

report; (4) requiring the federal groundfish observer program in the FMP, matching existing Federal regulations at 50 CFR 660.360, and; (5) reorganizing sections of Chapters 4 and 5 of the FMP for a more logical progression of information, without a revision to the requirements or effects of the FMP.

Federal Regulations under Amendment 16-1

Regulations to implement Amendment 16-1 would establish a new section of the Federal groundfish regulations at 50 CFR 660.370, "Overfished Species Rebuilding Plans." Because Amendment 16-1 provides a framework for future rebuilding plans, the regulations implemented through this proposed rule would similarly provide a framework within federal groundfish regulations for future species-specific rebuilding plans. Amendment 16-2, which NMFS plans to make available for public review in autumn 2003, would propose implementation of the first four overfished species rebuilding plans (canary rockfish, darkblotched rockfish, lingcod, Pacific ocean perch) within 50 CFR 660.370. In the future, overfished species rebuilding plans would be reviewed under the schedule set by Amendment 16-1 and Federal regulations implementing species-specific rebuilding plans would be amended through a public notice-and-comment rulemaking.

Classification

At this time, NMFS has not determined whether Amendment 16-1, which this proposed rule would implement, is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

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

The Council has prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA is available from the Council (see **ADDRESSES**). A summary of the IRFA follows:

A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** and **BACKGROUND** at the beginning of this proposed rule. There are no recordkeeping, reporting, or other compliance issues forthcoming from this proposed rule. This proposed rule

does not duplicate, overlap, or conflict with other Federal rules.

A fish-harvesting business is considered a "small" business by the Small Business Administration (SBA) if it has annual receipts not in excess of \$3.5 million. Approximately 2,000 vessels participate in the West Coast groundfish fisheries. Of those, about 500 vessels are registered to limited entry permits issued for either trawl, longline, or pot gear. About 1,500 vessels land groundfish against open access limits while either directly targeting groundfish or taking groundfish incidentally in fisheries directed at non-groundfish species. All but 10-20 of those vessels are considered small businesses by the SBA. This proposed rule is not expected to yield disproportionate economic impacts between those small and large entities. 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.

The proposed action in this amendment affects only the administrative process by which individual species rebuilding plans are formulated, and so does not have significant adverse economic effects on consumers, producers or processors of groundfish. The EA/RIR/IRFA defines four issues for which alternatives were identified and selected by the Council. Of these four issues, only the alternatives identified under Issue 1 have regulatory implications. Under Issue 1, the Council considered the form (FMP amendments, regulations, a combination thereof) and required elements of a rebuilding plan. The remaining issues are concerned with setting internal Council standards for periodic review and modification of rebuilding plans (Issues 2 and 3), and defining the interaction of a rebuilding plan with recovery plans for a rebuilding species that is subsequently listed under the ESA (Issue 4).

The Council considered 4 alternatives under Issue 1, including a status quo alternative. All alternatives, with the exception of the status quo, would implement overfished species rebuilding plans as either FMP amendments or Federal regulations. One alternative (Issue 1, Alternative b) would have implemented rebuilding plans as FMP amendments, with rebuilding parameters specified in the FMP. Another alternative (Issue 1, Alternative c) would have implemented rebuilding plans as Federal regulations, with **TTARGET** and a harvest control rule for each overfished species

specified in regulations. The final and preferred alternative (Issue 1, Alternative d) would specify **T_{TARGET}** and the harvest control for each overfished species in regulations, and would require the Council to describe the formulas and methodology for determining other rebuilding parameters in the FMP. This was the preferred alternative because it ensures that basic rebuilding plan information is provided in the FMP for each overfished species, while still allowing updates to some rebuilding parameters through notice and comment rulemaking. In this fashion, Amendment 16-1 complies with the Magnuson-Stevens Act requirement at Section 304(e)(3) that overfished species rebuilding plans take the form of "a fishery management plan, plan amendment, or proposed regulations."

While there will be no direct impact on small entities as a result of adopting any particular process for formulating rebuilding plans, the implementation of specific rebuilding plans for overfished species may entail substantial economic impacts for groundfish processors, commercial harvesters and recreational charter vessels. These type of impacts are specific to particular stocks or species and so will be addressed in the individual rebuilding plans themselves. While there may be slight differences between the alternatives in the amount of administrative capacity required to formulate and implement individual species rebuilding strategies, these differences are not quantifiable and will depend more on the variability of periodic stock assessments once a particular rebuilding plan is adopted than on the effects of these proposed actions or the subsequent adoption of individual rebuilding plans.

Based on the analysis within the IRFA, the agency does not believe the rule has a significant impact on a substantial number of small entities and has so advised the SBA. However, NMFS welcomes comments on this issue (see **ADDRESSES**) and will notify the public of its final determination in the final rule for this action.

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.