

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 021209300-3048-02; I.D. 112502C]

RIN 0648-AQ18

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

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement the 2003 fishery specifications and management measures for groundfish taken in the U.S. exclusive economic zone (EEZ) and state waters off the coasts of Washington, Oregon, and California. Final specifications include the levels of the acceptable biological catch (ABC) and optimum yields (OYs). Commercial OYs (the total catch OYs reduced by tribal allocations and by amounts expected to be taken in recreational and compensation fisheries) described herein are allocated between the limited entry and open access fisheries. Management measures for 2003 are intended to prevent overfishing, rebuild overfished species, minimize incidental catch and discard of overfished and depleted stocks, provide equitable harvest opportunity for both recreational and commercial sectors, and, within the commercial fisheries, achieve harvest guidelines and limited entry and open access allocations to the extent practicable.

DATES: Effective March 1, 2003, until the 2004 annual specifications, unless modified, superseded, or rescinded through a publication in the **Federal Register**.

ADDRESSES: Copies of the Final Environmental Impact Statement (FEIS) are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220. 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 N.E., Bldg. 1, Seattle, WA 98115-0070.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule also is accessible via the Internet at the Office of the Federal Register's website at http://www.access.gpo.gov/su_docs/aces/aces140.htm. Background information and documents are available at the NMFS Northwest Region website at <http://www.nwr.noaa.gov/1sustfsh/gdfsh01.htm> and at the Council's website at <http://www.pcouncil.org>.

Background

A proposed rule to implement the 2003 specifications and management measures for Pacific Coast groundfish was published on January 7, 2003 (68 FR 936). NMFS requested public comment on the proposed rule through February 7, 2003. During the comment period on the proposed rule, NMFS received five letters of comment, which are addressed later in the preamble to this final rule. See the preamble to the proposed rule for additional background information on the fishery and on this rule.

The Pacific Coast Groundfish Fishery Management Plan (FMP) requires that fishery specifications for groundfish be annually evaluated and revised, as necessary, that OYs be specified for species or species groups in need of particular protection, and that management measures designed to achieve the OYs be published in the Federal Register and made effective by January 1, the beginning of the fishing year. To ensure that new 2003 fishery management measures were effective January 1, 2003, NMFS published an emergency rule announcing final management measures for January-February 2003 (68 FR 908, January 7, 2003). Annual specifications for 2003 and management measures for March-December 2003 were proposed in a separate rule, also published on January 7, 2003.

Specifications and management measures announced in this rule for 2003 are designed to rebuild overfished stocks through constraining direct and incidental mortality, to prevent overfishing, and to achieve as much of

the OYs as practicable for more abundant groundfish stocks managed under the FMP.

Comments and Responses

During the comment period for the 2003 specifications and management measures, which ended on February 7, 2003, NMFS received five letters of comment. These letters of comment were received opposing different portions of the rule: two from non-governmental organizations representing environmental interests, two from an association of seafood processors, and one from the government of Canada.

Comments on Harvest Specifications and Overfished Species Rebuilding

Comment 1: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that overfished species be rebuilt within as short a time as possible. For a number of overfished West Coast groundfish species, rebuilding periods have been designated as the maximum time possible without any analysis as to why this time frame is warranted. Further, the Council and NMFS are overdue in preparing formal rebuilding plans (in the form of an FMP, an FMP amendment, or Federal regulations) for the nine overfished groundfish species.

Response: In relevant part, the Magnuson-Stevens Act requires that rebuilding periods be as short as possible, taking into account the status and biology of the overfished stocks, and the needs of fishing communities, and not exceed ten years except in cases where the biology of the stock requires more time to rebuild (as is true of most of the nine overfished groundfish stocks). Under the National Standard Guidelines that implement the Magnuson-Stevens Act, the maximum times to rebuild are: 1) for stocks that can be rebuilt within ten years with no fishing, ten years, and 2) for stocks that cannot be rebuilt within ten years with no fishing, the time to rebuild in the absence of fishing, plus one mean generation. In establishing rebuilding periods, the Council and NMFS endeavor to meet the conservation requirements (National Standard 1) while taking into account the needs of fishing communities (National Standard 8).

The proposed rule defined the rebuilding parameters for each species, including: that portion of the stock that has been designated as overfished; the biomass estimate from the most recent assessment; the maximum allowable time to rebuild (TMAX); rebuilding target (TTARGET) years (must have at