

TABLE 2—LIST OF FISHERIES COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—
Continued

Fishery Description	Estimated # of vessels/persons	Marine mammal species and stocks incidentally killed/injured
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel	4,000	Bottlenose dolphin, Eastern GMX coastal Bottlenose dolphin, Northern GMX coastal Bottlenose dolphin, Western GMX coastal Bottlenose dolphin, WNA coastal

List of Abbreviations and Symbols Used in Table 2: FL - Florida; GA - Georgia; GME/BF - Gulf of Maine/Bay of Fundy; GMX - Gulf of Mexico; NC - North Carolina; SC - South Carolina; TX - Texas; WNA - Western North Atlantic; ¹ - Fishery classified based on serious injuries and mortalities of this stock are greater than 1 percent, but less than 50 percent of the stock's PBR; ² - Fishery classified by analogy.

Classification

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. For convenience, the factual basis leading to the certification is repeated below.

Under existing regulations, all fishers participating in Category I or II fisheries must register under the MMPA, obtain an Authorization Certificate, and pay a fee of \$25 (with the exception of those in regions with a registration integrated with existing state and Federal permitting processes). Additionally, fishers may be subject to a take reduction plan and requested to carry an observer. The Authorization Certificate authorizes the taking of marine mammals incidental to commercial fishing operations. NMFS has estimated that approximately 41,730 fishing vessels, most of which are small entities, operate in Category I or II fisheries, and therefore, are required to register. However, registration has been integrated with existing state or Federal registration programs for the majority of these fisheries so that the majority of fishers do not need to register separately under the MMPA. Currently, approximately 600 fishers register directly with NMFS under the MMPA authorization program.

Though this rule would affect approximately 500 small entities, the \$25 registration fee, with respect to anticipated revenues, is not considered a significant economic impact. If a vessel is requested to carry an observer, fishers will not incur any economic costs associated with carrying that observer. As a result of this certification, an initial regulatory flexibility analysis was not prepared. In the event that reclassification of a fishery to Category I or II results in a take reduction plan, economic analyses of the effects of that

plan will be summarized in subsequent rulemaking actions.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collection of information for the registration of fishers under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control number 0648-0293 (0.15 hours per report for new registrants and 0.09 hours per report for renewals). The requirement for reporting marine mammal injuries or mortalities has been approved by OMB under OMB control number 0648-0292 (0.15 hours per report). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing burden, to NMFS and OMB (see **ADDRESSES** and **SUPPLEMENTARY INFORMATION**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

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

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) for regulations to implement section 118 of the MMPA (1995 EA). NMFS revised that EA relative to classifying U.S. commercial fisheries on the LOF in December 2005. Both the 1995 EA and the 2005 EA concluded that implementation of MMPA section 118 regulations would not have a significant impact on the human environment. This rule would not make any significant

change in the management of reclassified fisheries, and therefore, this rule is not expected to change the analysis or conclusion of the 2005 EA. If NMFS takes a management action, for example, through the development of a Take Reduction Plan (TRP), NMFS will first prepare an environmental document, as required under NEPA, specific to that action.

This rule would not affect species listed as threatened or endangered under the Endangered Species Act (ESA) or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this rule will not affect the conclusions of those opinions. The classification of fisheries on the LOF is not considered to be a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, through the development of a TRP, NMFS would conduct consultation under ESA section 7 for that action.

This rule would have no adverse impacts on marine mammals and may have a positive impact on marine mammals by improving knowledge of marine mammals and the fisheries interacting with marine mammals through information collected from observer programs, stranding and sighting data, or take reduction teams.

This rule would not affect the land or water uses or natural resources of the coastal zone, as specified under section 307 of the Coastal Zone Management Act.

Dated: August 15, 2006.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 051014263-6028-03; I.D. 120805A]

RIN 0648-AU00

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Specifications and Management Measures

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

ACTION: Temporary rule; extension.

SUMMARY: This action extends a temporary rule, now in effect, that establishes the 2006 optimum yield (OY) for darkblotched rockfish caught in the U.S. exclusive economic zone (EEZ) off the coasts of Washington, Oregon, and California. This action, which is authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), is intended to protect darkblotched rockfish, an overfished groundfish species.

DATES: The expiration date of the temporary rule (interim darkblotched rockfish OY) published on February 17, 2006 (71 FR 8489), effective March 1, 2006, through August 27, 2006, is extended through December 31, 2006.

ADDRESSES: Copies of the Final Environmental Impact Statement for the harvest specifications and management measures for the 2005–2006 groundfish fisheries 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 the Record of Decision and final regulatory flexibility analysis for the 2005–2006 groundfish harvest specifications, and the Small Entity Compliance Guide for the 2006 groundfish harvest specifications 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: Jamie Goen (Northwest Region, NMFS), phone: 206–526–6140; fax: 206–526–6736; and e-mail: jamie.goen@noaa.gov.

SUPPLEMENTARY INFORMATION:**Electronic Access**

This **Federal Register** document is available on the Government Printing Office's website at: www.gpoaccess.gov/fr/index.html.

Background information and documents are available at the NMFS Northwest Region website at: www.nwr.noaa.gov and at the Pacific Council's website at: www.pcouncil.org.

Background

The Pacific Coast Groundfish FMP and its implementing regulations at title 50 in the Code of Federal Regulations, part 660, subpart G, regulate fishing for over 80 species of groundfish off the coasts of Washington, Oregon, and California. Groundfish specifications and management measures are developed by the Pacific Council, and are implemented by NMFS. The specifications and management measures for 2005–2006 were codified in the CFR (50 CFR part 660, subpart G). They were published in the **Federal Register** as a proposed rule on September 21, 2004 (69 FR 56550), and as a final rule on December 23, 2004 (69 FR 77012). The final rule was subsequently amended on March 18, 2005 (70 FR 13118); March 30, 2005 (70 FR 16145); April 19, 2005 (70 FR 20304); May 3, 2005 (70 FR 22808); May 4, 2005 (70 FR 23040); May 5, 2005 (70 FR 23804); May 16, 2005 (70 FR 25789); May 19, 2005 (70 FR 28852); July 5, 2005 (70 FR 38596); August 22, 2005 (70 FR 48897); August 31, 2005 (70 FR 51682); October 5, 2005 (70 FR 58066); October 20, 2005 (70 FR 61063); October 24, 2005 (70 FR 61393); November 1, 2005 (70 FR 65861); and December 5, 2005 (70 FR 72385). Longer-term changes to the 2006 specifications and management measures were published in the **Federal Register** as a proposed rule on December 19, 2005 (70 FR 75115) and as a final rule on February 17, 2006 (71 FR 8489). The final rule was subsequently amended on March 27, 2006 (71 FR 10545), April 11, 2006 (71 FR 18227), April 26, 2006 (71 FR 24601), May 11, 2006 (71 FR 27408), May 22, 2006 (71 FR 29257), June 1, 2006 (71 FR 31104), and July 3, 2006 (71 FR 37839).

Acceptable biological catches (ABCs) and OYs are established for each year. Management measures are established at the start of the biennial period, and are adjusted throughout the biennial management period, to keep harvest within the OYs. At the Pacific Council's October 31 - November 4, 2005, meeting in San Diego, CA, the Pacific Council, in consultation with Pacific Coast Treaty Indian Tribes and the States of

Washington, Oregon, and California, recommended a reduction of the 2006 darkblotched rockfish OY to 200 mt for March through December 2006. The management measures for March through December 2006 were proposed on December 19, 2005 (70 FR 75115), and implemented via the final rule published on February 17, 2006 (71 FR 8489).

The 2006 darkblotched rockfish OY of 200 mt is an interim measure pursuant to section 305(c) of the Magnuson-Stevens Act, in effect while the rebuilding plan (now referred to as Amendment 16–4) is being developed and implemented. Under the provisions of section 305(c)(3) of the Magnuson-Stevens Act, interim measures shall remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the **Federal Register** for an additional period of not more than 180 days, provided the public has had an opportunity to comment on the interim measures, and the Council is actively preparing a plan amendment to address rebuilding on a permanent basis. The public has been provided an opportunity to comment on the interim measures in the proposed rule (70 FR 75115, December 19, 2005), and the Council is actively working on an FMP amendment, Amendment 16–4, with the 2007–2008 specifications and management measures process. The proposed rule for Amendment 16–4 and the 2007–2008 specifications and management measures is expected to publish in September 2006 with a final rule expected to publish in November 2006, and become effective January 1, 2007. In addition, the Court's Order in *Natural Resources Defense Council (NRDC) v. NMFS*, 421 F.3d 872 (9th Cir. 2005) dated December 8, 2005, requires NMFS to implement a darkblotched rockfish quota for the entire 2006 fishing year pursuant to section 305(c). Because the Council is continuing work on Amendment 16–4 and this interim measure expires on August 27, 2006, NMFS is extending the darkblotched rockfish OY beyond the first 180-day period.

During the comment period on the proposed rule to implement changes to the 2006 Pacific Coast groundfish fishery specifications and management measures (70 FR 75115, December 19, 2005), NMFS received two comments on the interim measure for the darkblotched rockfish OY. Comment 2 and Comment 6, as published in the "Comments and Responses" section of the final rule (71 FR 8489, February 17, 2006), show the comments received and NMFS response to those comments.

These comments and responses are republished below.

Comment 2: One commenter supports the decrease in the darkblotched rockfish OY for 2006 from 294 mt to 200 mt. The commenter notes that the latest stock assessment shows that darkblotched rockfish is rebuilding more quickly than originally projected and, therefore, the OY could be set higher without demonstrably slowing the rebuilding progress. However, the commenter supports NMFS effort to rebuild quicker than required by law, as was done with lingcod, while minimizing impacts on local coastal communities, including fishermen and processors.

Another commenter believes that the rule proposes to set an OY that is higher than the lowest level possible and is thereby violating the Magnuson-Stevens Act, which requires overfished species to be rebuilt as quickly as possible. In the 2005–2006 Pacific Coast Groundfish Specifications and Management Measures Environmental Impact Statement (hereafter, 2005–2006 Specs EIS), NMFS projected total fishing mortality of less than 100 mt for darkblotched rockfish. The commenter believes that NMFS failed to consider the lowest possible fishing level for darkblotched rockfish because an OY at or below 100 mt was not adopted.

A third commenter suggested that all species should have their quotas cut by 50 percent this year and 10 percent each succeeding year.

Response: As stated in the proposed rule, this action to adjust the 2006 darkblotched rockfish OY from 294 mt to 200 mt is an interim measure to decrease the OY within the current rebuilding plan until a revised rebuilding plan is developed. Revising the rebuilding plan requires extensive analysis to consider the interaction of the rebuilding plans for all overfished species, to determine the needs of the fishing communities, and to allow substantial public participation. Allowable harvest levels for all overfished groundfish species for 2007 and beyond will be based on new rebuilding plans intended to meet the court's decision in *NRDC v. NMFS*, 421 F.3d 872 (9th Cir. 2005). The Pacific Council intends to review, re-analyze, and revise rebuilding plans via Amendment 16–4 to the FMP, which will be developed concurrently with the 2007–2008 groundfish harvest specifications and management measures. These revised rebuilding plans in Amendment 16–4 will determine the OYs selected for overfished groundfish species,

including darkblotched rockfish, in 2007 and beyond.

At the Pacific Council's October 30 – November 4, 2005, meeting, in order to determine if interim action was appropriate, NMFS and the Pacific Council analyzed the effects of a range of 2006 darkblotched rockfish OYs, from 0–696 mt, on the time to rebuild the darkblotched stock. The Pacific Council's Groundfish Management Team estimated: with a darkblotched rockfish OY of zero, the stock would be rebuilt by July 2009; with an OY of 200 mt, the stock would be rebuilt by March 2010; and with the previously established OY of 294 mt, the stock would be rebuilt by July 2010. Since that meeting, NMFS analyzed the estimated gains in rebuilding time that could occur were the 2006 OY set at 100 mt, and found that a 100 mt OY could result in the stock being rebuilt by 3–6 months prior to the March 2010 date associated with a 200 mt OY. As discussed below, this small gain in rebuilding time would result in large economic losses to the fishing industry and coastal communities. Therefore, NMFS concurs with the Pacific Council's recommendation of a 200 mt OY for darkblotched rockfish in 2006 as an appropriately conservative interim OY intended to accommodate some targeting of the more healthy groundfish stocks that co-occur with darkblotched rockfish.

Populations of the overfished rockfish species are found along the entire length of the U.S. West Coast. Because of their varied biological characteristics, overfished rockfish are caught in a broad range of fisheries, tribal and non-tribal, commercial and recreational. NMFS, its partner state and tribal agencies, and the Pacific Council have focused their efforts to protect and rebuild overfished groundfish species on minimizing or eliminating directed harvest and minimizing incidental catch of overfished stocks. Overfished species are caught in all of the groundfish fisheries coastwide not because they are targeted, but because they co-occur with the more abundant stocks the fisheries do target. For example, yelloweye rockfish is often found at similar depths to and caught in common with Pacific halibut, an abundant flatfish targeted with hook-and-line gear in the recreational and commercial fisheries. Fisheries for target species must then be constrained in some way in order to rebuild the non-target overfished species, usually with: reductions in allowable landings levels of target species, reductions in allowable fishing area so as to minimize fishing in areas where overfished species commonly

occur, reductions in allowable duration of fishing seasons, or alterations in fishing gear that either prevent overfished species from being caught by the gear or expel overfished species from the gear. All of these tools are used either individually or in combination for West Coast fisheries that either target groundfish directly, or take groundfish incidentally to their non-groundfish fishing operations. Therefore, when NMFS analyzes revenues earned or sacrificed in order to rebuild overfished species at slower or faster rates, the agency is looking at revenues from the more healthy target stocks, not from the overfished species themselves.

In setting the 2006 darkblotched rockfish OY, NMFS considered both the biological constraints of the stock in terms of its ability to rebuild by particular dates, and the economic impacts of rebuilding at different rates on coastal fishing communities. NMFS particularly considered the effect of reducing the 2006 darkblotched rockfish OY to 100 mt.

The majority of darkblotched rockfish landed are caught with limited entry bottom trawl gear (99.6 percent in 2004), incidentally to slope fisheries for groundfish. Because the groundfish fishery has been managed under rebuilding measures since 2000, NMFS reviewed the effect of a 100–mt darkblotched rockfish OY in 2006 both from the perspective of incremental changes to the fishery from current harvests and associated revenue, and from the perspective of cumulative changes that have been ongoing within the fishery from the past several years. In terms of inflation-adjusted dollars, since 2001, real ex-vessel revenues from bottom trawl vessels have been less than half of what they were in 1996. Many vessels, processors, shore-based infrastructure, and support businesses were built to service a fishery that generated revenues and landings that are larger than what the current fishery generates. This means that current annual revenues are less able to support the fixed costs of maintaining the structures built to support a more productive industry. Because revenues have declined substantially from this period of higher productivity, businesses are less able to withstand further declines in revenue. In other words, the effect upon fishers, processors, support businesses, and communities of reducing ex-vessel revenues is likely to be greater when the fishery annually generates \$20 million compared to a reduction when the fishery annually generates \$40 million.

NMFS analyzed the effects of a 100–mt 2006 darkblotched rockfish OY from

the base of management measures implemented in this rule, assuming available darkblotched rockfish incidental catch to be cut to that 100-mt level. Using ex-vessel prices from 2005, 100 mt of darkblotched rockfish translates into roughly \$94,000 to \$100,000 in ex-vessel revenue from landings of darkblotched rockfish itself. However, reducing the catch of species that co-occur with darkblotched rockfish to stay within a 100 mt OY in 2006 would mean a reduction in ex-vessel revenues from co-occurring slope species by several million dollars. Ex-vessel revenues should only be viewed as an indicator of economic impacts to the vessels, their crew, and owners. Taking into account the additional impact to processors, support businesses, and West Coast communities means an additional effect that is roughly 20–40 percent higher than the ex-vessel revenue impact.

For example, preliminary catch estimates from 2005 show that 100 mt of darkblotched rockfish had been caught incidentally to the slope trawl fishery by late August. Had the portion of the fishery that catches darkblotched rockfish closed upon attainment of 100 mt of darkblotched rockfish, the cost to the bottom trawl fleet would have been approximately \$3.5 million in foregone ex-vessel revenue, or approximately 18 percent of total bottom trawl ex-vessel revenue in the area north of 40°10' N. lat. in 2005. In comparison, approximately 100 mt of darkblotched rockfish had been caught by mid-June in 2004, and had the portion of the bottom trawl fishery that catches darkblotched rockfish been closed upon attainment of 100 mt of darkblotched rockfish, approximately \$6.5 million in ex-vessel revenues would have been lost, or approximately 38 percent of total bottom trawl ex-vessel revenues in the area north of 40°10' N. lat. for that year.

Limited entry bottom trawl regulations implemented in this final rule in place for 2006 are designed to distribute catch of target species more evenly throughout the year. In 2005, catch was distributed more heavily toward the early part of the year. Based on analysis applying regulations implemented by this rule to the fishery and incidental catch patterns, NMFS expects that the fishery will take 100 mt of darkblotched rockfish by August 2006. If the slope trawl fishery were closed in August 2006, the bottom trawl fleet would lose 25–36 percent of total bottom trawl ex-vessel revenues from the more abundant species that could be taken during the remaining months in the area north of 40°10' N. lat. Based on total ex-vessel revenues in that area in

the past several years, this is likely to mean a loss of \$4.2 to \$6.5 million just in ex-vessel revenues in that area.

If NMFS were to structure the 2006 season toward both maintaining a year round bottom trawl fishery and attaining the highest level of ex-vessel revenues without exceeding 100 mt of darkblotched rockfish, we estimate the cost to the fleet would be a loss of \$3.2 to \$6.0 million in ex-vessel revenues. This somewhat lower loss is in comparison to the \$4.2 to \$6.5 million loss that we expect would occur if the bottom trawl fishery were to close on attainment of 100 mt of darkblotched rockfish. Achieving a year-round bottom trawl fishery with a 100 mt darkblotched OY for 2006 would require inseason changes to regulations in May 2006. For purposes of analysis, NMFS assumed that the regulatory changes under these conditions would be designed to keep the November-December deepwater petrale sole fishery, to continue to allow harvest of thornyheads in waters deeper than where darkblotched rockfish occur, and to allow harvest of sablefish and Dover sole scheduled by management measures in this final rule during November-December in waters deeper than where darkblotched rockfish occur. These declines in landings of the more abundant stocks that co-occur with darkblotched rockfish and in associated ex-vessel revenue would most severely affect the vessels, processing plants, and ports with reliance upon and investment in the trawl slope groundfish fisheries north of 40°10' N. lat. NMFS expects that the following ports would be most vulnerable to vessel bankruptcy and forfeitures and processing plant closures, if the darkblotched OY was set to 100 mt in 2006: Blaine, Bellingham, Neah Bay, and Westport, Washington; Astoria, Newport, Coos Bay, and Brookings, Oregon; and Eureka, and Crescent City, California. Within these ports, the bottom trawl fishery would be most affected. In 2005 the bottom trawl fishery in these ports generated approximately \$18 million in ex-vessel revenue compared with a combined \$32 million for bottom and midwater trawl and \$46 million for all groundfish in these ports.

As stated above, NMFS and the Pacific Council intend to review and revise all of the rebuilding plans in advance of the 2007–2008 fishing period. For 2006, NMFS continues to support a darkblotched rockfish OY of 200 mt. The difference in rebuilding times between setting an OY for 2006 at 200 mt versus 100 mt, and maintaining darkblotched mortality at the

corresponding spawner per recruit harvest rate each year until the stock is rebuilt, is less than half a year, while the estimated economic impacts from this reduction on the fishing industry and coastal communities is on the order of several millions of dollars lost each year until the stock is rebuilt. Therefore, NMFS does not support reducing the darkblotched OY below 200 mt in 2006.

NMFS also disagrees with the second commenter's statement that the agency is violating the Magnuson-Stevens Act. This interim reduction in the OY will prevent potential mortality that could occur if the current OY of 294 mt remains in place. This interim measure is consistent with section 305(c) of the Magnuson-Stevens Act in establishing interim measures until the revised long-term rebuilding plan is developed through the Council process and implemented by NMFS. This interim measure is not intended to be the long-term rebuilding OY; however, as explained above, this OY level provides for continued rebuilding through 2006.

Finally, the third commenter suggested that harvest levels for all species be cut by one-half in 2006 and by 10 percent for each subsequent year. The darkblotched rockfish OY for 2006 has been cut via this action by approximately one-third from the 2006 OY NMFS had implemented on January 1, 2005 (69 FR 77012, December 23, 2004). The proposed rule for this action did not consider revisions to 2006 harvest levels for species other than darkblotched rockfish. The Pacific Council and its collaborating agencies are developing harvest level and management measure recommendations for 2007–2008 via a public process during spring 2006. NMFS expects to propose a rule for public review and comment on the 2007–2008 harvest specifications and management measures and the new rebuilding plans for overfished species in early fall 2006.

Comment 6: NMFS did not consider an adequate range of alternatives to the 2006 darkblotched rockfish OY, violating NEPA.

Response: As stated in the proposed rule for this action (70 FR 75115, December 19, 2005), NMFS considered a variety of potential 2006 OYs, ranging from 0–696 mt. In addition, a 200–mt OY for darkblotched rockfish is within the range of alternatives analyzed in the 2005–2006 Specs EIS, the EIS for Amendment 16–2, within the parameters of the darkblotched rockfish stock assessment and rebuilding analysis adopted by the Council in 2005, and within the parameters of the rebuilding plan adopted under Amendment 16–2, which implemented

rebuilding plans for darkblotched rockfish and other overfished species. NMFS took into account the most recent darkblotched rockfish stock assessment and rebuilding analysis, the rebuilding plan, and the darkblotched OYs analyzed in the 2005–2006 Specs EIS. Therefore, NMFS did consider an adequate range of alternatives for darkblotched rockfish and did not violate NEPA. To reiterate what NMFS had stated in the proposed rule (70 FR 75115, December 19, 2005), the intent of the adjusted 2006 darkblotched OY (200 mt) is an interim measure while NMFS develops a revised rebuilding plan for darkblotched rockfish. The revised rebuilding plan and OYs for 2007–2008, which will be based on a new stock assessment for darkblotched rockfish completed in 2005, will be analyzed in an EIS being drafted in 2006.

Classification

The Assistant Administrator for Fisheries, NOAA (AA,) has determined that this extension is needed to maintain the lower darkblotched rockfish OY of 200 mt for the remainder of 2006, as an interim rebuilding measure for darkblotched rockfish, an overfished species. The interim 2006 darkblotched rockfish OY is in response to a district court order addressing the court of appeals ruling in *NRDC v. NMFS*, 421 F.3d 872 (9th Cir. 2005). NMFS is currently developing a revised rebuilding plan for darkblotched rockfish through Amendment 16–4 and the 2007–2008 groundfish specifications and management measures process. The proposed rule for Amendment 16–4 and

the 2007–2008 specifications and management measures is expected to publish in September 2006 with a final rule expected to publish in November 2006, with an effective date of January 1, 2007. Accordingly, the AA is extending the expiration date of this temporary rule through December 31, 2006, after which the revised darkblotched rockfish rebuilding plan and corresponding OY will become effective for 2007 and beyond.

This action continues interim measures implemented March 1, 2006 (71 FR 8489, February 17, 2006), for 180 days beyond the current expiration date of August 27, 2006, or until December 31, 2006, whichever is sooner, because the conditions prompting the initial interim measures still remain. The public was provided with the opportunity to submit public comment on these measures in the rule published on February 17, 2006, and those comments and responses are repeated in the preamble to this action. Therefore, the AA finds that it would be impracticable and contrary to the public interest to delay the extension of these measures by providing additional opportunities for public comment, and finds good cause to waive additional public comments under 5 U.S.C. 553(b)(B).

For these same reasons, the AA finds good cause to waive the 30–day delayed effectiveness provision of the Administrative Procedures Act pursuant to 5 U.S.C. 553 (d)(3).

In accordance with Executive Order 13175, this temporary rule was developed after meaningful consultation

and collaboration with the tribal representative on the Pacific Council and tribal officials from the tribes affected by this action. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. The tribal representative on the Council made a motion to adopt the management measures in this final rule that would affect tribal fishery participants, which was passed by the Council.

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

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: August 16, 2006.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs, 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 part 660, subpart G, Table 2a and Table 2b 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 (HG), and Limited Entry and Open Access Allocations, by management Area (weights in metric tons).

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commer- cial Harvest guide- lines (Total Catch)	Allocations total catch					
	Vancou- ver a/	Colum- bia	Eureka	Monte- rey	Concep- tion	Total ABC			Limited Entry	Open Access	Mt	%	Mt	%
ROUND FISH														
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	--	--	--	--		
Cabazon 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	-	-	-	-	-		
Petrале 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)	Commer- cial Harvest guide- lines (Total Catch)	Allocations total catch			
	Vancou- ver	Colum- bia	Eureka	Mont- erey	Concep- tion	Total ABC	Limited			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	3,655	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)	Commer- cial Harvest guide- lines (Total Catch)	Allocations total catch			
	Vancou- ver	Colum- bia	Eureka	Mont- erey	Concep- tion	Total ABC	Limite			%	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)			
		Total Catch OY	Recreational Estimate	Commercial HG for minor rockfish and depth sub-groups	Limited Entry		Open Access	
					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 $F_{45\%}$. 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 F_{MSY} 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 $F_{40\%}$ 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 $F_{50\%}$. 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 on a $F_{50\%}$ 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 F_{MSY} 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 $40^{\circ}10'$ N. lat. is 6.7 mt and the HG for the area south of $40^{\circ}10'$ 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 $46^{\circ}16'$ N. lat. is 540 mt and the ABC for the area south of $46^{\circ}16'$ 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 $46^{\circ}16'$ N. lat. and 736 mt for the area south of $46^{\circ}16'$ 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 $46^{\circ}16'$ 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 $40^{\circ}10'$ N. lat. and a HG of 124 mt (40 percent) will be applied to the area south of $40^{\circ}10'$ N. lat. For the area between 42° N. lat. and $40^{\circ}10'$ 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 $40^{\circ}10'$ 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 $F_{50\%}$, 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.