

per line. There is no bag limit, season, or size limit for sanddabs, however, it is prohibited to fillet sanddabs at sea.

V. Washington Coastal Tribal Fisheries

The Assistant Administrator (AA) announces the following tribal allocations for 2003, including those that are the same as in 2002. Trip limits for certain species were recommended by the tribes and the Council and are specified here with the tribal allocations. With respect to the 2003 treaty Indian allocation of Pacific whiting, NMFS has reviewed the scientific information set forth in the Declaration of William L. Robinson dated April 26, 2002, and the Declaration of Dr. Richard D. Methot, Jr., dated April 18, 2002, which were submitted with the Federal Defendants Statement Regarding Remand in *Midwater Trawlers Co-operative v. Department of Commerce*, No. C99–1415BJR and No. C99–1500BJR (Consolidated) (W.D. Wash.). NMFS has no additional information that would change the conclusions in these declarations on the distribution and migratory pattern of the stock. Therefore, NMFS is relying on the information in those declarations as the best scientific information currently available. Accordingly, NMFS finds that the 2003 treaty Indian allocation of Pacific whiting (25,000 mt to be taken by the Makah Tribe), which is based on the sliding scale methodology that has been in use since 1999, is based on the best scientific information available, and is within the Indian treaty right as described in *Midwater Trawlers Co-operative v. Department of Commerce*, 282 F.3d 710, 718 (9th Cir. 2002). NMFS has rejected and continues to reject the so-called “biomass” method of calculating the treaty right. As stated in *U.S. v. Washington*, Subproceeding 96–2, 143 F. Supp.2d 1218, 1223–1224 (W.D. Wash. 2001), the biomass method is not required for conservation and underestimates the quantity of fish that pass through the tribal usual and accustomed fishing grounds, and hence it cannot serve as the basis for calculating the treaty share. Also, application of the biomass method to calculate the treaty Indian allocation of Pacific whiting would illegally discriminate against tribal fishing interests, since the biomass method is not used in management of the non-treaty fishery. *Id.*; also see *Makah v. Brown*, C85–1606R, Order on Five Motions Relating to Treaty Halibut Fishing at 6 (W.D. Wash. 1993).

A. Sablefish

The tribal allocation is 631 mt, 10 percent of the total catch OY, less 3 percent estimated discard mortality.

B. Rockfish

(1) For the commercial harvest of black rockfish off Washington State, a harvest guideline of: 20,000 lb (9,072 kg) north of Cape Alava, WA (48°09'30" N. lat.) and 10,000 lb (4,536 kg) between Destruction Island, WA (47°40'00" N. lat.) and Leadbetter Point, WA (46°38'10" N. lat.).

(2) Thornyheads are subject to a 300-lb (136-kg) trip limit.

(3) Canary rockfish are subject to a 300-lb (136-kg) trip limit.

(4) Yelloweye rockfish are subject to a 100-lb (45-kg) trip limit.

(5) Yellowtail rockfish taken in the tribal mid-water trawl fisheries are subject to a cumulative limit of 30,000 lb (13,608 kg) per 2-month period. Landings of widow rockfish must not exceed 10 percent of the weight of yellowtail rockfish landed in any two-month period. These limits may be adjusted by an individual tribe inseason to minimize the incidental catch of canary rockfish and widow rockfish.

(6) Other rockfish, including minor nearshore, minor shelf, and minor slope rockfish groups are subject to a 300-lb (136-kg) trip limit per species or species group, or to the non-tribal limited entry trip limit for those species if those limits are less restrictive than 300 lb (136 kg) per trip.

(7) Rockfish taken during open competition tribal commercial fisheries for Pacific halibut will not be subject to trip limits.

C. Lingcod

Lingcod are subject to a 300-lb (136-kg) daily trip limit and a 900-lb (408-kg) weekly limit.

D. Pacific whiting

The tribal allocation is 25,000 mt.

Classification

These final specifications and management measures for 2003 are issued under the authority of, and are in accordance with, the Magnuson-Stevens Act, the FMP, and 50 CFR part 660 subpart G (the regulations implementing the FMP).

The 2003 specifications and management measures are intended to protect overfished and other depressed stocks while also allowing as much harvest of more abundant groundfish stocks as possible during the course of the year. NMFS received the Council's recommendations on specifications and management measures in September

2002. Because of the timing of the receipt, development, review, and analysis of the fishery information necessary for publishing the proposed rule for the specifications and management measures, the proposed rule could not be made available for public comment prior to January 7, 2003. The timing of this final rule balances the need to publish and make effective a final rule as early as possible in the calendar year against the need to provide public comments on the proposed rule.

A 30-day delay in effectiveness for this rule would in fact be a 60-day delay, because most of the trip limits are two-month limits, so most fishers could exceed the entire two month limit before the rules went into effect after 30 days. In addition, none of the large rockfish conservation areas would be in place, thus a delay in effectiveness would allow fishing in an area this rule closes for conservation purposes. Thus, excessive harvest could cause harm to overfished species. Delay in publishing these measures could also require unnecessarily restrictive measures, including possible fishery closures, later in the year to make up for the excessive harvest that would be caused by late implementation of these regulations. Thus, a delay in effectiveness could ultimately cause economic harm to the fishing industry and associated fishing communities. For these reasons, there is good cause under 5 U.S.C. 553(d)(3) to determine that delaying the effectiveness of this rule for 30 days would be contrary to public interest.

The Council prepared an FEIS for this action; a notice of availability was published on January 17, 2003 (68 FR 2538). A copy of this FEIS is available from the Council, see **ADDRESSES**. On February 25, 2003, NMFS issued an ROD that documents the agency's final decisions concerning the decision by the NMFS Northwest Region to approve the Council's preferred OY alternative for 2003 groundfish ABC and OY specifications and management measures for Pacific Coast groundfish. The 2003 specifications and management measures are expected to have positive effects on the biological environment and negative effects on fishing communities and the socio-economic environment. The 2003 management regime is structured to protect overfished groundfish species and introduces a new depth based management regime that closes large areas of the continental shelf to groundfish fishing. Closure of important fishing areas is expected to have significant impacts on the human environment.