DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No.; 040830250–5109–04; I.D. 081304C]

RIN 0648–AS27

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Correction

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

ACTION: Final rule; request for comments; correction.

SUMMARY: This final rule establishes the 2005 fishery specifications for Pacific whiting (whiting) in the U.S. exclusive economic zone (EEZ) and state waters off the coasts of Washington, Oregon, and California, as authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP). It also adjusts the bycatch limits in the whiting fishery. This **Federal Register** document also corrects the final rule implementing the specifications and management measures, which was published December 23, 2004. These specifications include the level of the acceptable biological catch (ABC), optimum yield (OY), tribal allocation, and allocations for the non-tribal commercial sectors. The intended effect of this action is to establish allowable harvest levels of whiting based on the best available scientific information.

DATES: Effective April 28, 2005. Comments on the revisions to bycatch limits must be received no later than 5 p.m., l.t. on May 18, 2005.

ADDRESSES: You may submit comments, identified by I.D. 081304C by any of the following methods:

- E-mail: *Whiting0506.nwr@noaa.gov*: Include 081304C in the subject line of the message.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Fax: 206–526–6736, Attn: Becky Renko
- Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070, Attn: Becky Renko.

Copies of the final environmental impact statement (FEIS) for this action are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503–820–2280. These documents are also available online at the Council's website at *http://www.pcoucil.org*. Copies of additional reports referred to in this document may also be obtained from the Council. Copies of the Record of Decision (ROD), final regulatory flexibility analysis (FRFA), and the Small Entity Compliance Guide are available from D. Robert Lohn, Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way, NE, Seattle, WA 98115–0070.

FOR FURTHER INFORMATION CONTACT: Becky Renko (Northwest Region, NMFS) 206–526–6150.

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is accessible via the Internet at the Office of the **Federal Register**'s Website at *http://www.gpoaccess.gov/fr/index.html*. Background information and documents are available at the NMFS Northwest Region website at *http://www.nwr.noaa.gov/1sustfsh/gdfsh01.htm*.

Background

A proposed rulemaking to implement the 2005–2006 specifications and management measures for the Pacific Coast groundfish fishery was published on September 21, 2004 (69 FR 56550). NMFS requested public comment on the proposed rule through October 21, 2004. During that comment period, NMFS received five letters of comment that were addressed in the preamble of the final rule published on December 23, 2004 (69 FR 77012). Comments regarding bycatch of overfished species, including bycatch of overfished species in the whiting fishery were received and responded to in the final rule. NMFS received no comments specific to the whiting ABC or OY. These comments were addressed in the preamble of the final rule. For further information on these comments, see the preamble of the final rules for the 2005–2006 annual specifications and management measures.

Management Process

The FMP requires that fishery specifications be evaluated biennially or annually and revised as necessary, that OYs be specified for groundfish species or species groups that need protection, and that management measures designed to achieve the OYs be published in the **Federal Register**. Specifications include ABCs and harvest levels (OYs, harvest guidelines, allocations, or quotas). In November 2003, the U.S. and Canada signed an agreement regarding the conservation, research, and catch sharing of whiting. The whiting catch sharing arrangement that was agreed upon provides 73.88 percent of the total catch OY to the U.S. fisheries and 26.12 percent to the Canadian fisheries. At this time, both countries are taking steps to bring this agreement into force. Until the agreement is ratified and implementing legislation effective, the negotiators recommended that each country apply the agreed upon provisions.

In anticipation of the ratification of the U.S.-Canada agreement and a new stock assessment, and given the small amount of whiting that is typically landed under trip limits prior to the April 1 start of the primary season, the Council adopted a range for OY and ABC in the 2005–2006 specifications, and delayed adoption of a final 2005 ABC and OY until its March 2005 meeting. To date, the international agreement has not yet been ratified and implementing legislation has not yet been made effective. The ABC and OY values recommended by the Council as final ABC and OY values for 2005 are based on a stock assessment update and are within the range of those considered in the EIS for the 2005 and 2006 management measures.

Stock Status

In general, whiting is a very productive species with highly variable recruitment (the biomass of fish that mature and enter the fishery each year) and a relatively short life span when compared to other overfished groundfish species. In 1987, the whiting biomass was at a historical high level due to an exceptionally large number of fish that spawned in 1980 and 1984 (fished spawned during a particular year are referred to as year classes). As these large year classes of fish passed through the population and were replaced by moderate sized year classes, the stock declined. The whiting stock stabilized between 1995 and 1997, but then declined to its lowest level in 2001.

The 2002 whiting stock assessment estimated the female spawning biomass to be less than 20 percent of the unfished biomass in 2001 and was declared overfished on April 15, 2002 (67 FR 18117). Since 2001, the whiting stock has increased substantially as a strong 1999 year class has matured and entered the spawning population. In retrospect, the abundance of the whiting stock in 2001, as estimated from the current stock assessment, is now

believed to have been at 28 percent of its unfished biomass in 2001 when a survey catchability coefficient of 1.0 is applied, and at 34 percent of its unfished biomass in 2001 when a survey catchability coefficient of 0.6 is applied. With the publication of the 2004 harvest specifications for whiting (April 30, 2004; 69 FR 23667), NMFS announced that the whiting stock was estimated to be above the target rebuilding biomass and was no longer considered to be an overfished stock. On June 30, 2004, the court lifted the requirement it had initially imposed in the case of *Natural Resources Defense Council* v. *Evans*, 290 F. Supp. 2d 1051, 1057 (N.D. Calif. 2003) that NMFS prepare a rebuilding plan for whiting.

2005 Stock Assessment Update

An age-structured assessment model was used in 2005 to update the 2004 whiting stock assessment. New information in this stock assessment included updated catch data through 2004 and recruitment indices from the 2004 Santa Cruz juvenile index survey. The stock assessment was examined by a joint U.S./Canada Pacific Hake (Whiting) Stock Assessment Review (STAR) panel in early February 2005.

As in 2004, the amount of whiting that the 2003 hydroacoustic survey was able to measure relative to the total whiting in the surveyed area (survey catchability coefficient or q) was identified as a major source of uncertainty in the 2005 stock assessment update. Since 2005 was an assessment update, the model structure was not reexamined. The STAR panel could not reach consensus on the most appropriated value within the range for q of 0.6 to 1.0. The more optimistic or less risk averse model runs assumed that q equaled 0.6, while the less optimistic or more risk averse model runs assumed that q equaled 1.0. A catchability coefficient of 1.0 is the value that has been used in the previous assessments. Additional models runs with q set at 0.8 were developed following the STAR panel meeting.

Three sets of projections, with different assumptions about the survey catchability, were brought forward to the Council for decision making. This range of projections was intended to represent a plausible range of the stock's status. The Council's Scientific and Statistical Committee (SSC) also reviewed the assessment, but did not recommend a specific value for q.

The stock was estimated to be at 50 percent of its unfished biomass in 2004 (2.5 million mt of age 3+ fish) if a survey catchability coefficient of 1.0 were applied and at 55 percent (4.0 million mt of age 3+ fish) of its unfished biomass in 2004 if a survey catchability coefficient of 0.6 were applied. However, in the absence of another large year class after 1999, the stock is projected to decline. In 2005, the stock is estimated to be at 38 percent of its unfished biomass when a survey catchability coefficient of 1.0 is applied and at 41 percent when a survey catchability coefficient of 0.6 is applied.

The U.S. Canada Treaty provisions include the use of a default harvest rate of F40% with a 40/10 adjustment, a precautionary harvest adjustment described in the FMP at section 4.5.1. A rate of F40% can be explained as that which reduces spawning potential per female to 40 percent of what it would have been under natural conditions (if there were no mortality due to fishing).

ABC/OY Recommendations

The range of ABCs and OYs considered by the Council and analyzed in the EIS for 2005 included: a low ABC/OY of 181,287 mt, which represents 50 percent of the medium ABC/OY; a medium ABC/OY of 362,573 mt, based on the results of the 2004 assessment with the OY being set equal to the ABC because the stock biomass is greater than 40 percent of the unfished biomass; and a high OY of 725,146 mt, which is twice the amount of the medium ABC/OY.

At its March 2005 meeting in Sacramento, CA, the Council reviewed the results of the new whiting stock assessment. The U.S. OYs considered by the Council at its March meeting were 223,343 mt (q=1.0, $F_{45\%}$), 264,296 mt (q=1.0, $F_{40\%}$), 264,296 mt (q=0.8, $F_{45\%}$), 316,904 mt (q=0.8, $F_{40\%}$), 356,766 mt (q=0.6, $F_{45\%}$), and 441,525 mt (q=0.6, $F4_{0\%}$). Because the whiting biomass is estimated to be below 40 percent of its unfished biomass, the 40/10 adjustment was applied. The SSC recommended that the Council use the decision table presented in the whiting stock assessment (Table 14) to evaluate the consequences of alternate OY options on the whiting biomass.

Following discussion and public testimony, the Council recommended adopting a U.S. OY of 269,069 mt with a U.S. ABC of 269,545 mt. In making this decision, the Council considered the true state of nature as shown in the assessment decision table 14. With an F40% harvest rate proxy, if a q value of 1.0 is used and the true state of nature is actually 0.6, in 2006 the stock would be at 31 percent of its unfished biomass. However, if a q value of 0.6 is used and the true state of nature is actually 1.0, the stock is projected to fall below the overfished threshold by 2006.

With the publication of the 2004 harvest specifications for whiting (April 30, 2004; 69 FR 23667), NMFS announced that the U.S. whiting ABC was 514,441 mt. However, the 515,441 mt value corresponds with the coastwide (U.S./Canada) ABC. The 2004 U.S. share of the whiting ABC was actually 380,069 mt.

Overfished Species

The availability of overfished species as incidental catch, particularly Pacific ocean perch, canary, darkblotched, and widow rockfish, may prevent the industry from harvesting the entire whiting OY during 2005. However, in order to allow the industry to have the opportunity to harvest the higher OY, the Council recommended bycatch limits for certain overfished species. Under this structure, the industry has the opportunity to harvest a larger amount of whiting, if they can do so while keeping the incidental catch of overfished species within adopted bycatch limits. In recent years, the most constraining overfished species for the whiting fishery have been darkblotched, canary and widow rockfish. In the final rule for the 2005–2006 specification and management measures, whiting sector bycatch limits were put into place for canary and widow rockfish, 50 CFR 660.373 (b)(4). The amount of canary rockfish that would be available to the entire whiting fishery was 7.3 mt and the amount of widow rockfish was 231.8 mt in 2005.

At the March 2005 Council meeting, the Council's groundfish management team (GMT) considered the 2005 whiting OY alternatives in relation to the impacts of incidental catch of overfished species. In 2004, the estimated bycatch of widow rockfish was most constraining, relative to the amounts of each overfished species. For 2005, it is estimated that widow bycatch under the final recommended OY would be 136.25 mt, which is well within the pre-existing 231.8 mt bycatch limit for all sectors of the fishery. The Council recommended that the amount of widow rockfish specified for the non-treaty whiting sectors be adjusted to 200 mt, which should accommodate the needs of the fishery. For 2005, it is estimated that canary rockfish bycatch for the entire whiting fishery under the final recommended OY would be 9.22 mt, which would exceed the pre-existing bycatch limit of 7.30 mt. The GMT projected that a canary rockfish bycatch limit of 7.3 mt would support a whiting OY of 208,069 mt. Since the regulations at 50 CFR 370(c)(1)(ii) provide for the closure of the non-tribal portion of the whiting fishery upon

attainment of a bycatch limit, the Council recommended the limit be adjusted to only cover the harvest by non-tribal sectors, in order to ensure the total canary OY is not exceeded. Thus, the Council recommended that the amount of canary rockfish specified for the non-treaty whiting sectors be adjusted to 4.7 mt. NMFS agrees with the bycatch limits, which are intended to keep the whiting fishery from causing premature closure to the non-whiting fisheries.

Allocations

In 1994, the United States formally recognized that the four Washington coastal treaty Indian tribes (Makah, Quileute, Hoh, and Quinault) have treaty rights to fish for groundfish in the Pacific Ocean. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of groundfish that pass through the tribes' usual and accustomed ocean fishing areas (described at 60 CFR 660.324).

The Pacific Coast Indian treaty fishing rights, described at 50 CFR 660.385, allow for the allocation of fish to the tribes through the specification and management measures process. A tribal allocation is subtracted from the species OY before limited entry and open access allocations are derived. The tribal whiting fishery is a separate fishery, and is not governed by the limited entry or open access regulations or allocations. To date, only the Makah Tribe has participated. It regulates, and in cooperation with NMFS, monitors this fishery so as not to exceed the tribal allocation.

Beginning in 1999, NMFS set the tribal allocation according to an abundance-based sliding scale allocation method, proposed by the Makah Tribe in 1998. See; 64 FR 27928, 27929 (May 29, 1999); 65 FR 221, 247 (January 4, 2000); 66 FR 2338, 2370 (January 11, 2001). Details on the abundance-based sliding scale allocation method and related litigation are discussed in the preamble to the proposed rule (69 FR 56570; September 21, 2004) and are not repeated here. On December 28, 2004, the Ninth Circuit Court of Appeals upheld the sliding scale approach in *Midwater Trawler Cooperative* v. *Daley*, 393 F. 3d 994 (9th Cir. 2004). Under the sliding scale allocation method, the tribal allocation varies with U.S. whiting OY, ranging from a low of 14 percent (or less) of the U.S. OY when OY levels are above 250,000 mt, to a high of 17.5 percent of the U.S. OY when the OY level is at or below 145,000 mt. For 2005, using the sliding scale allocation method, the tribal allocation will be 35,000 mt. The Makah are the only Washington Coast tribe that requested a whiting allocation for 2005.

The 2005 non-tribal commercial OY for whiting is 232,069 mt. This is calculated by deducting the 35,000–mt tribal allocation and 2,000 mt for research catch and bycatch in non-groundfish fisheries from the 269,069 mt total catch OY. Regulations at 50 CFR 660.323(a)(4) divide the commercial OY into separate allocations for the non-tribal catcher/processor, mothership, and shore-based sectors of the whiting fishery.

The catcher/processor sector is comprised of vessels that harvest and process whiting. The mothership sector is comprised of catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest, whiting. The shoreside sector is comprised of vessels that harvest whiting for delivery to shoreside processors. Each sector receives a portion of the commercial OY, with the catcher/processors getting 34 percent (78,903 mt), motherships getting 24 percent (55,696 mt), and the shore-based sector getting 42 percent (97,469 mt).

All whiting caught in 2005 before the effective date of this action will be counted toward the new 2005 OY. As in the past, the 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).

This document also contains corrections to the Tables 1a and 1b of the final rule implementing the specifications and management measures for the 2005 and 2006 fishing years which was published December 23, 2004 (69 FR 77012). The value in Table 1a and 1b for bocaccio rockfish that indicates the proportions allocated to the limited entry sectors was a typographical error in the specifications final rule and is being corrected from 52.7 to 55.7. Because bocaccio is an overfished species, the use of these values has been suspended for 2005 and 2006; the allocation amount is provided for reference only.

Classification

The final whiting specifications and management measures for 2005 are issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act)and are in accordance with 50 CFR part 660, the regulations implementing the FMP.

The whiting fisheries are generally very fast paced and vessels tend to incidentally catch overfished species at sporadic and unpredictable rates. Protection of overfished species is required by the FMP and implementing regulations. This action revises canary and widow rockfish bycatch limits for the whiting fisheries to keep the harvest of overfished species within their OYs. The proposed rulemaking to implement the 2005 specifications and management measures, published on September 21, 2004 (69 FR 56550), and the final rule published on December 23, 2004 (69 FR 77012) addressed this issue and established bycatch limits for canary and widow rockfish in the whiting fishery. These limits were identified as routine management measures and as such may be adjusted inseason.

If the revision of bycatch limits for canary and widow rockfish was delayed for a public notice and comment period, the 4.7 mt of canary rockfish and 200 mt of widow rockfish available to the fisheries could be taken before the completion of the public comment period. Therefore, delaying this final rule could result in unexpectedly high bycatch of canary rockfish such that the annual OY established for rebuilding is exceeded, or that many other portions of the groundfish fishery would have to be closed to make up for bycatch in the whiting fishery.

Allowing the fisheries to exceed an overfished species' OY would be contrary to the public's interest in rebuilding these overfished species, thus NMFS finds good cause to waive public notice and comment on these revisions, under 5 U.S.C. 553(b)(B).

The FMP requires that fishery specifications be evaluated each year using the best scientific information available. A stock assessment update for whiting was prepared in early 2005. In anticipation of the ratification of the U.S.-Canada agreement and the new 2005 stock assessment, the Council delayed adoption of a final 2005 ABC and OY until its March 2005 meeting. Thus these final values were not available to the Council or NMFS in time for the publication of either the proposed (September 21, 2004; 69 FR 56550) or the final rule (December 23, 2004; 69 FR 77012) for the harvest specifications and management measures. Finally, since the major fishery for whiting does not start until April 1, there was time to delay the adoption of the new ABC and OY, until the new assessment information was available to the Council in March 2005.

The proposed rulemaking to implement the 2005 specifications and management measures, published on September 21, 2004 (69 FR 56550), addressed the delay in adopting the whiting ABC and harvest specifications.

NMFS requested public comment on the proposed rule through October 21, 2004. The final rule was published on December 23, 2004 (69 FR 77012) and again explained that the range in the specifications would be adjusted following the Council's March 2005 meeting and announced in the **Federal Register** as a final rule shortly thereafter. This action has been publicized widely through the Council process.

For all of the reasons in the waiver for notice and comment plus the additional reasons described above, pursuant to 5 U.S.C. 553(d)(3), there exists good cause to waive the 30–day delay in effectiveness, so that this final rule may become effective as soon as possible after the April 1, 2005, fishery start date.

Correcting the ABC/OY tables to provide correct bocaccio allocation amounts between limited entry and open access fisheries merely ensures that the tables correctly state agency policy. These allocations do not apply to the fisheries because bocaccio allocations have been suspended while that species is subject to an overfished species rebuilding plan. NMFS finds good cause to waive public notice and comment on this statement of agency policy under 5 U.S.C. 553(b)(B), because providing notice and comment on these corrections would be unnecessary. Under 5 U.S.C. 553(d)(2) a statement of agency policy that has no effect on the public is not subject to a 30–day delay in effectiveness.

The environmental impacts associated with the Pacific whiting harvest levels being adopted by this action were considered in the final environmental impact statement for the 2005–2006 specification and management measures. Copies of the FEIS and the ROD are available from the Council (see **ADDRESSES**).

The Council prepared an Initial Regulatory Flexibility Analysis and NMFS prepared a FRFA for the 2005–2006 harvest specifications and management measures which included the impacts of this action on small entities. The Initial Regulatory Flexibility (IRFA) was summarized in the proposed rule published on September 21, 2004 (69 FR 56550). The following is a summary of the FRFA analysis that was published in the final rule on December 23, 2004 (69 FR 77012). The need for and objectives of this final rule are contained in the **SUMMARY** and in the Background section under **SUPPLEMENTARY INFORMATION**. NMFS did not receive any comments on the IRFA or on the proposed rule regarding the economic effects of this final rule. The final 2005–2006 specifications and management measures were intended to allow West Coast commercial and recreational fisheries participants to fish the harvestable surplus of more abundant stocks while also ensuring that those fisheries do not exceed the allowable catch levels intended to protect overfished and depleted stocks. The form of the specifications, in ABCs and OYS, follows the guidance of the Magnuson-Stevens Act, the national standard guidelines, and the FMP for protecting and conserving fish stocks. Fishery management measures include trip and bag limits, size limits, time/area closures, gear restrictions, and other measures intended to allow year-round West Coast groundfish landings without compromising overfished species rebuilding measures.

Approximately 1,700 vessels participated in the West Coast commercial groundfish fisheries in 2001. Of those, about 420 vessels were registered to limited entry permits issued for either trawl, longline, or pot gear. Of the remaining approximately 1,280 vessels, about 770 participated in the open access fisheries and derived more than 5 percent of their fisheries revenue from groundfish landings. All but 10–20 of the 1,700 vessels participating in the groundfish fisheries are considered small businesses by the Small Business Administration. In the 2001 recreational fisheries, there were 106 Washington charter vessels engaged in salt water fishing outside of Puget Sound, 232 charter vessels active on the Oregon coast, and 415 charter vessels active on the California coast. Although some charter businesses, particularly those in or near large California cities, may not be small businesses, all are assumed to be small businesses for purposes of this discussion.

The Magnuson-Stevens Act requires that actions taken to implement FMPs be consistent with the ten national standards, one of which requires that conservation and management measures shall, consistent with the conservation requirements of the Act, take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities and, (B) to the extent practicable, minimize adverse economic impacts on such communities. Fishing communities that rely on the groundfish resource and people who participate in the groundfish fisheries have weathered many regulatory changes in recent years. NMFS and the Council introduced the first overfished species rebuilding measures in 2000, which severely curtailed the fisheries from previous fishing levels. Since then, NMFS has implemented numerous management measures and regulatory programs intended to rebuild overfished stocks and to better monitor the catch and bycatch of all groundfish species. These programs are expected to improve the status of West Coast groundfish overfished stocks over time and, by extension, the economic health of the fishing communities that depend on those stocks. Initially, however, the broad suite of new regulatory programs that NMFS has introduced since 2000 have: reduced overall groundfish harvest levels, increased costs of participating in the fisheries, and caused confusion for fishery participants trying to track new regulatory regimes.

The Council considered five alternative specifications and management measures regimes for 2005 and 2006: the no action alternative, which would have implemented the 2004 regime for 2005 and 2006; the low OY alternative, which set a series of conservative groundfish harvest levels that were either intended to achieve high probabilities of rebuilding within TMAX for overfished species or modest harvest levels for more abundant stocks; the high OY alternative, which set harvest levels that were either intended to achieve lower probabilities of rebuilding within T_{MAX} for overfished species or higher harvest levels for more abundant stocks; the medium OY alternative, which set harvest levels intermediate to those of the low and high alternatives, and; the Council OY alternative (preferred alternative,) which was the same as the medium OY alternative, but with more precautionary OY levels for lingcod, Pacific cod, cowcod, canary and yelloweye rockfish. Each of these alternatives included both harvest levels (specifications) and management measures needed to achieve those harvest levels, with the most restrictive management measures corresponding to the lowest OYS. The most notable difference between the Council's preferred alternative and the other alternatives is that alternative's requirement that trawl vessels operating north of 40°10′ N. lat. use selective flatfish trawl gear. Because selective flatfish trawl gear has lower rockfish bycatch rates than conventional trawl gear, the targeted flatfish amounts available to the trawl fisheries are higher under the Council's preferred alternative than under the other alternatives.

Each of the alternatives analyzed by the Council was expected to have different overall effects on the economy. Among other factors, the EIS for this

action reviewed alternatives for expected changes in revenue and income from 2003 levels. The low OY alternative was expected to decrease annual commercial income from the no action alternative by $1.99 million in 2005 and 2006, decrease commercial fishery-related annual employment from the no action alternative by 0.3 percent in 2005 and 2006, and result in no changes in recreational fishery income from the no action alternative. The high OY alternative was expected to increase annual commercial income from the no action alternative by $2.54 million in 2005 and 2006, increase commercial fishery-related annual employment from the no action alternative by 0.4 percent in 2005 and 2006, and result in no changes in recreational fishery income from the no action alternative. The medium OY alternative was expected to increase annual commercial income from the no action alternative by $1.51 million in 2005 and 2006, increase commercial fishery-related annual employment from the no action alternative by 0.3 percent in 2005 and 2006, and result in no changes in recreational fishery income from the no action alternative. The Council's OY alternative was expected to increase annual commercial income from the no action alternative by $3.02 million in 2005 and 2006, increase commercial fishery-related annual employment from the no action alternative by 0.5 percent in 2005 and 2006, and result in no changes in recreational fishery income from the no action alternative. The Council's preferred alternative would have had commercial fisheries effects that were similar to or less beneficial than the medium OY alternative had the Council preferred alternative not included the requirement that trawl vessels north of 40°10′ N. lat. fish with selective flatfish trawl gear in nearshore waters. The Council's preferred alternative is intended to meet the conservation requirements of the Magnuson-Stevens Act while reducing to the extent practicable the adverse economic impacts of these conservation measures on the fishing industries and associated communities.

Pursuant to Executive Order 13175, this final rule was developed after meaningful consultation with tribal officials during the Council process.

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

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.

Date: April 28, 2005.

John Oliver,

Deputy Assistant Administrator for Operations, 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

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

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

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

§ 660.323 Pacific whiting allocations, allocation attainment.

(a)* * *

(2) The non-tribal commercial harvest guideline for whiting is allocated among three sectors, as follows: 34 percent for the catcher/processor sector; 24 percent for the mothership sector; and 42 percent for the shoreside sector. No more than 5 percent of the shoreside allocation may be taken and retained south of 42° N. lat. before the start of the primary whiting season north of 42° N. lat. These allocations are harvest guidelines unless otherwise announced in the **Federal Register**. The non-tribal Pacific whiting allocations in 2005 are as follows:

(i) Catcher/processor sector–78,903 mt(24 percent);

(ii) Mothership sector–55,696 mt(34 percent);

(iii) Shore-based sector–97,469 mt(42 percent). No more than 5 percent (4,873 mt) of the shore-based whiting allocation may be taken before the shore-based fishery begins north of 42° N. lat. on June 15, 2005.

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■ 3. In § 660.373, paragraph (b)(4) is revised to read as follows:

§ 660.373 Pacific whiting (whiting) fishery management.

* * * * *

(b) * * *

(4) 2005–2006 bycatch limits in the whiting fishery. The bycatch limits for the whiting fishery may be used inseason to close a sector or sectors of the whiting fishery to achieve the rebuilding of an overfished or depleted stock, under routine management measure authority at § 660.370 (c)(1)(ii). These limits are routine management measures under § 660.370 (c) and, as such, may be adjusted inseason or may have new species added to the list of those with bycatch limits. For 2005, the whiting fishery bycatch limits for the sectors identified § 660.323(a) are 4.7 mt of canary rockfish and 200 mt of widow rockfish. For 2006, the whiting fishery bycatch limits are 7.3 mt of canary rockfish and 243.2 mt of widow rockfish.

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■ 4. In § 660.385, paragraph (e)is revised to read as follows:

§ 660.385 Washington coastal tribal fisheries management measures.

* * * * *

(e) Pacific Whiting. The tribal allocation is 35,000 mt.

■ 5. Tables 1a and 2a to Part 660, Subpart G, are revised to read as follows:

BILLING CODE 3510–22–S

Table 1a. 2005 Specifications of Acceptable Biological Catch (ABC), Optimum Yields (OYs), Harvest Guidelines (HGs), and Limited Entry and Open Access Allocations, by management Area (weights in metric tons).

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial Harvest guidelines (Total Catch)	Allocations total catch			
	Vancouver a/	Columbia	Eureka	Monterey	Conception	Total ABC			Limited Entry		Open Access	
									Mt	%	Mt	%
ROUNDFISH												
Lingcod b/ north of 42°N. lat.	1,874		1,048			2,922	1,801	274.2	--	81.0	--	19.0
Lingcod south of 42°N. lat.							612					
Pacific Cod d/	3,200		c/			3,200	1,600	1,600	--	--	--	--
Pacific Whiting e/	269,545					269,545	269,069	232,069	--	--	--	--
Sablefish f/ north of 36°	8,368					8,368	7,486	6,670	6,043	90.6	627	9.4
Sablefish g/ south of 36°							275	275	--	--	--	--
Cabezon h/ south of 42°N. lat.	c/		103			103	69	--	--	--	--	--
FLATFISH												
Dover sole i/	8,522					8,522	7,476	7,445	--	--	--	-
English sole j/	2,000		1,100			3,100	3,100	-	-	-	-	-
Petrale sole k/	1,262		500	800	200	2,762	2,762	-	-	-	-	-
Arrowtooth flounder l/	5,800					5,800	5,800	-	-	-	-	-
Other flatfish m/	6,781					6,781	4,090		-	-	-	-

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial Harvest guidelines (Total Catch)	Allocations total catch			
	Vancouver	Columbia	Eureka	Monterey	Conception	Total ABC			Limited Entry		Open Access	
									Mt	%	Mt	%
ROCKFISH:												
Pacific Ocean Perch n/	966					966	447	129.1	--	--	--	–
Shortbelly o/	13,900					13,900	13,900	13,894	--	--	--	--
Widow p/	3,218					3,218	285	281.7	–	97.0	--	3.0
Canary q/	270					270	46.8	24.8	--	87.7	--	12.3
Chilipepper r/	c/			2,700		2,700	2,000	1,973	1099	55.7	874	44.3
Bocaccio s/	c/			566		566	307	85.2	--	55.7	--	44.3
Splitnose t/	c/			615		615	461	461	--	--	--	--
Yellowtail u/	3,896			c/		3,896	3,896	3,871	3,550	91.7	321	8.3
Shortspine thornyhead v/ north of 34°27'	1,055					1,055	999	995	992	99.7	3	0.27
Longspine thornyhead w/ north of 36°	2,461				--	2,461	2,461		--	--	--	--
south of 36° x/	--				390	390	195	195	--	--	--	–
Cowcod y/	c/			19	--	19	2.1	0	--	--	--	–
	c/			--	5	5	2.1	0	--	--	--	–
Darkblotched z/	269					269	269	122.1		--		--
Yelloweye aa/	54					54	26	8.5		--		–
Black bb/ north of 46°16' N. lat.	540					540	540		–	--	–	--
Black bb/ south of 46°16' N. lat.	753					753	753					

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial Harvest guidelines (Total Catch)	Allocations total catch			
	Vancouver	Columbia	Eureka	Monterey	Conception	Total ABC			Limited Entry		Open Access	
									Mt	%	Mt	%
Minor Rockfish north cc/	3,680			--		3,680	2,250	2,172	1,992	91.7	180	8.3
Minor Rockfish south dd/	--			3,412		3,412	1,968	1,525	849	55.7	676	44.3
Remaining Rockfish	1,612			854		--	--	--	--	--	--	--
bank ee/	c/			350		350	--	--	--	--	--	-
blackgill ff/	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 gg/	2,068			2,558		--	--	--	--	--	--	--
SHARKS/SKATES/RATFISH/MORIDS/GRENADIERS/KELP GREENLING:												
Other fish hh/	2,500	7,000	1,200	3,900		14,600	7,300	--	--	--	--	--

Table 2a. 2006, and Beyond, Specifications of Acceptable Biological Catch (ABC), Optimum Yields (OYs), Harvest Guidelines (HGs), and Limited Entry and Open Access Allocations, by management Area (weights in metric tons).

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial Harvest guidelines (Total Catch)	Allocations total catch			
	Vancouver a/	Columbia	Eureka	Monterey	Conception	Total ABC			Limited Entry		Open Access	
									Mt	%	Mt	%
ROUNDFISH												
Lingcod b/ north of 42° N. lat.	1,694		1,021			2,716	1,801	214.7	--	81.0	--	19.0
Lingcod south of 42° N. lat.							612					
Pacific Cod d/	3,200		c/			3,200	1,600	1,600	--	--	--	--
Pacific Whiting e/	114,297 - 457,186					114,297-457,186	114,297-457,186		--	--	--	--
Sablefish f/ north of 36°	8,175					8,175	7,363	6,522	5,909	90.6	613	9.4
Sablefish g/ south of 36°							271	271	--	--	--	--
Cabezon h/ south of 42°N. lat.	c/		108			108	69	--	--	--	--	--
FLATFISH												
Dover sole i/	8,589					8,589	7,564	7,504	--	--	--	--
English sole j/	2,000		1,100			3,100	3,100	-	-	-	-	-
Petrale sole k/	1,262		500	800	200	2,762	2,762	-	-	-	-	-
Arrowtooth flounder l/	5,800					5,800	5,800	-	-	-	-	-
Other flatfish m/	6,781					6,781	4,090	-	-	-	-	-

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial Harvest guidelines (Total Catch)	Allocations total catch			
	Vancouver	Columbia	Eureka	Monterey	Conception	Total ABC			Limited Entry		Open Access	
									Mt	%	Mt	%
ROCKFISH:												
Pacific Ocean Perch n/	934					934	447	102.6	--	--	--	--
Shortbelly o/	13,900					13,900	13,900	13,888	--	--	--	--
Widow p/	3,059					3,059	289	285.6	--	97.0	--	3.0
Canary q/	270					270	47.1	22.7	--	87.7	--	12.3
Chilipepper r/	c/			2,700		2,700	2,000	1,964	1,094	55.7	870	44.3
Bocaccio s/	c/			549		549	308	75.2	--	55.7	--	44.3
Splitnose t/	c/			615		615	461	461	--	--	--	--
Yellowtail u/	3,681			c/		3,681	3,681	3655	3,352	91.7	303	8.3
Shortspine thornyhead v/ north of 34°27'	1,077					1,077	1018	1011	984	99.7	27	0.27
Longspine thornyhead w/ north of 36°	2,461				--	2,461	2,461	2449	--	--	--	--
south of 36° x/	--				390	390	195	195	--	--	--	--
Cowcod y/	c/			19	--	19	2.1	0	--	--	--	–
	c/			--	5	5	2.1	0	--	--	--	--
Darkblotched z/	294					294	294	87.4	--	--	--	--
Yelloweye aa/	55					55	27	6.4	--	--	--	--
Black bb/ north of 46°16' N. lat.	540					540	540		–	–	--	--
Black bb/ south of 46°16' N. lat.	736					736	736					

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial Harvest guidelines (Total Catch)	Allocations total catch			
	Vancouver	Columbia	Eureka	Monterey	Conception	Total ABC			Limited Entry		Open Access	
									Mt	%	Mt	%
Minor Rockfish north cc/	3,680			--		3,680	2,250	2,172	1,992	91.7	180	8.3
Minor Rockfish south dd/	--			3,412		3,412	1,968	1,525	849	55.7	676	44.3
Remaining Rockfish	1,612			854		--	--	--	--	--	--	--
bank ee/	c/			350		350	--	--	--	--	--	--
blackgill ff/	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 gg/	2,068			2,558		--	--	--	--	--	--	--
SHARKS/SKATES/RATFISH/MORIDS/GRENADIERS												
OTHER FISH ee/	2,500	7,000	1,200	3,900		14,600	7,300	--	--	--	--	--

Table 2b. 2006, and Beyond, 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 HG for minor rockfish and depth sub-groups	Mt	%	Mt	%
Minor Rockfish north cc/	3,680	2,250	78	2,172	1,992	91.7	180	8.3
Nearshore		122	68	54				
Shelf		968	10	958				
Slope		1,160	0	1,160				
Minor Rockfish south dd/	3,412	1,968	443	1,390	774	55.7	616	44.3
Nearshore ii/		615	383	97				
Shelf		714	60	654				
Slope		639	0	639				

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

b/ Lingcod was declared overfished on March 3, 1999. A coastwide stock assessment was prepared in 2003. Lingcod was believed to be at 25 percent of its unfished biomass coastwide in 2002, 31 percent in the north and 19 percent in the south. The ABC projection for 2006 is 2,716 mt and was calculated using an F_{MSY} proxy of F45%. The total catch OY of 2,414 mt (the sum of 1,891 mt in the north and 612 mt in the south) is based on the rebuilding plan with a 70 percent probability of rebuilding the stock to B_{MSY} by the year 2009 (T_{MAX}). The harvest control rule will be F=0.17 in the north and F=0.15 in the south. Out of the OY, it is estimated that 693 mt will be taken in the recreational fishery, 7.2 mt will be taken during research activity, and 2.8 mt will be taken in non-groundfish fisheries. Under the proposed regulations, it is currently anticipated that 214.7 mt will be taken in the commercial fisheries (which is being set as a commercial HG), leaving a residual amount of 1,496.3 mt to be used as necessary during the fishing year. There is a recreational harvest guideline of 271 mt for the area north of 42° N. Lat. and a recreational harvest guideline of 422 mt for the area south of 42° N. Lat. The tribes do not have a specific allocation at this time, but are expected to take 25.1 mt of the commercial HG.

c/ "Other species", these are neither common nor important to the commercial and recreational fisheries in the areas footnoted. Accordingly, Pacific cod is included in the non-commercial HG of "other fish" and rockfish species are included in either "other rockfish" or "remaining rockfish" for the areas footnoted.

d/ Pacific Cod - The 3,200 mt ABC is based on historical landings data and is set at the same level as it was in 2004. The 1,600 mt OY is the ABC reduced by 50 percent as a precautionary adjustment

e/ Pacific whiting - The most recent stock assessment was prepared in early 2004, and the whiting biomass was estimated to be above 40 percent of its unfished biomass in 2003. A range is presented for the ABC and OY values because final adoption of the ABC and OY have been deferred until the Council's March 2006 meeting. It is anticipated that an assessment update will be available in early 2006 and the results of the new assessment will be used to set the 2006 ABC and OY.

f/ Sablefish north of 36° N. lat. - A coastwide sablefish stock assessment was prepared in 2001 and updated for 2002. Following the 2002 stock assessment update, the sablefish biomass north of 34° 27 'N. lat. was believed to be between 31 percent and 38 percent of its unfished biomass. The coastwide ABC of 8,175 mt is based on environmentally driven projections with the F_{MSY} proxy of F45%. The ABC for the management area north of 36° N. lat. is 7,885 mt (96.45 percent of the coastwide ABC). The coastwide OY of 7,634 mt (the sum of 7,363 mt in the north and 271 mt in the south) is based on the density-dependent model and the application of the 40-10 harvest policy. The total catch OY for the area north of 36° N. lat is 7,363 mt and is 96.45 percent of the coastwide OY. The OY is reduced by 10 percent (736 mt) for the tribal allocation. Out of the remaining OY, 86 mt will be taken during research activity, and 19 mt will be taken in non-groundfish fisheries, resulting in a commercial HG of 6,522 mt. The open access allocation is 9.4 percent (613 mt) of the commercial HG and the limited entry allocation is 90.6 percent (5,909 mt) of the commercial HG. The limited entry allocation is further divided with 58 percent (3,427 mt) allocated to the trawl fishery and 42 percent (2,482 mt) allocated to the fixed-gear fishery. To provide for bycatch in the at-sea whiting fishery, 15 mt of the limited entry trawl allocation will be set aside.

g/ Sablefish south of 36° N. lat. - The ABC of 290 mt is 3.55 percent of the ABC from the 2002 coastwide stock assessment update. The total catch OY of 271 mt is 3.55 percent of the OY from the 2002 coastwide stock assessment update. There are no limited entry or open access allocations in the Conception area at this time.

h/ Cabezon was first assessed in 2003 and was believed to be at 34.7 percent of its unfished biomass. The ABC of 108 mt is based on a harvest rate proxy of $F_{45\%}$. The OY of 69 mt is based on a constant harvest level for 2005 and 2006..

i/ Dover sole north of 34° 27' N. lat. was assessed in 2001 and was believed to be at 29 percent of its unfished biomass. The ABC of 8,589 mt is the 2006 projection from the 2001 assessment with an F_{MSY} proxy of F40%. Because the biomass is estimated to be in the precautionary zone, the 40-10 harvest rate policy was applied, resulting in a total catch OY of 7,564 mt. The OY is reduced by 60 mt for the amount estimated to be taken as research catch, resulting in a commercial HG of 7,504 mt.

j/ English sole - Research catch is estimated to be 9.7 mt.

k/ Petrale Sole was believed to be at 42 percent of its unfished biomass following a 1999 stock assessment. For 2006, the ABC for the Vancouver-Columbia area (1,262 mt) is based on a four year average projection from 2000-2003 with a F40% F_{MSY} proxy. The ABCs for the Eureka, Monterey, and Conception areas (1,500 mt) are based on historical landings data and continue at the same level as 2005. Management measures to constrain the harvest of overfished species, have reduced the availability of these stocks to the fishery during the past several years. Because the harvest assumptions (from the most recent stock assessment in the Vancouver-Columbia area) used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2006 was considered to be conservative and based on the best available data. Research catch is estimated to be 2.9 mt and will be taken out of the OY.

l/ Arrowtooth flounder was last assessed in 1993 and was believed to be above 40 percent of its unfished biomass. Research catch is estimated to be 13.6 mt and will be taken out of the OY.

m/ 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. The ABC of 6,781 mt is based on the highest landings for sanddabs (1995) and rex sole (1982) for the 1981-2003 period and on the average landings from the 1994-1998 period for the remaining other flatfish species. The OY of 4,909 mt is based on the ABC with a 25 percent precautionary adjustment for sanddabs and rex sole and a 50 percent precautionary adjustment for the remaining species. Research catch is estimated to be 20.5 mt and will be taken out of the OY.

n/ POP was declared overfished on March 3, 1999. A stock assessment was prepared in 2003 and POP was determined to be at 25 percent of its unfished biomass. The ABC of 934 mt was projected from the 2003 stock assessment and is based on an F_{MSY} proxy of F50%. The OY of 447 mt is based on a 70 percent probability of rebuilding the stock to B_{MSY} by the year 2042 (T_{MAX}). The harvest control rule will be F=0.0257. Out of the OY it is anticipated that 4.6 mt will be taken during research activity and 102.6 mt in the commercial fishery (which is being set as a commercial HG), leaving a residual amount of 339.8 mt to be used as necessary during the fishing year.

o/ Shortbelly rockfish remains as an unexploited stock and is difficult to assess quantitatively. A 1989 stock 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 stock assessment. The available OY is reduced by 12 mt for the amount estimated to be taken as research catch, resulting in a commercial HG of 13,888 mt.

p/ The widow rockfish stock was declared overfished on January 11, 2001 (66 FR 2338). The most recent stock assessment was prepared for widow rockfish in 2003. The spawning stock biomass is believed to be at 22.4 percent of its unfished biomass in 2002. The ABC of 3,059 mt is based an F50% F_{MSY} proxy. The 289 mt OY is based on a 60 percent probability of rebuilding the stock to B_{MSY} by the year 2042 (T_{MAX}). The harvest control rule is F=0.0093. Out of the OY, it is anticipated that 1.0 mt will be taken during the research activity, 2.3 mt will be taken in the recreational fishery, 0.1 mt will be taken in non-groundfish fisheries, and 285.6 mt will be taken in the commercial fishery (which is being set as the commercial HG). Specific open access/limited entry allocations have been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks. Tribal vessels are estimated to land about 40 mt of widow rockfish in 2006, but do not have a specific allocation at this time. The set asides of widow rockfish taken in the Pacific whiting fisheries will likely be limited to 243.2 mt.

q/ Canary rockfish was declared overfished on January 4, 2000 (65 FR 221). A stock assessment was completed in 2002 for canary rockfish and the stock was believed to be at 8 percent of its unfished biomass coastwide in 2001. The coastwide ABC of 279 mt is based on a F_{MSY} proxy of F50%. The coastwide OY of 47.1 mt is based on the rebuilding plan, which has a 60 percent probability of rebuilding the stock to B_{MSY} by the year 2076 (T_{MAX}) and a catch sharing arrangement which has 58 percent of the OY going to the commercial fisheries and 42 percent going to the recreational fishery. The harvest control rule will be F=0.0220. Out of the OY, it is anticipated that 2.7 mt will be taken during the research activity, 17.8 mt will be taken in the recreational fishery, 2.1 mt will be taken in non-groundfish fisheries, and 22.7 mt will be taken in the commercial fishery (which is being set as the commercial HG), leaving a residual amount of 1.8 mt. The residual amount will be further divided with 0.9 mt being available as needed for the recreational and 0.9 mt being available as needed for the commercial fisheries. A recreational HG for the area north of 42° N. lat. will be 8.5 mt. For the area south of 42° N. lat., the recreational HG will be 9.3 mt. Specific open access/limited entry allocations have been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks. Tribal vessels are estimated to land about 2.6 mt of canary rockfish under the commercial HG, but do not have a specific allocation at this time.

r/ Chilipepper rockfish - the ABC (2,700 mt) for the Monterey-Conception area is based on a three year average projection from 1999-2001 with a F50% F_{MSY} proxy. Because the unfished biomass is believed to be above 40 percent, the default OY could be set equal to the ABC. However, the OY is set at 2,000 mt to discourage effort on chilipepper, which is taken with bocaccio. Management measures to constrain the harvest of overfished species have reduced the availability of these stocks to the fishery during the past several years. Because the harvest assumptions (from the most recent stock assessment) used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2006 was considered to be conservative and based on the best available data. The OY is reduced by 15 mt for the amount estimated to be taken in the recreational fishery and 21 mt for the amount estimated to be taken during research activity, resulting in a commercial HG of 1,964 mt. Open access is allocated 44.3 percent (870 mt) of the commercial HG and limited entry is allocated 55.7 percent (1,094 mt) of the commercial HG.

s/ Bocaccio was declared overfished on March 3, 1999. A new stock assessment and a new rebuilding analysis were prepared for bocaccio in 2003. The bocaccio stock was believed to be at 7.4 percent of its unfished biomass in 2002. The ABC of 549 mt is based on a F50% F_{MSY} proxy. The OY of 308 mt is based on the rebuilding analysis and has a 70 percent probability of rebuilding the stock to B_{MSY} by the year 2032 (T_{MAX}). The harvest control rule is F=0.0498. Out of the OY, it is anticipated that 0.6 mt will be taken during the research activity,

43.0 mt will be taken in the recreational fishery, 1.3 mt will be taken in non-groundfish fisheries, and 75.2 mt will be taken in the commercial fishery (which is being set as the commercial HG), leaving a residual amount of 187.9 mt to be used as necessary during the fishing year.

t/ Splitnose rockfish - The ABC is 615 mt in the southern area (Monterey-Conception). The 461 mt OY for the southern area reflects a 25 percent precautionary adjustment because of the less rigorous stock assessment for this stock. In the north, splitnose is included in the minor slope rockfish OY. Because the harvest assumptions (from the most recent stock assessment) used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2006 was considered to be conservative and based on the best available data.

u/ Yellowtail rockfish - A yellowtail rockfish stock assessment was prepared in 2003 for the Vancouver-Columbia-Eureka areas. Yellowtail rockfish was believed to be at 46 percent of its unfished biomass in 2002. The ABC of 3,681 mt is based on the 2003 stock assessment with the F_{MSY} proxy of F50%. The OY of 3,681 mt was set equal to the ABC, because the stock is above the precautionary threshold. The OY is reduced by 15 mt for the amount estimated to be taken in the recreational fishery, 5 mt for the amount estimated to be taken during research activity, and 6 mt for the amount taken in non-groundfish fisheries, resulting in a commercial HG of 3,655 mt. The open access allocation (303 mt) is 8.3 percent of the commercial HG. The limited entry allocation (3,352 mt) is 91.7 percent the commercial HG. Tribal vessels are estimated to land about 506 mt of yellowtail rockfish in 2006, but do not have a specific allocation at this time.

v/ Shortspine thornyhead was last assessed in 2001 and the stock was believed to be between 25 and 50 percent of its unfished biomass. The ABC (1,077 mt) for the area north of Pt. Conception (34° 27' N. lat.) is based on a F50% F_{MSY} proxy. The OY of 1,018 mt is based on the 2001 survey with the application of the 40-10 harvest policy. The OY is reduced by 7 mt for the amount estimated to be taken during research activity, resulting in a commercial HG of 1,011 mt. Open access is allocated 0.27 percent (27 mt) of the commercial HG and limited entry is allocated 99.73 percent (984 mt) of the commercial HG. There is no ABC or OY for the southern Conception area. Tribal vessels are estimated to land about 6.6 mt of shortspine thornyhead in 2006, but do not have a specific allocation at this time.

w/ Longspine thornyhead north of 36° is believed to be above 40 percent of its unfished biomass. The ABC (2,461 mt) in the north (Vancouver-Columbia-Eureka-Monterey) is based on a F50% F_{MSY} proxy. Because the harvest assumptions (from the most recent stock assessment) used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2006 was considered to be conservative and based on the best available data. The total catch OY (2,461 mt) is set equal to the ABC. The OY is reduced by 12 mt for the amount estimated to be taken during research activity, resulting in a commercial HG of 2,449 mt.

x/ Longspine thornyhead south of 36° - A separate ABC (390 mt) is established for the Conception area and is based on historical catch for the portion of the Conception area north of 34°27' N. lat. (Point Conception). To address uncertainty in the stock assessment due to limited information, the ABC was reduced by 50 percent to obtain the OY, 195 mt. There is no ABC or OY for the southern Conception Area.

y/ Cowcod in the Conception area was assessed in 1999 and was believed to be less than 10 percent of its unfished biomass. Cowcod was declared as overfished on January 4, 2000 (65 FR 221). The ABC in the Conception area (5 mt) is based on the 1999 stock assessment, while the ABC for the Monterey area (19 mt) is based on average landings from 1993-1997. The OY of 4.2 mt (2.1 mt in each

area) is based on the rebuilding plan adopted under Amendment 16-3, which has a 60 percent probability of rebuilding the stock to B_{MSY} by the year 2099 (T_{MAX}). The harvest control rule is F=0.009. Cowcod retention will not be permitted in 2006. The OY will be used to accommodate discards of cowcod rockfish resulting from incidental take.

z/ Darkblotched rockfish was assessed in 2000 and a stock assessment update was prepared in 2003. The darkblotched rockfish stock was declared overfished on January 11, 2001 (66 FR 2338). Following the 2003 stock assessment update, the Darkblotched rockfish stock was believed to be at 11 percent of its unfished biomass. The ABC is projected to be 294 mt and is based on an F_{MSY} proxy of F50%. The OY of 294 mt is based on the rebuilding plan adopted under Amendment 16-2 and has a >80% probability of rebuilding the stock to B_{MSY} by the year 2047 (T_{MAX}). The harvest control rule is F=0.032. Out of the OY, it is anticipated that 5.2 mt will be taken during the research activity, and 87.4 mt will be taken in the commercial fishery (which is being set as the commercial HG), leaving a residual amount of 201.4 mt to be used as necessary during the fishing year. For anticipated bycatch in the at-sea whiting fishery, 9 mt is being set aside.

aa/ Yelloweye rockfish was assessed in 2001 and updated for 2002. On January 11, 2002, yelloweye rockfish was declared overfished (67 FR 1555). In 2002 following the stock assessment update, yelloweye rockfish was believed to be at 24.1 percent of its unfished biomass coastwide. The 55 mt coastwide ABC is based on an F_{MSY} proxy of F50%. The OY of 27 mt, based on a revised rebuilding analysis (August 2002) and the rebuilding plan proposed under Amendment 16-3, have a 80 percent probability of rebuilding to B_{MSY} by the year 2071 (T_{MAX}) and a harvest control rule of F=0.0153. Out of the OY, it is anticipated that 10.4 mt will be taken in the recreational fishery, 1.0 will be taken during research activity, 0.8 mt will be taken in non-groundfish fisheries and 6.4 mt will be taken in the commercial fishery (which is being set as a commercial HG), leaving a residual amount of 8.4 mt to be used as necessary during the fishing year. Tribal vessels are estimated to land about 2.3 mt of yelloweye rockfish of the commercial HG in 2006, but do not have a specific allocation at this time.

bb/ Black rockfish was last assessed in 2003 for the Columbia and Eureka area and in 2000 for the Vancouver area. The ABC for the area north of 46°16' N. lat. is 540 mt and the ABC for the area south of 46°16' N. lat. is 736 mt. Because of an overlap in the assessed areas between Cape Falcon and the Columbia River, projections from the 2000 stock assessment were adjusted downward by 12 percent to account for the overlap. The ABCs were derived using an F_{MSY} proxy of F50%. The unfished biomass is believed to be above 40 percent. Therefore, the OYs were set equal to the ABCs, 540 mt for the area north of 46°16' N. lat. and 736 mt for the area south of 46°16' N. lat. A harvest guideline of 30,000 lb (13.6 mt) is set for the tribes. The black rockfish OY in the area south of 46°16' N. lat is subdivided with separate HGs being set for the area north of 42° N. lat (427 mt/58 percent) and for the area south of 42° N. lat (309 mt/42 percent). For the 427 mt attributed to the area north of 42° N. lat. 290-360 mt is estimated to be taken in the recreational fishery, resulting in a commercial HG of 67-137 mt. A range is being provided because the recreational and commercial shares are not currently available. Of the 309 mt of black rockfish attributed to the area south of 42° N. lat., a HG of 185 mt (60 percent) will be applied to the area north of 40°10' N. lat. and a HG of 124 mt (40 percent) will be applied to the area south of 40°10' N. lat. For the area between 42° N. lat. and 40°10 min N. lat., 74 mt is estimated to be taken in the recreational fishery, resulting in a commercial HG of 111 mt. For the area south of 40°10' N. lat., 101 mt is estimated to be taken in the recreational fishery, resulting in a commercial HG of 23 mt. Black rockfish was included in the minor rockfish north and other rockfish south categories until 2004.

cc/ 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 stock assessments. The ABC of 3,680 mt is the sum of the individual "remaining rockfish" ABCs plus the "other rockfish" ABCs. The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. To obtain the total catch OY of 2,250 mt, the remaining rockfish ABCs were further reduced by 25 percent and other rockfish ABCs were reduced by 50 percent. This was a precautionary measure to address limited stock assessment information. The OY is reduced by 78 mt for the amount estimated to be taken in the recreational fishery, resulting in a 2,172 mt commercial HG. Open access is allocated 8.3 percent (180 mt) of the commercial HG and limited entry is allocated 91.7 percent (1,992 mt) of the commercial HG. Tribal vessels are estimated to land about 28 mt of minor rockfish in 2006, but do not have a specific allocation at this time.

dd/ 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 assessment, and "other rockfish" which includes species that do not have quantifiable stock assessments. The ABC of 3,412 mt is the sum of the individual "remaining rockfish" ABCs plus the "other rockfish" ABCs. The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. To obtain a total catch OY of 1,968 mt, the remaining rockfish ABCs are further reduced by 25 percent, with the exception of blackgill rockfish, 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 443 mt for the amount estimated to be taken in the recreational fishery, resulting in a 1,525 mt HG for the commercial fishery. Open access is allocated 44.3 percent (676 mt) of the commercial HG and limited entry is allocated 55.7 percent (849 mt) of the commercial HG.

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

ff/ Blackgill rockfish was believed to be at 51 percent of its unfished biomass in 1997. The ABC of 343 mt is the sum of the Conception area ABC of 268 mt, based on the 1998 stock assessment with an F_{MSY} 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 as a precautionary measure because of the lack of information.

gg/ "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 assessed quantitatively. The amount expected to be taken during research activity is reduced by 22.1 mt.

hh/ "Other fish" includes sharks, skates, rays, ratfish, morids, grenadiers, kelp greenling, and other groundfish species noted above in footnote c/. The amount expected to be taken during research activity is 55.7 mt.

ii/ Minor nearshore rockfish south - The total catch OY is 615 mt. Out of the OY it is anticipated that the recreational fishery will take 383 mt, and 97 mt will be taken by the commercial fishery (which is being set as a commercial HG), leaving a residual amount of 135 mt to be used as necessary during the fishing year.

[FR Doc. 05–8817 Filed 4–28–05; 4:20 pm]
BILLING CODE 3510–22–S