action is to provide a sustainable fishery throughout FY 2006.

DATES: Effective July 1, 2006, through April 30, 2007.

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Management Specialist, phone: (978) 281–9218, fax: (978) 281–9135, e-mail: *moira.kelly@noaa.gov*.

SUPPLEMENTARY INFORMATION: FW 40B, developed by the New England Fishery Management Council (Council) and approved and implemented on June 1, 2005, requires the Regional Administrator to allocate, prior to June 1 of each year, the total number of trips into the CA II Yellowtail Flounder SAP based on the Georges Bank (GB) yellowtail flounder total allowable catch (TAC), as established through the U.S./Canada Resource Sharing Understanding, and the amount of GB yellowtail flounder caught outside of the SAP. FW 40B established the following formula for determining the appropriate number of trips for this SAP on a yearly basis to help achieve optimum yield (OY) of GB yellowtail flounder: Number of trips = (GB yellowtail flounder TAC - 1,946 mt)/4.54 mt. Note that 4.54 mt is equivalent to 10,000 lb (4,536 kg). This formula assumes that, similar to the calculation that was done for FY 2005, 94 percent of the GB yellowtail flounder TAC (i.e., 1,946 mt) will be caught outside of the CA II Yellowtail Flounder SAP. The formula results in an allocation of only 27 trips for FY 2006. However, if it is determined that the catch available for the SAP (i.e., GB yellowtail flounder TAC - GB yellowtail flounder caught outside SAP) is not sufficient to support 150 trips with a 15,000–lb (6,804–kg) trip limit, or that at least 1,020 mt are available for the SAP, the Regional Administrator may choose to not allocate any trips to the SAP. However, the FY 2006 GB yellowtail flounder TAC (2,070 mt) less the amount of GB yellowtail that will be caught outside of the SAP is only 124 mt. It would not be feasible or equitable to allocate and monitor such a low number of trips across the fleet. Allocating such a low number of trips fleet-wide would likely cause a derby fishery which would be impossible to monitor and control in such a way to ensure that the low available catch is not exceeded. Therefore, based on the final rule implementing the 2006 U.S./Canada GB yellowtail flounder TAC (71 FR 25095; April 28, 2006), which was recommended by the Transboundary Management Guidance Committee and the Council for FY 2006, and using the criteria specified under § 648.85(b)(3)(vii) to determine the appropriate number of trips for FY 2006, the Regional Administrator has determined that there will be insufficient GB yellowtail flounder TAC to support the CA II Yellowtail Flounder SAP for FY 2006. As such, zero trips will be available for FY 2006.

Classification

This action is required by § 648.85(b)(3)(vii) and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator finds good cause to waive prior notice and opportunity for public comment for this action because any delay of this action would be impracticable and contrary to the public interest. Additional prior notice and opportunity for public comment would delay the implementation of the action which could potentially lead to the opening of this SAP during FY 2006. Opening of this SAP during FY 2006 could prematurely close the Eastern U.S./Canada Area, as increased catches of GB yellowtail flounder from this SAP would likely result in the early attainment of the U.S./Canada Management Area TAC for GB yellowtail flounder. Such a closure would reduce sources of potential revenue, decreased economic returns, and lead to further adverse economic impacts to the fishing industry, not only from GB yellowtail flounder, but from GB cod and GB haddock as well. In addition, the potential for an unexpected opening and rapid closure of this SAP following the consideration of additional public comment could create confusion in the fishing industry. Therefore, given the potential negative impacts resulting from delayed implementation of this action, as described above, it would be impracticable and contrary to the public interest to provide further notice and opportunity for public comment. Any detrimental effect of foregoing prior notice and comment for this action is mitigated because the possibility of this closure was contemplated during the development of FW 40B and commented on by the public. In addition, the Council and public were consulted about this action during the April 4, 2006, Council meeting, at which time there was opportunity for additional public comment.

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

Dated: May 16, 2006.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 06–4740 Filed 5–19–06; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 060424110–6110–01; I.D. 081304C]

RIN 0648–AU39

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; 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 2006 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 May 19, 2006. Comments on the revisions to bycatch limits must be received no later than 5 p.m., local time on June 6, 2006.

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

- E-mail: *Whiting2006OY.nwr@noaa.gov*: Include I.D. 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.

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) 206–526–6110.

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is accessible via the Internet at the Office of the Federal Register's Web site at *http://www.gpoaccess.gov/fr/index.html*. Background information and documents are available at the NMFS Northwest Region Web site 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). The final rule to implement the 2005–2006 specifications and management measures for the Pacific Coast Groundfish Fishery was published on December 23, 2004 (69 FR 77012). Comments regarding bycatch of overfished species, including bycatch of overfished species in the whiting fishery were responded to in the final rule.

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 becomes effective, the negotiators recommended that each country apply the agreed upon provisions to their respective fisheries.

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 final 2005 and 2006 ABC and OY until its March 2005 and 2006 meetings, respectively. To date, the international agreement has not yet been ratified and implementing legislation has not yet been made effective. A final rule to implement the 2005 harvest specifications and management measures for the whiting fishery was published on May 3, 2005 (70 FR 22808). NMFS received no comments on the 2005 harvest specifications and management measures for the whiting fishery. The ABC and OY values recommended by the Council as final ABC and OY values for 2006 are based on a stock assessment update, and their impacts are consistent with the scope of impacts considered in the EIS for the 2005 and 2006 management measures. The OY being implemented in this rule, and the resulting allocations among the sectors and the bycatch limit for canary rockfish are the same as those in effect in 2005. The bycatch limit for widow rockfish is slightly lower than the limit in 2005.

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 historically 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. After 2001, the whiting biomass increased substantially as a strong 1999 year class matured and entered the spawning population. The 1999 year class is now rapidly moving through the population.

The joint US-Canada Stock Assessment Review (STAR) panel met February 6–9, 2006, to review an updated whiting stock assessment prepared by the Northwest Fisheries Science Center. The STAR panel accepted two equally plausible assessment models that consider uncertainty in the relative depletion level and stock productivity.

As in 2005, the amount of whiting that the hydroacoustic survey was able to measure relative to the total amount of whiting in the surveyed area (survey catchability coefficient or q) was identified as a major source of uncertainty in the new stock assessment. Model–1 has a fixed value of q=1, while Model–2 estimates q in the model (using an informative prior) to arrive at q = 0.69, which results in an upward scaling of both biomass and ABC/OY estimates. Uncertainty regarding the true value of q has been a major issue with whiting stock assessments in recent years, and the Council has based whiting ABC and OYs from the last several assessments on models where q was set equal to 1.

With Model–1, q=1, the whiting stock biomass was estimated to be at 31 percent of its unfished biomass at the end of 2005 and at 38 percent of its unfished biomass with Model–2, q=0.69. Because only moderately sized year classes have been observed since 1999, the whiting biomass is projected to decline in the near future. However, data from the 2005 hydroacoustic survey suggest a moderately strong 2003 year class, and that a moderate to strong 2004 year class may mature and enter the fishery in the next few years. If these year classes are stronger than currently projected, the whiting biomass could stabilize or even increase in biomass.

The steepness of the stock-recruitment relationship (the proportion of young fish entering the population in relation to the number of adult fish) was redefined in the 2006 assessment. A steepness value of 0.75 was used in 2006, whereas a value of 1 was used in 2005. Assuming a steepness of 1 implies that the recruitment is the same when the biomass is high and when the biomass is lower, which may result in overly optimistic projections. The Council's Scientific and Statistical Committee (SSC)recommended that the steepness of the stock-recruitment relationship be explored further with the next assessment.

The U.S. Canada Treaty provisions include the use of a default harvest rate of $F_{40\%}$. A rate of $F_{40\%}$ 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). The selection of the $F_{40\%}$ value was based on an analysis of stock and recruitment data for other whiting (hake) species. However, because the whiting stock is projected to fall below the overfished threshold if managed with a harvest rate of $F_{40\%}$, the

SSC recommended that further work be done on the development of a control rule that allows for maximized yields while keeping whiting above the overfished threshold.

Based on its review, the SSC endorsed the use of both models in setting 2006 ABCs and OYS and noted that the results of both models could be combined, with each model given equal weighting, to form the basis of a management recommendation.

ABC/OY Recommendations

The range of U.S. ABCs and OYs considered by the Council and analyzed in the EIS for 2006 included: a low ABC/OY of 114,296 mt, which represents 50 percent of the medium ABC/OY; a medium ABC/OY of 228,593 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 ABC/OY of 457,186 mt, which is twice the amount of the medium ABC/OY.

At its March 6–10, 2006, meeting in Seattle, WA, the Council reviewed the results of the new whiting stock assessment and recommended adopting a U.S.-Canada coastwide ABC of 661,680 mt (results in a U.S. ABC of 518,294 mt based on q=1 and the harvest rate proxy of $F_{40\%}$. Because the whiting biomass is estimated to be below 40 percent of its unfished biomass, the 40/10 adjustment was applied as defined by the U.S.-Canada agreement. With the 40/10 adjustment, the U.S.-Canada coastwide OY was 593,750 mt with the q=1 model, and 883,490 mt with the q=0.69 model. The potential OYs with the 40/10 adjustment were unsupportably high, at record levels during a time when the stock biomass is in decline. Both 40/10 based OYs were projected to result in the stock biomass falling below the overfished threshold by 2007. Given the relative impact on future stock biomass levels, the Council considered a more conservative range of U.S.-Canada coastwide OYs that were between 100,000 mt and 400,000 mt.

Following discussion and public testimony, the Council recommended adopting a U.S.-Canada coastwide OY of 364,842 mt with a corresponding U.S. OY of 269,069 mt. The U.S. OY is the same as the OY value that was in place in 2005. With a U.S. OY of 269,069 mt, the stock biomass level is projected to drop below the overfished level by 2008 if q=1 is the true state of nature; however, the biomass would remain near 30 percent of the unfished level if q=0.69 is the true state of nature. When the results of both models are combined and given equal weighting, as recommended by the SSC, the 2008 depletion level is projected to be slightly above the overfished level. Because whiting stock assessments are prepared annually and OYs adjusted annually, the risk of reaching an overfished conditions is reduced. A new stock assessment will be prepared prior to the 2007 fishing year and will provide an opportunity to further adjust harvest levels in response to new assessment information. The 2007 assessment will further investigate the appropriateness of model parameters, harvest rates proxies, and year class strength.

Overfished Species

The availability of overfished species as incidental catch, particularly Pacific ocean perch, canary rockfish, darkblotched rockfish, and widow rockfish, may prevent the industry from harvesting the entire whiting OY during 2006. To allow the industry to have the opportunity to harvest the higher whiting OY, the Council recommended bycatch limits for certain overfished species. With bycatch limits, the industry has the opportunity to harvest a larger amount of whiting, if they can do so while keeping the incidental catch of specific overfished species within adopted bycatch limits. Regulations provide for the automatic closure of the commercial (non-tribal) portion of the whiting fishery upon attainment of a bycatch limit.

In recent years, the most constraining overfished species for the whiting fishery have been darkblotched, canary and widow rockfish. Prior to this final rule, regulations at 50 CFR 660.373 (b)(4) contained the following bycatch limits for the commercial sectors (non-tribal) of the whiting fishery: 7.3 mt bycatch limit for canary and 243.2 mt for widow rockfish.

At the March 2006 Council meeting, the Council's groundfish management team (GMT) examined the 2006 whiting OY alternatives in relation to the impacts of incidental catch of overfished species. With an OY of 269,069 mt and in the absence of any further restrictions, the catch of canary rockfish was estimated to be approximately 5.4 mt, the catch of widow rockfish was estimated to be approximately 122 mt, and the catch of darkblotched rockfish was estimated to be approximately 16.2 mt. As in 2005, canary rockfish was found to be the most constraining overfished species for the 2006 whiting fishery. After considering the projected catch of overfished species in all other fishing and research activities, the Council recommended that the canary rockfish bycatch limit for the whiting fishery be set at 4.7 mt, which was the same limit that was in effect in 2005, and that the widow rockfish bycatch limit be set at 200 mt.

The Council also considered establishing a darkblotched rockfish bycatch limit, but choose to delay its decision until its April meeting or later. If the whiting fishery encounters higher than expected take of Chinook salmon, fishers will be asked to take measures to avoid Chinook salmon catch. In 2005, fishers were required to fish seaward of the 100–fm depth contour to avoid Chinook salmon. If fishers are required or encouraged to fish in deeper waters in 2006 to avoid Chinook salmon or canary rockfish, it may result in increased darkblotched rockfish catch, which will be taken into account in establishing a darkblotched bycatch limit.

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 50 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 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 2006, using the sliding scale allocation method, the tribal allocation will be 35,000 mt, the same as in 2005. The Makah is the only Washington Coast tribe that requested a whiting allocation for 2006. The tribal fleet is comprised of 4 mid-water trawlers who deliver to shoreside plants and to two at-sea motherships one of which also participates in the non-tribal mothership whiting fishery.

The 2006 commercial OY (non-tribal) 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 fleet has typically been 6 to 7 vessels since the formation of the Pacific Whiting Conservation Cooperative in 1997). The mothership sector is comprised of catcher vessels that harvest whiting for delivery to motherships (typically 3–5 motherships operate in the fishery with one mothership also servicing the tribal fleet). 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 (In recent years, the number of participating vessels has ranged from 29 to 35 vessels some of which also service the non-tribal mothership sector). 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), the same as in 2005.

It should also be noted that whiting is not the only fishery that these vessels depend on. Shorebased vessels typically participate in other fisheries such as non-whiting groundfish, crab, and shrimp fisheries. Mothership and catcher-processor operations typically participate in the Alaska pollock fishery.

All whiting caught in 2006 before the effective date of this action will be counted toward the new 2006 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).

Correction

An omission was identified in the yelloweye rockfish footnote in Table 2a, which was published in the final rule of the 2005–2006 harvest specifications (December 23, 2004; 69 FR 77012). Although the Council recommended that regional recreational harvest guidelines be specified for yelloweye rockfish to allow the states to swiftly close the recreational fisheries if the amount anticipated to be taken in the recreational fishery was reached, the yelloweye rockfish footnote in Table 2a neglected to identify the value of anticipated recreational catch as a harvest guideline or to apportion it north and south of the California/Oregon boarder as recommended by the Council and addressed in the EIS. The states recently notified NMFS of the omission. Specifying the anticipated amount as a harvest guideline is necessary to keep the fishery within the yelloweye rockfish OY specified for rebuilding, therefore the omission is being remedied with this document.

Classification

The final whiting specifications and management measures for 2006 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.

For the following reasons, NMFS finds good cause to waive prior public notice and comment on the revisions to the 2006 Pacific whiting specifications and the canary and widow rockfish bycatch limits under 5 U.S.C. 553(b)(B). Also for these reasons, NMFS finds good cause to waive the 30–day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective as soon as possible after the April 1, 2006, fishery start date.

The FMP requires that fishery specifications be evaluated periodically using the best scientific information available. NMFS does a stock assessment every year in which U.S. and Canadian scientists cooperate. The 2006 stock assessment update for whiting was prepared in early 2006, which is the optimal time of year to conduct stock assessments for this species. Whiting differs from other groundfish species in that it has a shorter life span and the population fluctuates more swiftly. Thus, it is important to use the most recent stock assessment when determining ABC and OY. Because of the timing of the assessment, the results are not available for use in developing the new ABC and OY until just before the Council's annual March meeting.

In whiting fisheries, vessels tend to catch overfished species at sporadic and unpredictable rates. Protection of overfished species is required by the FMP and implementing regulations. The revised canary and widow rockfish bycatch limits for the whiting fisheries are intended to keep the overall harvest of overfished species within their rebuilding OYs. If the revision of bycatch limits for canary and widow rockfish were delayed for a public notice and comment period, the 4.7 mt of canary rockfish and 200 mt of widow rockfish available to the whiting fishery would likely be taken before the completion of the public comment period. Therefore, delaying this final rule could result in unexpectedly high bycatch of canary and widow 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 overfished species' OY would be contrary to the public's interest in rebuilding these overfished species and NMFS' obligations under the Magnuson-Stevens Act.

The proposed rulemaking to implement the 2006 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 and 2006 meetings and announced in the **Federal Register** as a final rule shortly thereafter.

As explained above, NMFS was recently notified by the states that the regional recreational harvest guidelines for yelloweye had been omitted from the final rule. Though each of the three states has adopted regulations that conform to the Federal requirements, the inclusion of the yelloweye regional harvest guideline is particularly important for recreational fishery management in California. The State of California has adopted regulatory language that allows the recreational fishery to be closed quickly if a Federal recreational harvest guideline is reached. Given the large number of

recreational fishery participants, the limited amount of information to project catch, and the low OY for yelloweye rockfish, overfishing could occur quickly if California did not have a mechanism for stopping the fishery if the harvest guideline were to be reached. Revising the ABC/OY tables to identify the anticipated yelloweye recreational catch amount as area harvest guidelines ensures that the state recreational fisheries can be managed to stay within the rebuilding-based OY for yelloweye rockfish. Allowing the fisheries to exceed an overfished species' OY would be contrary to the public's interest in rebuilding an overfished species, thus NMFS finds good cause to waive prior public notice and comment on these revisions, under 5 U.S.C. 553(b)(B). For the reasons stated above, NMFS also finds good cause under 5 U.S.C 553 (d)(3) to waive the 30 day delay in effectiveness. This action needs to be implemented as soon as possible to allow the states to restrict the recreational fishery, if necessary, to keep catch of yelloweye rockfish within the rebuilding based OYs.

The environmental impacts associated with the Pacific whiting harvest levels being adopted by this action are consistent with the impacts 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**).

An Initial Regulatory Flexibility Analysis (IRFA) and FRFA were prepared for the 2005–2006 harvest specifications and management measures, which included the regulatory impacts of this action on small entities. The IRFA was summarized in the proposed rule published on September 21, 2004 (69 FR 56550). The following summary of the FRFA analysis, which covers the entire groundfish regulatory scheme of which this is a part, 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 rebuild and 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 1,700511 vessels participated in the West Coast commercial groundfish fisheries in 20013. (This figure decreased to 1,511 in 2003, the most recent year for which data are available.) Of those, about 420498 vessels (498 in 2003) were registered to limited entry permits issued for either trawl, longline, or pot gear. Of the remaining vessels, approximately 1280 vessels, about 770 participated in the open access fisheries and derived more than 5 percent of fisheries revenue from groundfish. All but 10–20 of the 1,511 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.

In recent years the number of participants in the whiting fishery has ranged from 29 to 35 shoreside trawl vessels; 3 to 5 mothership operations-each of which are serviced typically by 3 or 4 trawl vessels, some of which deliver shoreside; and 7 catcher processors. Shore-based trawlers and trawlers that service motherships are considered small businesses as they typically earn less than $4.0 million in revenues. (In 2003, the 30 vessels that participated in the shore-based whiting fishery, earned an average of $400,000 from Pacific whiting, coastal pelagic, crab, other groundfish, and shrimp fisheries. Motherships and catcher-processors are considered ''large'' as they typically earn far greater than $4.0 million each because of their participation in Alaska pollock fisheries.

The Magnuson-Stevens Act requires that actions taken to implement FMPs be consistent with the 10 national standards, one of which requires that conservation and management measures shall, consistent with the conservation requirements of the Magnuson-Stevens 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 T_{MAX} 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.

The 2006 ABC, OY, and sector allocations of whiting are the same as those of 2005. The bycatch limit for canary rockfish is the same as that set in 2005, though the bycatch limit for widow rockfish is slightly lower. As explained below, we expect that, compared to the economic impacts analyzed in 2004, this final rule will include some positive economic impacts due to increased production and revenue and some negative impacts due to rising fuel prices. Because of the uncertainty of these impacts, it is not possible for NMFS to quantify the net change in economic impact of this final rule as compared to that analyzed in 2004.

The 2005 fishery generated peak landings of 259,000 tons worth $29 million ex-vessel at $112 per ton. Landings in 2005 were the highest on record since 1966 when their was no domestic fishery and the only participants were foreign fishing vessels. Therefore it is expected that 2006 landings, will continue the growth in annual landings that has occurred since 2002 when the fishery harvested 132,000 tons. The 2003 fishery harvested 142,000 tons worth, on an ex-vessel basis, $17 million at $121 per ton with total catch and revenue reaching 217,000 tons and $22 million ($101 per ton) in 2004.

Based on indications from several industry representatives, markets for the whiting products may be stronger in 2006 than in 2005 as a result of European and Asian exchange rates and growing market demand. Therefore, revenues in 2006 may be greater than in 2005 as a result of price increases. Although cost information on the whiting fleets is unavailable, fuel is a major expenditure category. Compared to the first five months of 2005, fuel prices so far this year are about 15 to 20 percent higher based on fuel prices collected by the Pacific States Marine Fisheries Commission. Therefore, whiting prices will need to increase in similar fashion in order for the industry to maintain current levels of profitability. Whether expected increase in whiting prices balance out the expect increase fuel prices is unknown, but conversations with industry representatives indicates that the expectation is that 2006 will be as good or a better year for the whiting fishery. Whether there will be significant environmental changes in 2006 that effect the fishery is unknown. The ability of being able to harvest the entire whiting OY will also depend on how well the industry stays within the bycatch limits set aside for the industry.

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 exempt from review for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 660

Fishing, Fisheries, and Indian Fisheries.

Dated: May 17, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, 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

■ 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, inseason allocation reapportionment.

(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. Specific sector allocations for a given fishing year are found in tables 1a and 2a of this subpart.

* * * * *

■ 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 212 mt of widow rockfish. For 2006, the whiting fishery bycatch limits are 4.7 mt of canary rockfish and 200 mt of widow rockfish.

* * * * *

Subpart G [Amended]

■ 4. Tables 2a and 2b to part 660 subpart G are revised to read as follows:

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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	1,200	--	--	--	--
Pacific Whiting e/	518,294					518,294	269,069	232,069	--	--	--	--
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	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		Open	
									Mt	%	Mt	%
ROCKFISH:												
Pacific ocean perch	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	--	52.7	--	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	1,018	1,011	984	99.7	27	0.27
Longspine thornyhead w/ north of 36°	2,461				--	2,461	2,461	2,449	--	--	--	--
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	200	194.8	--	--	--	--
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			Limite		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 2006 management measures, it is 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. The OY is reduced by 400 mt for the

tribal harvest guideline, resulting in a commercial harvest guideline of 1,200 mt.

e/ Pacific whiting - The most recent stock assessment was prepared in early 2006, and the whiting biomass was estimated to be between 31 percent and 38 percent of its unfished biomass. The U.S. ABC of 518,294 mt is based on the 2006 assessment results with the application of an Fmsy proxy harvest rate of 40%. The U.S. ABC is 73.88 percent of the coastwide ABC. The U.S. total catch OY is being set at 269,069 mt. The total catch OY is reduced by 35,000 mt for the tribal allocation, 200 mt for the amount estimated to be taken during research fishing, and 1,800 mt for the estimated catch in non-groundfish fisheries, resulting in a commercial OY of 232,069 mt. The commercial OY is allocated between the sectors with 42 percent (97,469 mt) going to the shore-based sector, 34 percent (78,903 mt) going to the catcher/processor sector, and 24 percent (55,696 mt) going to the mothership sector. Discards of whiting are estimated from the observer data and counted towards the OY inseason.

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 widow rockfish bycatch limit for the commercial Pacific whiting fisheries is 200 mt. This amount may be adjusted via inseason action.

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 that has 58 percent of the OY going to the commercial fisheries and 42 percent going to the recreational fisheries. 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. The canary rockfish bycatch limit for the commercial Pacific whiting fisheries is 4.7 mt. This amount may be adjusted via inseason action.

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° N. lat. 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. Darkblotched rockfish 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. A new darkblotched rockfish assessment was prepared for 2005. The 2005 darkblotched rockfish stock assessment found that darkblotched has been rebuilding at a faster rate than had been shown in the 2003 stock assessment. The ABC of 294 mt was projected from the 2003 assessment update and is based on an FMSY proxy of F50%. The 2006 OY will be 200 mt. This OY is 94 mt below the 294 mt OY originally in place for 2006, which was based on the rebuilding plan adopted under Amendment 16-2 and a harvest control rule of F=0.032 [69 FR 77012.] Based on the results of the 2005 assessment, NMFS estimates that reducing the 2006 OY to 200 mt is projected to rebuild the darkblotched rockfish stock to B_{MSY} by March 2010, as compared to the July 2010 rebuilding date that was projected with a 294 mt OY. Out of the OY, it is anticipated that 5.2 mt will be taken during research activity, leaving 194.8 mt available to the commercial fishery.

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 (the HG for the area north of 40°10' N. lat. is 6.7 mt and the HG for the area south of 40°10' N. lat. is 3.7 mt), 1.0 mt 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' 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.

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