

rule to implement the 2003 groundfish specifications and management measures in the Proposed Rules section of the January 7, 2003 issue of the **Federal Register**.

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.

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 (48°09'30" N. lat.) and 10,000 lb (4,536 kg) between Destruction Island (47°40'00" N. lat.) and Leadbetter Point (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 two-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 in season 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 management measures for January 1 through February 28, 2003 are issued under the authority of, and are in

accordance with, the Magnuson-Stevens Act and 50 CFR parts 600 and 660 subpart G (the regulations implementing the FMP).

The AA finds good cause to waive the requirement to provide prior notice and opportunity for public comment on this action pursuant to 5 U.S.C. 553(b)(B), because providing prior notice and comment would be impracticable and contrary to the public interest.

The January-February management measures are intended to protect overfished and other depressed stocks while also allowing as much harvest of healthy stocks as possible. As explained above, delay in implementation of these regulatory measures could cause harm to some stocks and would require unnecessarily restrictive measures later in the year to make up for the late implementation. Because the 2002 measures are not strict enough, leaving these measures in place could cause harm to some stocks. Much of the data necessary for these specifications and management measures came from the 2002 fishing year and new stock assessments were not available until June. Because of the timing of the receipt, development, review, and analysis of the fishery information necessary for setting the initial specifications and management measures, it is impracticable and contrary to the public interest to publish these measures in the **Federal Register** and to take public comment on the measures prior to January 1, 2002. It would be impracticable because, as explained above, providing prior notice would delay the effective date of these measures and the January-February 2002 measures would remain in place. Because the 2002 measures are not conservative enough, they do not meet the Council's rebuilding goals for 2003. Leaving the 2002 measures in place for 2003 could cause harm to some stocks.

For the reasons above, the AA also finds good cause under 5 U.S.C. 553(d) to waive the requirement to delay for 30 days the effective date of the rule.

Because there is no requirement to provide for prior notice and opportunity for public comment on this rule the analytical requirements of the Regulatory Flexibility Act do not apply. However, as described above, the January-February 2003 management measures are based on the overall analysis underlying the 2003 specifications and March-December 2003 management measures which are proposed in the Proposed Rules section of this issue of the **Federal Register**. The Council's Initial Regulatory Flexibility analysis prepared for the 2003 specifications and management

measures considers the effects of the January and February management measures on the fisheries.

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

Pursuant to Executive Order 13175, this emergency rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the FMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, regulations implementing the FMP establish a procedure by which the tribes with treaty fishing rights in the area covered by the FMP request new allocation or regulations specific to the tribes, in writing, before the first of the two autumn groundfish meetings of the Council. The regulation at 50 CFR 660.324(d) further states "the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus." The tribal management measures in this final rule have been developed following these procedures. The tribal representative on the Council made a motion to adopt the tribal management measures, which was passed by the Council, and those management measures, which were developed and proposed by the tribes, are included in this emergency rule.

NMFS issued Biological Opinions (BOs) under the Endangered Species Act on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the groundfish fishery on chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal, Oregon coastal), chum salmon (Hood Canal, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south-central California, northern California, and southern California).

During the 2000 Pacific whiting season, the whiting fisheries exceeded the chinook bycatch amount specified in the Pacific whiting fishery's