve management decisions, scientific uncertainty is an inherent part of fisheries management. Uncertainties must be acknowledged, as they are in the EA, and the agency must implement measures to protect the fishery resources against the harm that could result from those uncertainties. NMFS and the Council have taken action to protect groundfish stocks against harm from uncertainty in numerous policies, for example: the protective ABC policies, setting harvest as conservative as F55% for rockfish; the precautionary ''40–10'' OY policy, which reduces total catch for stocks that are below Fmsy but not overfished; the 2002 bycatch management program for overfished species. These policies and many other overfished species rebuilding measures are intended to acknowledge scientific uncertainty in fisheries management and to guard against potential negative effects of that uncertainty.

Comment 25: NMFS has violated NEPA by failing to consider alternative management techniques beyond trip limit management. The only season closure alternative considered by NMFS was a 6–month season wherein all fisheries would be shut down for 6 months. The agency has not considered staggering season closures, which could optimize landed catch OYs for more cleanly targeted stocks, nor has the agency considered closures shorter than 6 months. Further, the EA considers only the socio-economic effects of different season structures and not the biological effects of those structures.

Response: A primary focus of the EA in specifying management measures for considered season alternatives were areal and temporal variations in the co-occurrence of overfished species in a host of directed fisheries targeting healthy stocks. Trip limits and closures for all season alternatives were designed to minimize the bycatch of these overfished groundfish species and to constrain the fisheries so that the landed catch OYs of these species would not be exceeded. (See the EA/RIR/IRFA at pages T–6 through T–16.) Using the preferred alternative as an example, constraints to control the fishing-related mortality associated with the Pacific Coast groundfish fisheries include: (1) Elimination of midwater trawl opportunities that would target widow and yellowtail rockfish to reduce mortality of widow and canary rockfish,(2) elimination of commercial line fisheries opportunities and seasonal closures for continental shelf fisheries that target shelf rockfish and prohibition of canary and yelloweye rockfish retention, and (3) seasonal closures of recreational and commercial hook-and-line groundfish fisheries off California to reduce the mortality of bocaccio, canary rockfish, and yelloweye rockfish. While the coastwide six month season alternative and other commercial season variations of that alternative were rejected on the basis of their socioeconomic effects, all of the seasonal alternatives were analyzed for their biological efficacy in controlling total mortality of overfished species.

Comment 26: The EA does not consider potential cumulative effects of the rule, as required by the NEPA criteria for determination of an action's significance (40 CFR 1508.37(b)(7)).

Response: NMFS agrees that the cumulative effects analysis in the EA/RIR/IRFA needs to be expanded. Therefore, the EA/RIR/IRFA was modified prior to the publication of this final rule to include a discussion of the cumulative effects of the 2002 specifications and management measures. The final EA/RIR/IRFA is available from the Council (See **ADDRESSES**).

Changes from the Proposed Rule

In the 2002 specifications and management measures proposed rule, NMFS described changes to the primary sablefish season at Section III, ''Management Measures,'' under ''Limited Entry Fixed Gear.'' As discussed in that proposed rule, the final rule to implement Amendment 14 (August 7, 2001, 66 FR 41152) in 2001 did not include some of the more complex provisions of Amendment 14, such as a limited entry fixed gear permit stacking program. NMFS prepared a proposed and final rule to implement Amendment 14 as swiftly as possible in 2001 after receiving the amendment from the Council. However, due to the timing of the receipt of Amendment 14 from the Council, NMFS was unable to implement an April 1 through October 31 primary sablefish season as recommended by Amendment 14. Thus, the agency set the 2001 primary sablefish season as August 15 through October 31, with the expectation that the 2002 season would be held from April 1 through October 31.

As discussed in the proposed rule for the 2002 specifications and management measures, NMFS expected to publish a proposed rule to implement the remaining portions of Amendment 14 to the FMP for 2002 and beyond before April 1, 2002. The agency began drafting that proposed rule in January 2002, at which time the agency realized that several of the regulatory recommendations that the Council had made in association with Amendment 14 could be considered unnecessarily complex and burdensome to the public. These recommendations concern permit transferability and permit owner

restrictions and became apparent to the agency during implementation of the new permit stacking program in 2001. As a result of its experiences with permit stacking and its re-evaluation of these more complex provisions of Amendment 14, the agency has decided to bring several provisions back before the Council at its March and April 2002 meetings.

The length of the primary sablefish season is not linked to the issues that NMFS plans to bring before the Council this spring. In the proposed rule for the 2002 specifications and management measures, the agency proposed an April 1 through October 31 primary sablefish season at Section IV.B.(2)(b)(i). With this final rule, the agency is setting this April 1 through October 31 primary sablefish season in both Section IV.B.(2)(b)(i) of this document and amending Federal regulations at 50 CFR 660.323(a)(2)(ii). NMFS would have proposed these changes to Federal regulations in the specifications proposed rule if it had known at the time of the publication of that proposed rule that it would need to bring the more complex Amendment 14 provisions back to the Council. By finalizing this change to Federal regulations with this final rule, NMFS ensures that the season dates announced in the season management measures are compatible with those announced in Federal regulations. This change is not expected to affect the sablefish resource, but is intended to improve safety and planning convenience for the limited entry fixed gear sablefish fleet. Without this change, the August 15 through October 31 season would remain in place, which is contrary to both the long-term goals of the FMP and to the public interest.

In the proposed rule for the 2002 specifications and management measures, NMFS did not provide a proposed ABC or OY for Pacific whiting, because the whiting assessment was not expected to be complete until early 2002. At its March 11–15, 2002, meeting in Sacramento, CA, the Council will finalize its recommendation for a whiting ABC and OY. NMFS will then publish the whiting ABC and OY as an emergency rule to amend this final rule. In the interim, the whiting ABC and OY from 2001 remain in place and are set out in Table 1a.

During its February 4–7, 2002, meeting, the GMT commented to NMFS that it thought that the 1,000 lb (454 kg) per month limit for nearshore rockfish in the limited entry trawl fisheries, for May through October was unnecessarily high and may have been accidentally transposed from the shelf rockfish limit recommendation of 1,000 lb (454 kg) per month. While the GMT considered 1,000 lb (454 kg) an appropriate shelf rockfish limit, it did not consider that limit appropriate for nearshore rockfish taken in the trawl fisheries. Nearshore rockfish are usually only caught incidentally in limited entry trawl fisheries and higher limits could encourage targeting for nearshore rockfish. The GMT therefore recommended, and NMFS has implemented through this final rule, continuing the current 300 lb (136 kg) per month nearshore rockfish limit throughout the year for the limited entry trawl fisheries.

I. Specifications

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). The OYs and ABCs recommended by the Council and finalized in this document are consistent with the Magnuson-Stevens Act and the groundfish FMP.

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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).

	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial OY (Total catch)	Allocations (Total catch)			
Species	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/	190,400					190,400	190,400	162,900	--	--	--	--
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	--	--	--	--
Yelloweye w/	22			5	--	27	13.5	3.69	--	--	--	--
Darkblotched v/	187					187	168	168	163	--	5	-

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	0	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/ The 2001 ABC and OY remain in effect in the interim because final values are not yet available. A new stock assessment has been prepared with preliminary indication of a lower ABC and OY. The final ABC and OY will be recommend by the Council at its March 2001 meeting, and will be implemented late in March.

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. In the north, chilpepper is included in the minor shelf rockfish OY.

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 for the Monterey and Conception areas are 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. In the north, bocaccio is included in the minor shelf rockfish OY.

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, 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/.

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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).

Groundfish 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 are 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 for target species 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.

III. 2002 Management Measures

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 for the primary sablefish season dates, and is described in paragraphs IV.B.(2) through (4). Similarly, management measures for the open access exempted trawl fisheries (California halibut, sea cucumber, pink shrimp, spot and ridgeback prawns) are described in paragraph IV.C.(2), separately from the open access fisheries trip limits set out in Table 5.

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 groundfish 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 otherwise 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 access gear, but the open access limit is smaller than the limited 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 designated 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 harvest guideline, if the vessel fished or landed in an area during a time when such trip limit, size limit, harvest guideline, 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 (trawl only.)

(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)(5). 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 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 with large footrope gear on board to exceed large footrope gear limits for any species, regardless of which type of trawl gear was used to catch those fish. If a species is subject to a large footrope gear per trip limit, it is unlawful for a vessel fishing with large footrope gear under the per trip limit to exceed the small footrope gear cumulative limit during the applicable cumulative limit period. 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 are allowed only if small footrope gear or midwater trawl gear is used, and if that gear meets the specifications in paragraph IV.A.(14)(a).

(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 uses both small footrope gear and midwater gear for a single species during the same cumulative limit period and the midwater gear limit is higher than the small footrope gear limit, the small footrope gear limit may not be exceeded with small footrope gear and counts toward the midwater gear limit. Conversely, if a vessel uses both small footrope gear and midwater gear for a single species during the same cumulative limit period and the small footrope gear limit is higher than the midwater gear limit, the midwater gear limit may not be exceeded with midwater gear and counts toward the small footrope gear limit.

(iv) *More than one type of trawl gear on board.* The cumulative trip limits in Table 3 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 that 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 recreational 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°30′ N. lat.

(iv) Monterey--40°30′ to 36°00′ 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.

(a) 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.

(b) 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 3–5).

(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.

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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. dallii	calico, S. dallii
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	redstripe, S. proriger
pinkrose, S. simulator	rosethorn, S. helvomaculatus
pygmy, . wilsoni	rosy, S. rosaceus
redstripe, 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

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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 previously 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 Tables 3 and 4.

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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	Small footrope required: 35,000 lb/ month	Small footrope required: 30,000 lb/ month, no more than 10,000 of which may be petrale sole	Small footrope required: 40,000 lb/ month, no more than 15,000 of which may be petrale sole	Small footrope required: 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/] - 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			CLOSED[7/]
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			CLOSED[7/]
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**	**CLOSED[7/]**					
45	**Minor nearshore rockfish**						
46	North	300 lb/ month					
47	South	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. See IV.A.(14).

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

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 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. POP in the south and splitnose rockfish in the north are included in the trip limits for minor slope 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**						
12	**Arrowtooth flounder**						
13	**Petrale sole**	5,000 lb/ month (all flatfish)					
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 species specific management measures, including trip limits.

3/ 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.

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 and bocaccio and chilipepper rockfishes in the north are included in the trip limits for shelf rockfish in the appropriate area. PCP in the south and splitnose rockfish in the north are included in the trip limits for minor slope 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.

(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 are 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. [For example, if a vessel lands the last of its primary sablefish season tier limit at 1100 hours on a Tuesday, that vessel may not take, retain, possess or land sablefish against the daily or weekly trip limits until after 0001 hours on Wednesday.]

(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.

(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). Any whiting caught shoreward of 100 fathoms (183 m) in the Eureka area counts towards this limit.

(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 limited entry permit for the Pacific Coast groundfish fishery with an endorsement for the gear used to harvest the groundfish. This includes longline, trap, pot, hook-and-line (fixed or mobile), set net and 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.(20)). 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)(1) for black rockfish caught with hook-and-line gear also applies. (The black rockfish limit is repeated at paragraph IV.B.4.)

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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**[4/]	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**[4/]						
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**[4/]						
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**[6/]						
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 40o10' 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 species specific management measures, including trip limits.

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).

4/ Yellowtail rockfish 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. POP in the south and splitnose rockfish in the north are included in the trip limits for minor slope 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.

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(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 subsequently listed 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 laws 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

(1) *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 in paragraph (iii) of this section, except that bocaccio, canary rockfish and yelloweye rockfish retention is prohibited. 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–hook limit per fishing line,

and the bag limit is 10 rockfish per day, of which no 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 rockfish may be retained per vessel. Cowcod may not be retained. Bocaccio, canary rockfish, and yelloweye rockfish 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: bocaccio 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 section 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 (iii) 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.* North of 40°10′ N. lat., recreational fishing for lingcod 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 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 through 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 through 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. Taking and retaining yelloweye rockfish is prohibited off the Coast of Washington.

(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

The Assistant Administrator (AA) 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.

Classification

These final 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 the FMP).

This package of specifications and management measures is intended to protect overfished and depleted groundfish stocks while also allowing as much harvest of healthy stocks as

possible over the course of the year. A 30–day delay in effectiveness for these rules would in fact be a 60–day delay, because most of the trip limits are two-month limits, so most fishers could land the entire two month limit before the rules went into effect in 30 days. Delay in implementation of these regulatory measures could cause harm to some stocks, as fishing would continue using the less restrictive March-December 2001 management measures until the implementation of these 2002 regulations. For example, limits for dover sole are substantially larger for March and April in 2001 than during March and April in 2002. Also, the 2002 regulations allow no mid-water fishing for widow rockfish above the small footrope limit, but the 2001 regulations allow 20,000 lb in March and April. Delay in publishing these measures could also require unnecessarily restrictive measures, including possible closures, later in the year to make up for the excessive harvest allowed by late implementation of these regulations, causing economic harm to the fishing industry and fishing communities. For these reasons, there is good cause under 5 U.S.C. 553(d)(3) to determine that delaying the effectiveness of this rule for 30 days would be contrary to the public interest.

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

NMFS prepared a final regulatory flexibility analysis (FRFA) describing the impact of this action on small entities. The IRFA was summarized in the proposed rule published on January 11, 2002 (67 FR 1555). The following is the summary of the FRFA. The need for and objectives of this final rule are contained in the SUMMARY and Background section of the preamble. NMFS did not receive any comments on the IRFA or on the proposed rule regarding the economic effects of this final rule.

Approximately 2,000 vessels participate in the West Coast groundfish fisheries. Of those, about 500 vessels are registered with 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 of Puget Sound, 232 charter vessels active on the Oregon coast and 415 charter vessels active on the California coast.

In developing the 2002 specifications and management measures, the Council considered three issues, each with several alternatives and sub-options, and ultimately recommended a management package that balanced the conservation and socioeconomic risks and benefits associated with all aspects of the 2002 Pacific Coast groundfish fishery. The three issues were harvest levels, bycatch and discard rate assumptions, and season structuring. Each issue had several alternatives with varying degrees of potential risks and benefits to the groundfish fishery, as 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 encompass a reasonable range of options for the 2002 groundfish fishery, given anticipated short and long term risks and benefits.

Alternative harvest levels were developed for the seven stocks that were subject to new stock assessments or rebuilding strategies in 2001: 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 recommended action. The recommended 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. Neither the status quo alternative nor the high level alternative were recommended because they were not considered to sufficiently reduce the effects of incidental catches of overfished species in fisheries targeting healthy 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 have provided more risk averse stock protection, it was rejected because its effects on the fishery would likely have caused even more severe economic disruptions, particularly in the limited entry trawl and fixed gear fisheries.

The bycatch and discard rate estimation issue arose from the need to accurately account for total groundfish mortality and from recent legal challenges of past bycatch and discard rate assumptions. The Council used a synthesis of several scientific studies to provide a low-to-high range of bycatch rates for lingcod, bocaccio, canary rockfish, darkblotched rockfish, and POP for the limited entry trawl fishery. Four alternatives were considered, the status quo, a low end range of bycatch rates, a high end range of bycatch rates, and species-specific bycatch rates, which were low-, mid-, or high, depending on the data availability and analytical fit for the relationship between each target fishery and bycatch species. The Council chose the individual species bycatch rates that were best supported by the available data. 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 because the new analysis required by the Court provided a better basis for bycatch and discard management. Applying the low end alternative would not have been as constraining on the fishery, but represented a greater risk of overfishing depleted stocks if bycatch rates and total mortality were underestimated. Applying the high end alternative would have entailed less risk of overfishing, but would have been the most constraining on the fishery and would have incurred unnecessary economic losses if the total mortality were overestimated and for some species did not appear to use the best available data.

The alternative season options considered area and time closures to allow higher trip limits and lessen regulatory discard of groundfish during open times and areas. Six alternatives were considered for the commercial seasons: the status quo, a year-round 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 recommended action, which shaped seasons based on allowing harvest of the preferred OYs of healthy stocks during times and in areas

when bycatch of overfished stocks would be reduced. The status quo alternative was rejected because it would not have used the best available science (i.e., new stock assessments,) and would have violated the legal mandate to reconsider 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 for different fishing sectors. The two year-round GAP recommended seasons were rejected because the landing limits for these seasons would have resulted in a higher bycatch of constraining stocks than would have been allowed under the range of harvest levels considered, possibly exceeding the OYs for those stocks.

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 state- and area-specific fisheries.

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. This restructuring is intended to limit the extent to which businesses such as tackle suppliers and gear 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. A copy of this analysis is available from NMFS (see **ADDRESSES**).

This rule does not propose any new reporting and recordkeeping requirements; however, the proposed rule was used in part as a vehicle to announce exempted fishing permits (EFPs) for 2002, which include reporting and recordkeeping requirements. Permit requirements relevant to the EFPs discussed in the proposed rule have been approved by OMB under control number 0648–0203 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. EFP permittees would be owners or captains of West Coast groundfish fishing vessels, most of which are classified as small entities. No professional skills are needed for any of the reporting requirements of the EFP programs.

A copy of this analysis is available from NMFS (see **ADDRESSES**).

The Small Business Regulatory Enforcement Act of 1996 requires a plain language guide to assist small entities in complying with this rule. In order to comply with this requirement, NMFS has produced a public notice labeled a Small Business Entity Compliance Guide for the 2002 fishing season that includes trip limit tables and descriptions of 2002 management measures. Contact NMFS to request a copy of this public notice (see **ADDRESSES**) or see the NMFS Northwest Region's groundfish website at *http://www.nwr.noaa.gov/ 1sustfsh/gdfsh01.htm.*

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 allocation or regulations specific to the tribes, in writing, before the first of the two autumn 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 final 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 final 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 California 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 April 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.

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: March 1, 2002.

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 amended as follows:

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

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

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

2. In § 660.323, paragraph (a)(2)(ii) is revised to read as follows:

§ 660.323 Catch restrictions.

(a) * * *

(2) * * *

(ii) *Primary season–limited entry, fixed gear sablefish fishery*–(A) *Season dates.* North of 36° N. lat., the primary sablefish season for limited entry, fixed gear vessels begins at 12 noon l.t. on April 1 and ends at 12 noon l.t. on October 31, unless otherwise announced by the Regional Administrator.

* * * * *

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