

PACIFIC COAST GROUND FISH FISHERY MANAGEMENT PLAN

FOR THE CALIFORNIA, OREGON, AND
WASHINGTON GROUND FISH FISHERY

AS AMENDED THROUGH AMENDMENT 17

Extract of Chapters 6 and 11

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6.0 MANAGEMENT MEASURES

The regulatory measures available to manage the West Coast groundfish fisheries include, but are not limited to, harvest guidelines, quotas, landing limits, frequency limits, gear restrictions (escape panels or ports, codend mesh size, etc.), time/area closures, prohibited species, bag and size limits, permits, other forms of effort control, allocation, reporting requirements, and onboard observers. This section of the FMP describes these measures and their general application for management of the groundfish fisheries in the Washington, Oregon, and California region.

The FMP, as amended, establishes the fishery management program and the process and procedures the Council will follow in making adjustments to that program. It also sets the limits of management authority of the Council and the Secretary when acting under the FMP. Management measures implementing the FMP, which directly control fishing activities, must be consistent with the goals and objectives of the FMP, the Magnuson-Stevens Act, and other applicable law. Since the FMP provides several general framework procedures for making management decisions, not all management measures authorized by the FMP will be implemented at any given time. Management decisions made under the framework procedures outlined in the FMP are intended to be implemented without the need to amend the FMP.

This FMP establishes two framework procedures through which the Council is able to recommend the establishment and adjustment of specific management measures for the Pacific Coast groundfish fishery. The "points of concern" framework allows the Council to develop management measures that respond to resource conservation issues and the "socioeconomic" framework allows the Council to develop management measures in response to social, economic, and ecological issues that affect the fishing community. Associated with each framework are a set of criteria which form the basis for Council recommendations and with which Council recommendations will be consistent. The process for developing and implementing management measures normally will occur over the span of at least two Council meetings, with an exception that provides for more timely Council consideration under certain specific conditions. This process is explained in more detail in Section 6.2.

This FMP contemplates the Secretary will publish management measures recommended by the Council in the *Federal Register* as either "notices" or "regulations." Generally, management measures of broad applicability and permanent effectiveness are intended to be published as "regulations" while those measures more narrow in their applicability and which are meant to be effective only during the current fishing year, or even of shorter duration, and which might also require frequent adjustment, are intended to be published as "notices".

NMFS Regional Administrator will review the Council's recommendation, supporting rationale, public comments, and other relevant information; and, if it is approved, will undertake the appropriate method of implementation. Rejection of the recommendation will be explained in writing.

The procedures specified in this chapter do not affect the authority of the Secretary to take emergency regulatory action as provided for in Section 305(c) of the Magnuson-Stevens Act if an emergency exists involving any groundfish resource, or to take such other regulatory action as may be necessary to discharge the Secretary's responsibilities under Section 305(d) of the Magnuson-Stevens Act.

[Amended: 11]

6.1 General List of Management Measures

In the early stages of fishery development, there is generally little concern with management strategies. As fishing effort increases, management measures become necessary to prevent overfishing and adverse social and economic impacts.

Recruitment, growth, natural mortality, and fishing mortality affect the size of fish populations. Fishing mortality is the only factor which can be effectively controlled in the ocean; and, therefore, marine fishery management has focused primarily on measures which influence fishing mortality. The principal measures which traditionally have been used to control fishing mortality include, but are not limited to, the following:

1. Permits, licenses and endorsements
2. Mesh size
3. Landing limits and trip frequency limits
4. Quotas, including individual transferable quotas (ITQs)
5. Escape panels or ports
6. Size limits
7. Bag limits
8. Time/area closures
9. Other forms of effort control including input controls on fishing gear such as restrictions on trawl size or longline length or number of hooks or pots
10. Allocation

The management measures discussed in this section do not include those additional measures necessary to monitor catch and effort or to enforce regulations. The FMP authorizes the promulgation of regulations necessary to enforce the provisions of the FMP and its implementing regulations through the appropriate rulemaking procedure described in Section 6.2. Although this document only discusses in detail those management measures just listed, other types of management measures may have valid applicability and are intended to be available to the Council providing their consideration is consistent with the criteria and general procedures contained in this FMP. An example of an untried management measure that holds some theoretical promise in addressing bycatch problems is the creation of an incentive program which rewards fishermen by granting access to a reserve quota if they have maintained a documented bycatch rate below a specified level.

6.1.1 *Permits, Licenses, and Endorsements*

Permits and licenses are used to enumerate participants in an industry and, if eligibility requirements are established or the number of permits is limited, to restrict participation. Participation in the Washington, Oregon, and California groundfish fishery was partially limited beginning in 1994 when the federal vessel license limitation program was implemented (Amendment 6). Subsequently, Amendment 9 further limited participation in the fixed-gear sablefish fishery by establishing a sablefish endorsement. There is currently no federal permit requirement for other commercial participants (fishers or processors) or recreational participants (private recreational or charter). The Council may determine that effective management of the fishery requires accurate enumeration of the number of participants in these sectors and may establish a permit requirement to accomplish this. In addition, some form of limitation on participation may be necessary in order to protect the resource or to achieve the objectives of the FMP.

6.1.2 *Mesh Size*

In net fisheries, a most common management measure applied world wide has been a minimum mesh size. By increasing or decreasing mesh size, it is possible to increase or decrease the size of fish retained in the net.

Control over the size of entry into the fishery can ensure that sufficient numbers of immature fish pass through the net to protect the long-term productivity. Mesh size also can be adjusted to maximize the yield of certain species.

However, mesh size is not a panacea, because a single mesh size is unlikely to provide the optimal age of recruitment for each species. In a multispecies fishery, a single mesh size will tend to over harvest some species while over protecting others. Ideally, the selected mesh size should tend to maximize the economic yield to the fishery over the longest period possible.

Mesh size in fish pots (traps) also affects the size of fish retained in the trap. By increasing the minimum mesh size in all or part of the trap, small fish may be allowed to escape.

6.1.3 Landing and Frequency Limits

A trip limit is the amount of groundfish that may be taken and retained, possessed, or landed from a single fishing trip. Trip landing limits and trip frequency limits are used to control landings to delay achievement of a quota or harvest guideline and thus avoid premature closure of a fishery if it is desirable to extend the fishery over a longer time. Trip landing limits also can be utilized to minimize targeting on a species or species group while allowing landings of some level of incidental catch. Trip landing limits are most effective in fisheries where the fisherman can control what is caught. In a multispecies fishery, trip limits can discourage targeting while, at the same time, providing for the landing of an incidental catch species which requires a greater degree of protection than the other species in the multispecies catch. Conversely, a trip limit may be necessary to restrict the overall multispecies complex catch in order to provide adequate protection to a single component of that catch.

6.1.4 Quotas, Including Individual Transferable Quotas

Quotas are specified harvest limits, the attainment of which causes closure of the fishery for that species, gear type, or individual participant. Quotas may be established for intentional allocation purposes or to terminate harvest at a specified point. They may be specified for a particular area, gear type, time period, species or species group, and/or vessel or permit holder. Quotas can apply to either target species or bycatch species.

6.1.5 Escape Ports and Panels

Escape ports and panels are used in traps. Escape ports allow small fish to escape once caught in the trap. An escape panel is part of a trap which is constructed of biodegradable material or which is secured with biodegradable material. When the material degrades, it leaves a hole in the trap which allows fish to escape. Thus, the panel prevents continued fishing if gear is lost or not attended for extended periods of time. Similarly, blowout panels could be used in a trawl fishery to limit the catch per haul.

6.1.6 Size Limits

Size limits are used to prevent the harvest of immature fish or those which have not reached their full reproductive capacity. In some cases, size limits are utilized in reverse to harvest younger recruit or pre-recruits and protecting older, larger spawning stock. Generally, harvesting the larger members of the population tends to increase the yield by taking advantage of the combined growth of individual fish. Size limits can be applied to all fisheries, but are generally used where fish are handled individually or in small groups such as trap-caught sablefish and recreational-caught fish. Size limits lose their utility in cases where the survival of the fish returned to the sea is low (e.g., rockfish).

6.1.7 *Bag Limits*

Bag limits have long been used in the recreational fishery and are perhaps the oldest method used to control recreational fishing. The intended effect of bag limits is to spread the available catch over a large number of anglers and to avoid waste.

6.1.8 *Time/Area Closures (Seasons and Closed Areas)*

In recent years, overcapacity of the harvesting and processing sectors has led to more restrictive management. While the Council has tried to maintain year-round fishing and processing opportunities, it has become more difficult to do so without making discard worse. It may be necessary to restrict the amount of time vessels are allowed to fish, and this could take form of seasons for the entire fleet, regions of the coast, or individual vessel seasons. The fixed gear (nontrawl) sablefish fishery is an extreme example of a seasonal approach, with the season restricted to a week or less. Seasons may also be helpful to protect spawning concentrations of certain species in order to avoid times when the fish are most concentrated or particularly vulnerable. In this respect, closure of certain areas to protect spawning lingcod or petrale sole may be advisable.

Time/area closures have also been used in management of the Pacific whiting fishery. In this case, the foreign fishery was controlled by season (June 1 through October 31), area (no fishing within 12 miles off shore or south of 39°N latitude) and quota. The domestic fishery has also been managed with seasons that typically have taken the form of a beginning date, an “unrestricted” period, and closure when the harvest limit is reached. Outside the “unrestricted” season, an incidental catch allowance is typically provided to prevent regulatory bycatch.

6.1.9 *Other Forms of Effort Control*

Other forms of effort controls commonly used include restrictions on the number of units of gear, or restrictions on the size of trawls, or length of longlines, or the number of hooks or pots. These measures may also be useful in reducing bycatch.

6.1.10 *Allocation*

Allocation is the apportionment of an item for a specific purpose or to a particular person or group of persons. Allocation of fishery resources may result from any type of management measure, but is most commonly a numerical quota or harvest guideline for a specific gear or fishery sector. Most fishery management measures allocate fishery resources to some degree, because they invariably affect access to the resource by different fishery sectors by different amounts. These allocative impacts, if not the intentional purpose of the management measure, are considered to be indirect or unintentional allocations. Direct allocation occurs when numerical quotas, harvest guidelines, or other management measures are established with the specific intent of affecting a particular group's access to the fishery resource.

Fishery resources may be allocated to accomplish a single biological, social or economic objective, or a combination of such objectives. The entire resource, or a portion, may be allocated to a particular group, although the Magnuson-Stevens Act requires that allocation among user groups be determined in such a way that no group, person, or entity receives an undue share of the resource. The socioeconomic framework described in Section 6.2.3 provides criteria for direct allocation. Allocative impacts of all proposed management measures should be analyzed and discussed in the Council's decision making process.

[Amended: 11 & added 6.1.1 (?)]

6.2 General Procedures for Establishing and Adjusting Management Measures

Management measures are normally imposed, adjusted, or removed at the beginning of the biennial fishing period, but may, if the Council determines it necessary, be imposed, adjusted, or removed at any time during the period. Management measures may be imposed for resource conservation, social or economic reasons consistent with the criteria, procedures, goals, and objectives set forth in the FMP.

Because the potential actions which may be taken under the two frameworks established by the FMP cover a wide range analyses of biological, social, and economic impacts will be considered at the time a particular change is proposed. As a result, the time required to take action under either framework will vary depending on the nature of the action, its impacts on the fishing industry, resource, environment, and review of these impacts by interested parties. Satisfaction of the legal requirements of other applicable law (e.g., the Administrative Procedure Act, Regulatory Flexibility Act, relevant Executive Orders, etc.) for actions taken under this framework requires analysis and public comment before measures may be implemented by the Secretary.

Four different categories of management actions are authorized by this FMP, each of which requires a slightly different process. Management measures may be established, adjusted, or removed using any of the four procedures. The four basic categories of management actions are as follows:

A. Automatic Actions - Automatic management actions may be initiated by the NMFS Regional Administrator without prior public notice, opportunity to comment, or a Council meeting. These actions are nondiscretionary, and the impacts previously must have been taken into account. Examples include fishery, season, or gear type closures when a quota has been projected to have been attained. The Secretary will publish a single "notice" in the *Federal Register* making the action effective.

B. "Notice" Actions Requiring at Least One Council Meeting and One *Federal Register* Notice - These include all management actions other than "automatic" actions that are either nondiscretionary or for which the scope of probable impacts has been previously analyzed.

These actions are intended to have temporary effect, and the expectation is that they will need frequent adjustment. They may be recommended at a single Council meeting, although the Council will provide as much advance information to the public as possible concerning the issues it will be considering at its decision meeting. The primary examples are those inseason management actions defined as "routine" according to the criteria in Section 6.2.1. These include trip landing and frequency limits and size limits for all commercial gear types and closed seasons for any groundfish species in cases where protection of an overfished or depleted stock is required, and bag limits, size limits, time/area closures, boat limits, hook limits, and dressing requirements for all recreational fisheries. Previous analysis must have been specific as to species and gear type before a management measure can be defined as "routine" and acted upon at a single Council meeting. If the recommendations are approved, the Secretary will waive for good cause the requirement for prior notice and comment in the *Federal Register* and will publish a single "notice" in the *Federal Register* making the action effective. This category of actions presumes the Secretary will find that the need for swift implementation and the extensive notice and opportunity for comment on these types of measures along with the scope of their impacts already provided by the Council will serve as good cause to waive the need for additional prior notice and comment in the *Federal Register*.

C. Management Measures Rulemaking Actions Developed Through the Three Council Meeting Biennial Specifications Process and Two Federal Register Rules - These include (1) management action developed through the biennial specifications process, (2) management measures being classified as "routine," or (3) trip limits that vary by gear type, closed seasons or areas, and in the recreational fishery, bag limits, size limits, time/area closures, boat limits, hook limits, and dressing requirements the first time these measures

are used. Examples include changes to or imposition of gear regulations, or imposition of landings limits, frequency limits, or limits that are differential by gear type, or closed area or seasons for the first time on any species or species group, or gear type. The Council will develop and analyze the proposed management actions over the span of at least two Council meetings (usually April and June) and provide the public advance notice and opportunity to comment on both the proposals and the analysis prior to and at the second Council meeting. If a management measure is designated as "routine" under this procedure, specific adjustments of that measure can subsequently be announced in the *Federal Register* by "notice" as described in the previous paragraphs. The Secretary will publish a "proposed rule" in the Federal Register with an appropriate period for public comment followed by publication of a "final rule" in the Federal Register.

It should be noted that the three Council meeting process refers to two decision meetings. The Council will develop proposed harvest specifications during the first meeting. They will finish drafting harvest specifications and develop the management measures during the second meeting. Finally, at the third meeting, the Council will make final recommendations to the Secretary on the complete harvest specifications and management measures biennial management package. For the Council to have adequate information to identify proposed management measures for public comment at the first meeting, the identification of issues and the development of proposals normally must begin at a prior Council meeting.

D. Full Rulemaking Actions Normally Requiring at Least Two Council Meetings and Two *Federal Register* Rules (Regulatory Amendment) - These include any proposed management measure that is highly controversial or any measure which directly allocates the resource. These also include management measures that are intended to have permanent effect and are discretionary, and for which the impacts have not been previously analyzed. The Council normally will follow the two meeting procedure described for the specifications and management measures rulemaking category. The Secretary will publish a "proposed rule" in the *Federal Register* with an appropriate period for public comment followed by publication of a "final rule" in the *Federal Register*.

Management measures recommended to address a resource conservation issue must be based upon the establishment of a "point of concern" and consistent with the specific procedures and criteria listed in Section 6.2.2.

Management measures recommended to address social or economic issues must be consistent with the specific procedures and criteria described in Section 6.2.3.

6.2.1 *Routine Management Measures*

"Routine" management measures are those the Council determines are likely to be adjusted on an annual or more frequent basis. Measures are classified as "routine" by the Council through either the full or abbreviated rulemaking process (C. or D. above). In order for a measure to be classified as "routine", the Council will determine that the measure is appropriate to address the issue at hand and may require further adjustment to achieve its purpose with accuracy.

As in the case of all proposed management measures, prior to initial implementation as "routine" measures, the Council will analyze the need for the measures, their impacts, and the rationale for their use. Once a management measure has been classified as "routine" through one of the two rulemaking procedures outlined above, it may be modified thereafter through the single meeting "notice" procedure (B. above) only if (1) the modification is proposed for the same purpose as the original measure, and (2) the impacts of the modification are within the scope of the impacts analyzed when the measure was originally classified as "routine." The analysis of impacts need not be repeated when the measure is subsequently modified if the Council determines that they do not differ substantially from those contained in the original analysis. The Council may also recommend removing a "routine" classification.

Experience gained from management of the Pacific Coast groundfish fishery indicates that certain measures usually require modification on a frequent basis to ensure that they meet their stated purpose with accuracy. For commercial fisheries, these measures are trip landing limits and trip frequency limits, including cumulative limits, and notification requirements. Their purpose in application to the commercial fishery has consistently been either to stretch the duration of the fishery so as not to disturb traditional fishing and marketing patterns, to reduce discards and wastage, or to discourage targeted fishing while allowing small incidental catches when attainment of a harvest guideline or quota is imminent. In cases where protection of an overfished or depleted stock is required, the Council may impose limits that differ by gear type, or establish closed areas or seasons. These latter two measures were not historically been imposed through the annual management cycle because of their allocative implications. However, this additional flexibility has become necessary to allow the harvest of healthy stocks as much as possible while protecting and rebuilding overfished and depleted stocks, and equitably distributing the burdens of rebuilding among sectors. The first time a differential trip limit or closed season is to be imposed in a fishery it must be imposed during the biennial management cycle (with the required analysis and opportunity for public comment,) and subsequently may be modified inseason through the routine adjustment process.

For recreational fisheries, bag limits, size limits, time/area closures, boat limits, hook limits, and dressing requirements may be applied to specific species, species groups, sizes of fish and gear types. For the recreational fishery, bag and size limits have been imposed to spread the available catch over a large number of anglers, to avoid waste, and to provide consistency with state regulations.

Routine management measures are also often necessary to meet the varied and interwoven mandates of the Magnuson-Stevens Act and FMP through: achieving the overfished species rebuilding plans, reducing bycatch, preventing overfishing, allowing the harvest of healthy stocks as much as possible while protecting and rebuilding overfished and depleted stocks, and equitably distributing the burdens of rebuilding among the sectors.

The following measures were classified as routine measures through December 21, 2000:

Limited Entry Trip Landing and Frequency Limits

Widow rockfish - all gear
Sebastes complex - all gear
Yellowtail rockfish - all gear
Canary rockfish - all gear
Bocaccio - all gear
Pacific ocean perch - all gear
Sablefish (including size limits) - all gear
Dover sole - all gear
Thornyhead rockfish (separately or combined) - all gear
Pacific whiting - all gear
Lingcod (including size limits) - all gear

Open Access Trip Landing and Frequency Limits

All groundfish species, separately or in any combination - all gear types

All Commercial Fisheries, All Gear Types: In cases where protection of an overfished or depleted stock is required, trip limits may differ by gear type, and time/area closures may be established.

All Recreational Fisheries, All Gear Types: For all groundfish species separately or in any

combination, bag limits, size limits, time/area closures, boat limits, hook limits, and dressing requirements. The first time one of these measures is imposed in the fishery, it must be imposed during the biennial management cycle.

Any measure designated as "routine" for one specific species, species group, or gear type may not be treated as "routine" for a different species, species group, or gear type without first having been classified as "routine." Each year the annual SAFE document will list all measures that have been designated as routine.

The Council will conduct a continuing review of landings of those species for which harvest guidelines, quotas, optimum yields (OYs) or specific "routine" management measures have been implemented and will make projections of the landings at various times throughout the year. If in the course of this review it becomes apparent the rate of landings is substantially different than anticipated and that the current "routine" management measures will not achieve the annual management objectives, the Council may recommend inseason adjustments to those measures. Such adjustments may be implemented through the single meeting "notice" procedure.

6.2.2 Resource Conservation Issues - The "Points of Concern" Framework

The "points of concern" process is the Council's second major tool (along with setting harvest levels) in exercising its resource stewardship responsibilities. The process is intended to foster a continuous and vigilant review of the Pacific Coast groundfish stocks and fishery to prevent unintended overfishing or other resource damage. To facilitate this process a Council-appointed management team (the Groundfish Management Team [GMT] or other entity) will monitor the fishery throughout the year, taking into account any new information on the status of each species or species group to determine whether a resource conservation issue exists that requires a management response. The Council developed the "points of concern" criteria to assist it in determining when a focused review on a specific species or species group is warranted which might result in the need to recommend the implementation of specific management measures to address the resource conservation issue. The FMP authorizes the Council to act based solely on the "points of concern," which allows the Council to respond quickly and directly to a resource conservation issue. In conducting this review, the GMT or other entity will utilize the most current catch, effort, and other relevant data from the fishery.

In the course of the continuing review, a "point of concern" occurs when any one or more of the following is found or expected:

1. Catch for the calendar year is projected to exceed the best current estimate of acceptable biological catch (ABC) for those species for which a harvest guideline or quota is not specified.
2. Catch for the calendar year is projected to exceed the current harvest guideline or quota.
3. Any change in the biological characteristics of the species/species complex is discovered such as changes in age composition, size composition, and age at maturity.
4. Exploitable biomass or spawning biomass is below a level expected to produce MSY for the species/species complex under consideration.
5. Recruitment is substantially below replacement level.
6. Estimated bycatch of a species or species group increases substantially above previous estimates, or there is information that abundance of a bycatch species has declined substantially.
7. Impacts of fishing gear on EFH are discovered and modification to gear or fishing regulations could reduce those impacts.

Once a "point of concern" is identified, the GMT will evaluate current data to determine if a resource conservation issue exists and will provide its findings in writing at the next scheduled Council meeting. If the GMT determines a resource conservation issue exists, it will provide its recommendation, rationale, and

analysis for the appropriate management measures that will address the issue.

In developing its recommendation for management action, the Council will choose an action from one or more of the following categories which include the types of management measures most commonly used to address resource conservation issues.

- Harvest guidelines
- Quotas
- Cessation of directed fishing (foreign, domestic or both) on the identified species or species group with appropriate allowances for incidental harvest of that species or species group
- Size limits
- Landing limits
- Trip frequency limits
- Area or subarea closures
- Time closures
- Seasons
- Gear limitations, which include, but are not limited to, definitions of legal gear, mesh size specifications, codend specifications, marking requirements, and other gear specifications as necessary.
- Observer coverage
- Reporting requirements
- Permits
- Other necessary measures

Direct allocation of the resource between different segments of the fishery is, in most cases, not the preferred response to a resource conservation issue. Council recommendations to directly allocate the resource will be developed according to the criteria and process described in Section 6.2.3, the socioeconomic framework.

After receiving the GMT's report, the Council will take public testimony and, if appropriate, will recommend management measures to the NMFS Regional Administrator accompanied by supporting rationale and analysis of impacts. The Council's analysis will include a description of (a) how the action will address the resource conservation issue consistent with the objectives of the FMP; (b) likely impacts on other management measures, other fisheries and bycatch; (c) economic impacts, particularly the cost to the commercial and recreational segments of the fishing industry; and (d) impacts on fishing communities.

The NMFS Regional Administrator will review the Council's recommendation and supporting information and will follow the appropriate implementation process described in Section 6.2 depending on the amount of public notice and comment provided by the Council and the intended permanence of the management action. If the Council contemplates the need for frequent adjustments to the recommended measures, it may classify them as "routine" through the appropriate process described in Section 6.2.1.

If the NMFS Regional Administrator does not concur with the Council's recommendation, the Council will be notified in writing of the reasons for the rejection.

Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under Section 305(c) of the Magnuson-Stevens Act.

6.2.3 Nonbiological Issues--The Socioeconomic Framework

From time to time non-biological issues may arise which require the Council to recommend management actions to address certain social or economic issues in the fishery. Resource allocation, seasons, or landing

limits based on market quality and timing, safety measures, and prevention of gear conflicts make up only a few examples of possible management issues with a social or economic basis. In general, there may be any number of situations where the Council determines that management measures are necessary to achieve the stated social and/or economic objectives of the FMP.

Either on its own initiative or by request, the Council may evaluate current information and issues to determine if social or economic factors warrant imposition of management measures to achieve the Council's established management objectives. Actions that are permitted under this framework include all of the categories of actions authorized under the "points of concern" framework with the addition of direct resource allocation.

If the Council concludes that a management action is necessary to address a social or economic issue, it will prepare a report containing the rationale in support of its conclusion. The report will include the proposed management measure, a description of other viable alternatives considered, and an analysis that addresses the following criteria (a) how the action is expected to promote achievement of the goals and objectives of the FMP; (b) likely impacts on other management measures, other fisheries and bycatch; (c) biological impacts; (d) economic impacts, particularly the cost to the fishing industry; (e) impacts on fishing communities; and (f) how the action is expected to accomplish at least one of the following:

1. Enable a quota, harvest guideline, or allocation to be achieved.
2. Avoid exceeding a quota, harvest guideline, or allocation.
3. Extend domestic fishing and marketing opportunities as long as practicable during the fishing year, for those sectors for which the Council has established this policy.
4. Maintain stability in the fishery by continuing management measures for species that previously were managed under the points of concern mechanism.
5. Maintain or improve product volume and flow to the consumer.
6. Increase economic yield.
7. Improve product quality.
8. Reduce anticipated bycatch and bycatch mortality.
9. Reduce gear conflicts, or conflicts between competing user groups.
10. Develop fisheries for underutilized species with minimal impacts on existing domestic fisheries.
11. Increase sustainable landings.
12. Increase fishing efficiency.
13. Maintain data collection and means for verification.
14. Maintain or improve the recreational fishery.
15. Any other measurable benefit to the fishery.

The Council, following review of the report, supporting data, public comment and other relevant information, may recommend management measures to the NMFS Regional Administrator accompanied by relevant background data, information, and public comment. The recommendation will explain the urgency in implementation of the measure(s), if any, and reasons therefore.

The NMFS Regional Administrator will review the Council's recommendation, supporting rationale, public comments, and other relevant information, and, if it is approved, will undertake the appropriate method of implementation. Rejection of the recommendation will be explained in writing.

The procedures specified in this chapter do not affect the authority of the Secretary to take emergency regulatory action as provided for in Section 305(c) of the Magnuson-Stevens Act if an emergency exists involving any groundfish resource, or to take such other regulatory action as may be necessary to discharge the Secretary's responsibilities under Section 305(d) of the Magnuson-Stevens Act.

If conditions warrant, the Council may designate a management measure developed and recommended to address social and economic issues as a "routine" management measure provided that the criteria and procedures in Section 6.2.1 are followed.

Quotas, including allocations, implemented through this framework will be set for one-year periods and may be modified inseason only to reflect technical corrections of acceptable biological catch (ABC). (In contrast, quotas may be imposed at any time of year for resource conservation reasons under the points of concern mechanism.)

6.2.3.1 Allocation

In addition to the requirements described in Section 6.2.3, the Council will consider the following factors when intending to recommend direct allocation of the resource.

1. Present participation in and dependence on the fishery, including alternative fisheries.
2. Historical fishing practices in, and historical dependence on, the fishery.
3. The economics of the fishery.
4. Any consensus harvest sharing agreement or negotiated settlement between the affected participants in the fishery.
5. Potential biological yield of any species or species complex affected by the allocation.
6. Consistency with the Magnuson-Stevens Act national standards.
7. Consistency with the goals and objectives of this FMP.

The modification of a direct allocation cannot be designated as "routine" unless the specific criteria for the modification have been established in the regulations.

[Amended: 13, 17]

6.3 Bycatch Management

6.3.1 *Bycatch of Nongroundfish Species*

Groundfish fishing activities may directly impact certain non-groundfish species, and this FMP authorizes implementation of measures to control groundfish fishing to share conservation burdens identified under overfishing definitions adopted by the Council, the Endangered Species Act (ESA), or other applicable laws, while minimizing disruption of the groundfish fishery. Specifically, the intention is to reduce bycatch or other direct mortality of any species. Section 6.1 of this FMP lists nine principal measures which traditionally have been found most useful in controlling fishing mortality. Any of these measures may be employed to control fishing impacts on non-groundfish species. However, allocation may not be the primary intention of any such regulation.

The process for implementing and adjusting such measures may be initiated at any time. In addition, some measures may be designated as routine (see Section 6.2.1), which will allow adjustment at a single meeting based on relevant information available at the time if (1) the modification is proposed for the same purpose as the original measure, and (2) the impacts of the modification are within the scope of the impacts analyzed when the measure was originally classified as routine.

Generally, the Council will initiate the process of establishing or adjusting management measures when a resource problem with a non-groundfish species is identified and it has been determined that groundfish fishing regulations will reduce the total impact on that species or stock. It is anticipated this will generally occur when a state or federal resource management agency (such as the U.S. Department of the Interior,

NMFS, or state fishery agency) or the Council's Salmon Technical Team (STT) presents the Council with information substantiating its concern for a particular species. The Council will review the information and refer it to the Scientific and Statistical Committee (SSC), GMT, STT, or other appropriate technical advisory group for evaluation. If the Council determines, based on this review, that management measures may be necessary to prevent harm to a non-groundfish species facing conservation problems or to address requirements of the ESA, Marine Mammal Protection Act, other relevant federal natural resource law or policy, or international agreement, it may implement appropriate management measures in accordance with the procedures identified in Section 6.2. The intention of the measures may be to share conservation burdens while minimizing disruption of the groundfish fishery, but under no circumstances may the intention be simply to provide more fish to a different user group or to achieve other allocation objectives.

6.3.2 Standardized Reporting Methodology

Bycatch and discard survival data, information to assess the effects of bycatch and discard on managed populations and the ecosystem, and data on the socioeconomic effects of alternative management measures to reduce bycatch are limited. Due to these limitations, precise estimates of bycatch, bycatch mortality, or associated effects of alternative conservation and management measures in the groundfish fishery are not possible.

Improving estimates for information on total fishing mortality is essential. Sources of this information may include at-sea observer programs, dockside sampling programs, and new technology to monitor fishing activities and catch, as well as better use of industry-reported catch and discard information. Timely summaries of the amount and type of bycatch for each fishery should be collated in annual SAFE reports.

6.3.3 Measures to Control Bycatch

Bycatch and discard create unquantified problems for the groundfish fishery. Solving these problems requires both knowing how much bycatch mortality occurs, and setting management measures to reduce that mortality. Bycatch and bycatch mortality can be measured through observer programs (see below at 6.5.1.2) and through other means. Once it initiates programs to measure bycatch, the Council can better identify and prioritize the bycatch problems in the groundfish fishery, based on the expected benefits to the U.S. and on the practicality of addressing these problems. The Council will develop measures to reduce bycatch and bycatch mortality in accordance with the points of concern or the socioeconomic framework provisions of the FMP. These measures may include but are not limited to:

- Full retention or increased utilization programs.
- Setting a shorter-than-year-round fishing season in combination with higher cumulative landings limits.
- Allowing permit stacking in the limited entry fleet.
- Gear modification requirements.
- Catch allocation to, or gear flexibility for, gear types with lower bycatch rates.
- Re-examining/improving species-to-species landings limit ratios.
- Time/area closures.

[Amended: 7, 11 & added 6.3.2, 6.3.3]

6.4 Recreational Catch and Release Management

The Council may develop recreational catch-and-release programs for any groundfish stock through the appropriate rulemaking process. The Council will assess the type and amount of groundfish caught and released alive during fishing under such a program and the mortality of such fish. Management measures for such a program will, to the extent practicable, minimize mortality and ensure extended survival of such

groundfish.

[Amended: 11]

6.5 Other Management Measures

6.5.1 *Generic*

6.5.1.1 Permits

Federal permits may be required for individuals or vessels that harvest groundfish and for individuals or facilities (including vessels) that process groundfish or take delivery of live groundfish. In determining whether to require a harvesting or processing permit, and in establishing the terms and conditions for issuing a permit, the Council may consider any relevant factors including whether a permit:

1. Will enhance the collection of biological, economic, or social data.
2. Will provide better enforcement of laws and regulations, including those designed to ensure conservation and management and those designed to protect consumer health and safety.
3. Will help achieve the goals and objectives of the FMP.
4. Will help prevent or reduce overcapacity in the fishery.
5. May be transferred, and under what conditions.

Separate permits or endorsements may be required for harvesting and processing or for vessels or facilities based on size, type of fishing gear used, species harvested or processed, or such other factors that may be appropriate. The permits and endorsements are also subject to sanctions, including revocation, as provided by section 308 of the Magnuson-Stevens Act.

In establishing a permit requirement, the Council will follow the full-rulemaking procedures in Section 6.2.

6.5.1.2 Observers

All fishing vessels operating in this management unit including catcher/processors, at-sea processors, and those vessels which harvest in the Washington, Oregon, and California area and land in another area, may be required to accommodate an observer or video-monitoring system for the purpose of collecting scientific data or verifying landings and discard used for scientific data collection. An observer program will be considered only for circumstances where other data collection methods are deemed insufficient for management of the fishery. Implementation of any observer program will be in accordance with appropriate federal procedures, including economic analysis and public comment.

The Regional Administrator will implement an observer program through a Council-approved federal regulatory framework. Details of how observer coverage will be distributed across the West Coast groundfish fleet will be described in an observer coverage plan. NMFS will publish an announcement of the authorization of the observer program and description of the observer coverage plan in the *Federal Register*.

There may be a priority need for observers on at-sea processing vessels to collect data normally collected at shore based processing plants. Certain information for management of the fishery can be obtained from logbooks and other reporting requirements, but the collection of some types of data would be too onerous for some fishermen to collect. Processing vessels must be willing to accommodate onboard observers and may be required to provide the required observers prior to issuance of any required federal permits.

Observers are required on foreign vessels operating in the Exclusive Economic Zone (EEZ) according to the Magnuson-Stevens Act.

6.5.1.3 Habitat Protection (General)

Beginning in January 1989, the Marine Plastic Pollution Research and Control Act of 1987 (PL 100-220, MARPOL) restricted the dumping of gear or other material from domestic vessels. The Secretary, upon the recommendation of the Council, may propose additional management measures restricting disposal of fishing gear by domestic and foreign vessels. A description of the groundfish habitat and effects of habitat alteration, as required by the Magnuson-Stevens Act, appear in the Appendix 11.10. EFH provisions are found in Section 6.6.

6.5.1.4 Vessel Safety Considerations

The Council will consider, and may provide for, temporary adjustments, after consultation with the U.S. Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting, because of weather or other ocean conditions affecting the safety of the vessels. A description of vessel safety considerations, as required by the Magnuson-Stevens Act, appear in Appendix 11.6.

6.5.2 *Domestic--Commercial*

All measures, unless otherwise specified, apply to all domestic vessels regardless of whether catch is landed and processed on shore or processed at sea.

6.5.2.1 Permits (General)

All U.S. commercial fishing vessels are required by state laws to be in possession of a current fishing or landing permit from the appropriate state agency in order to land groundfish in the Washington, Oregon, and California area. Federal limited entry permits authorize fishing within limits and restrictions specified for those permits. Nonpermitted vessels are also subject to specified limits and restrictions. Federal permits may also be required for groundfish processors. In the event that a federal fishing or access permit is required, failure to obtain and possess such a federal permit will be in violation of this FMP.

6.5.2.2 Catch Restrictions

The FMP authorizes the commercial and recreational harvest of species listed in Chapter 3 of this plan, and provides for limiting the harvest of these species in Chapters 5 and 6. The specific catch restrictions on groundfish currently in effect when Amendment 4 was implemented, including limits on groundfish caught in nongroundfish fisheries, are referenced in Chapter 11. However, some of these catch restrictions have subsequently been modified under the framework provisions.

Prohibited Species. It is unlawful for any person to retain any species of salmonid or Pacific halibut caught by means of fishing gear authorized under this FMP, except where a Council approved monitoring program is in effect. State regulations prohibit the landing of crab incidentally caught in trawl gear off Washington and Oregon. However, trawl fishermen may land Dungeness crab in the State of California in compliance with the state landing law. Retention of salmonids and Pacific halibut caught by means of other groundfish fishing gear is also prohibited unless authorized by 50 CFR Part 300, Subparts E or F; or Part 600, Subpart H. Specifically, salmonids are prohibited species for longline and pot gear. Halibut may be retained and landed by troll and longline gear only during times and under conditions set by International Pacific Halibut Commission and/or other federal regulations. Salmon taken by troll gear may be retained and landed only as specified in troll salmon regulations. Species identified as prohibited must be returned to the sea as soon as practicable with a minimum of injury when caught and brought aboard, after allowing for sampling by an observer, if any. Exceptions may be made for the recovery of tagged fish.

Groundfish species or species groups under this FMP for which the quota has been reached shall be treated in the same manner as prohibited species.

The FMP authorizes the designation of other prohibited species in the future or the removal of a species from this classification, consistent with other applicable law for that species.

6.5.2.3 Gear Restrictions

This plan authorizes the use of trawls, pots (traps), longlines, hook-and-line, and setnets (gillnets and trammel nets) as legal gear for the commercial harvest of groundfish. The use of setnets is prohibited in all areas north of 38° N latitude.

Implementation and modification of specific management measures regarding gear, such as definitions of legal gear, mesh size restrictions, codend size (length, diameter, or volume), chafing gear, gear marking, escape panels and ports, and the length of time gear may be left unattended, are authorized by this FMP. Gear restrictions may be established, modified, or removed under the points of concern or socioeconomic frameworks described in Chapter 6. Any changes in gear regulations should be scheduled so as to minimize costs to the fishing industry, insofar as this is consistent with achieving the goals of the change.

The original FMP and implementing regulations, as amended, specified minimum mesh size and other gear restrictions, which are listed in Chapter 11. Several provisions have subsequently been modified under the procedures outlined in this FMP.

6.5.2.4 Reporting Requirements

This FMP authorizes domestic vessel permit applications and reporting requirements.

Surveys to Determine Domestic Allocation Harvest. Surveys of the domestic industry will be conducted biannually by NMFS, at the appropriate time determined by NMFS, to determine amounts of fish not needed by the domestic processing industry, which then may be made available to joint venture or foreign fishing, as described in Sections 5.8 and 5.9.3.

Permit Applications. Permit applications for the domestic groundfish fishery, including, but not limited to exempted fishing permits, are authorized by this FMP. Such applications may include vessel name, length, type, documentation number or state registration number, radio call sign, home port, and capacity; owner or operator's name, mailing address, telephone number, and relationship of the applicant to the owner; type of fishing gear to be used, if any; signature of the applicant, and any other information found necessary for identification and registration of the vessel.

Other Reporting and Recordkeeping Requirements. Catch, effort, biological, and other data necessary for implementation of this FMP will continue to be collected by the States of Washington, Oregon, and California under existing state data collection provisions. Federal reporting requirements will be implemented only when the data collection and reporting systems operated by state agencies fail to provide the Secretary with statistical information for adequate management.

Several major instances where state reporting requirements may be insufficient have been identified. The first is where a vessel harvests fish within the Washington, Oregon, and California management area, but lands outside the management area. The second case occurs when a vessel (usually a processor) remains at sea for a long period of time before offloading its catch shore side. In the first case, reporting of the harvest may never occur, which could affect stock assessments dependent on accurate catch information. In the second case, reporting frequently is delayed several weeks or even months. Delayed reporting could seriously

hamper inseason management of quota and harvest guideline species. Another relates to fish that are captured and discarded at sea; most state programs do not require vessels to report bycatch or other discards.

To address these inadequacies, the FMP authorizes implementation of federal reporting requirements in addition to those of the various states. (Such requirements will be announced in the *Federal Register*.) The owner or operator of any vessel that retains fish harvested in the area managed by this FMP whose port of landing is outside the management area may be required to report those catches in a timely manner. They also may be required to submit a completed fish landing ticket from either Washington, Oregon, or California, or an equivalent document containing all of the information required by the state on that fishticket.

In addition, these vessels, or vessels that remain at sea for long periods of time (in particular, those that process their catch or the catch of another vessel at sea) may be required to report within a specified time period.

1. Vessel name.
2. Radio call sign.
3. Documentation number or federal permit number.
4. Company representative and telephone, fax, and/or telex number.
5. Vessel location including daily positions.
6. Check-in and check-out reports giving the time, date, location of the beginning or ending of any fishing activity.
7. Gear type.
8. Reporting area and period.
9. Duration of operation.
10. Estimated catch by species and area, species disposition (including discards, product type, and weights).
11. Product recovery ratios, products sold (in weight and value by species and product type, and if applicable, size or grade).
12. Any other information deemed necessary for management of the fishery.

These vessels also may be required to maintain and submit logbooks, accurately recording the following information in addition to the information listed above, and for a specified time period. Daily and cumulative catch by species, effort, processing, and transfer information; crew size; time, position, duration, sea depth, and catch by species of each haul or set; gear information; identification of catcher vessel, if applicable; information on other parties receiving fish or fish products; and any other information deemed necessary.

These vessels may be required to inform a NMFS enforcement or U.S. Coast Guard office prior to landing or offloading any seafood product. Such vessels may also be required to report prior to departing the Washington, Oregon, and California management area with fish or fish products on board.

The Council intends that any special reporting requirements will be imposed only if it could be expected to enhance the NMFS's ability to monitor the catch more accurately. It is also understood that any additional collection of information must be consistent with the requirements of the Paperwork Reduction Act (PRA).

6.5.2.5 Vessel Identification

The FMP authorizes vessel identification requirements which may be modified as necessary to facilitate enforcement and vessel recognition.

6.5.3 *Domestic - Recreational*

6.5.3.1 Permits (General)

All U.S. recreational fishermen are required by state laws to obtain a recreational permit or license in order to fish. In the event that a federal license or permit is required, failure to obtain and possess such federal permit will be in violation of this FMP.

6.5.3.2 Catch Restrictions

This FMP authorizes establishment of catch restrictions on the recreational fishery which are consistent with the goals and objectives of the FMP and the national standards established by the Magnuson-Stevens Act. Any such catch restrictions will be established in accordance with the appropriate procedures in Sections 6.2.1, 6.2.2, or 6.2.3.

6.5.3.3 Gear Restrictions

Legal recreational gear are hook-and-line and spear.

6.5.4 *Joint Venture--Domestic Vessels*

U.S. vessels operating in joint ventures are domestic vessels and traditionally have been treated the same as U.S. vessels delivering shoreside. However, conditions in the fishery could warrant separate treatment in the future.

Although all U.S. vessels have been subject to the same regulations, joint venture catcher operations may be affected indirectly by restrictions (such as closed areas) placed on the foreign processing vessels that receive U.S. catch at sea.

6.5.5 *Joint Venture--Foreign Vessels*

These measures apply to joint venture operations in which foreign processing vessels receive U.S.-caught fish at sea.

Management of the joint venture is the same as under the original FMP with the following exceptions (1) in Section 6.3.5.5, the authority to establish, modify, or remove a season for the whiting joint venture is added; (2) in Section 6.3.5.5, the amendment provides the authority for area closures in the whiting joint venture, which may subsequently be modified or removed; (3) Section 6.3.5.5 also clarifies that the 39° N latitude southern boundary applies to joint ventures for species other than Pacific whiting, unless modified, consistent with the procedures in Sections 6.2.2 and 6.2.3; (4) in Section 6.3.5.3, the amendment provides authority for changing the way incidental retention limits are applied, which currently is to 5,000 mt increments of target species received; and (5) in Section 6.3.5.8, provisions for closing the joint venture fishery are changed to reflect the use of harvest guidelines and quotas.

6.5.5.1 Permits

All foreign vessels operating in this management area shall have on board a permit issued by the Secretary pursuant to the Magnuson-Stevens Act.

6.5.5.2 Target Species

A foreign nation may conduct joint venture operations only for species for which there is a JVP and which that nation is authorized to receive by its vessel permit.

6.5.5.3 Incidental Catch

Incidental catch refers to groundfish species which are unavoidably caught while fishing for the authorized target species. It is recognized that catches of species that are fully utilized by the domestic processing industry will occur and are unavoidable in joint venture fisheries for Pacific whiting. The Council has adopted the policy originally established by the trawl preliminary FMP to allow minimal incidental allowances which are consistent with the status of the stocks and the efficiency of the joint venture fisheries. These incidental allowances are not to be considered as surpluses to domestic processing needs (i.e., JVPs) and are allowed to provide for full utilization of the authorized target species.

Unless otherwise specified, incidental allowances for bycatch in the joint venture fishery are percentages that determine the amount that may be retained in the joint venture. Incidental allowances may be established or changed at any time during the year, but are published at least annually, concurrent with the annual specifications of JVP.

The Council may choose to use factors other than percentages in specifying incidental allowances or may change the way incidental allowances are applied (for example, to 5,000 mt increments of Pacific whiting received in the joint venture, or based on specified retention amounts).

The NMFS Regional Administrator may establish or modify incidental species allowances to reflect changes in the condition of the resource and performance of the U.S. industry. The Regional Administrator will consult with the Council, consider public testimony received, and consider the following factors before establishing or changing incidental allowances (1) observed rates in the previous joint venture; (2) current estimates of relative abundance and availability of species caught incidentally; (3) ability of the foreign vessels to take the JVP; (4) past and projected foreign and U.S. fishing effort; (5) status of stocks; (6) impacts on the domestic industry; and (7) other relevant information. Changes will be made following the same procedures as for annual or inseason changes to the specifications in Chapter 5.

The incidental retention percentages that applied to the joint venture for Pacific whiting in 1990 appear in Chapter 11.

6.5.5.4 Prohibited Species

Prohibited species means salmonids, Pacific halibut, Dungeness crab, and any species of fish which that vessel is not specifically authorized to retain, including fish received in excess of any authorization, landing limit, or quota. These species must be immediately returned to the sea with a minimum of injury after allowing for sampling by an observer, if any. This FMP authorizes the designation of other prohibited species in the future, or the removal of a species from this classification if consistent with the applicable law for that species.

6.5.5.5 Season and Area Restrictions

Season. There is no season restriction, unless otherwise specified according to this FMP.

Area. The joint venture fishery for Pacific whiting may not be conducted south of 39° N latitude. Unless otherwise specified, joint venture fisheries for other species are prohibited south of 39° N latitude as well.

Season and area restrictions for foreign vessels operating in a joint venture (including additional area restrictions for the Pacific whiting joint venture) may be established, modified, or removed at any time during the year in accordance with the procedures in Sections 6.2.2 and 6.2.3 or by foreign vessel permit conditions.

Season and area restrictions on the joint venture fishery for Pacific whiting, effective in 1990 appear in Chapter 11.

6.5.5.6 Reporting and Recordkeeping Requirements

Foreign nations receiving U.S. harvested fish in a joint venture are required to submit detailed reports of fishing effort, location, amount, and disposition of species received by species or species group, and transfer of fish or fish products, as needed for monitoring and management of the fishery. Unless otherwise specified, reports of the receipt of U.S. harvested fish must be submitted weekly. The NMFS Regional Administrator may require daily reports when 90% of the JVP or of an incidental allowance is reached. In addition, each country must report the arrival, departure, and positions of each of its vessels, as specified under the regulations and permit conditions, as needed for monitoring deployment of the fleet.

Logbooks are required under 50 CFR Part 611 to fulfill the fishery conservation, management, and enforcement purposes of the Magnuson-Stevens Act. These logs include a communications log, transfer log, and daily joint venture log which record haul by haul and daily receipt, effort, and production information.

6.5.5.7 Dumping

Foreign vessels are prohibited from dumping pollutants and fishing gear which would degrade the environment or interfere with domestic fishing operations.

6.5.5.8 Fishery Closure

The joint venture fishery shall cease each year when (1) the JVP quota for the target species has been received; (2) the overall quota or harvest guideline for the target species is reached; (3) the applicable open season has ended, if any; or (4) as necessary for resource conservation reasons under the points of concern mechanism.

6.5.5.9 Observers

Observers shall be placed on each foreign processing vessel while it is operating in the joint venture, as provided by Title II of the Magnuson-Stevens Act. The law provides for the following exceptions to this requirement:

1. If an observer is aboard the mothership(s) of a mothership/catcher vessel fleet.
2. If the vessel is in the EEZ for such a short time that an observer would be impractical.
3. If facilities for quartering an observer are inadequate or unsafe.
4. For reasons beyond the control of the Secretary an observer is not available.

6.5.5.10 Other Restrictions

The Secretary may impose additional requirements for the conservation and management of fishery resources covered by the vessel permit or for national defense or security reasons. These restrictions include, but are not limited to, season, area, and reporting requirements.

The highest priority of this FMP is to provide for conservation of the resource. Any restriction on the joint venture fishery may be modified under the points of concern mechanism for resource conservation reasons.

6.5.6 *Foreign--Commercial*

These measures apply to foreign vessels that operate in a fishery directed on an allocated species for which there is a total allowable level of foreign fishing (TALFF). This is a foreign operation in which foreign vessels both catch and process the fish and often is called the "directed foreign fishery" or the "foreign trawl fishery".

Management of the directed foreign fishery is the same as under the original FMP with the following exceptions, (1) Section 6.5.6.5 provides authority for modifying the June 1 through October 31 season for the foreign fishery for Pacific whiting, consistent with the FMP's implementing regulations; (2) Section 6.5.6.5 provides for additional area restrictions in the foreign fishery for Pacific whiting, which subsequently may be modified or removed; (3) Section 6.5.6.5 clarifies that seasons and areas for nonwhiting foreign fisheries are the same as for the Pacific whiting fishery, unless modified, consistent with the FMP's implementing regulations; and, (4) In Section 6.5.6.8, fishery closure provisions have been changed to reflect the use of harvest guidelines and quotas.

6.5.6.1 Permits

All foreign vessels operating in this management area shall have on board a permit issued by the Secretary pursuant to the Magnuson-Stevens Act.

6.5.6.2 Target Species

Target fishing is allowed only for species for which the foreign nation has received an allocation of TALFF.

6.5.6.3 Incidental Catch

Incidental catch refers to groundfish species which are unavoidably caught while fishing for the allocated target species. It is recognized that catches of species that are fully utilized by the domestic fishing industry will occur and are unavoidable in foreign fisheries for Pacific whiting. The Council has adopted the policy originally established by the trawl preliminary management plan to allow minimal incidental allowances which are consistent with the status of the stocks and the efficiency of the foreign fishery. These incidental allowances are not to be considered as surpluses to domestic fishermen's needs (i.e., TALFFs) and are allowed to provide for full utilization of the allocated target species.

Unless otherwise specified, incidental allowances for bycatch in the foreign fishery are percentages that determine the amount that may be caught in the foreign fishery. Incidental allowances may be established or changed at any time during the year, but are published at least annually, concurrent with the annual specifications of TALFF.

The Council may choose to use factors other than percentages in specifying incidental allowances or may change the way incidental allowances are applied (for example, based on specified catch amounts).

The NMFS Regional Administrator may establish or modify incidental species allowances to reflect changes in the condition of the resource and performance of the U.S. industry. The NMFS Regional Administrator will consult with the Council, consider public testimony received, and consider the following factors before establishing or changing incidental allowances (1) observed rates in the previous foreign directed fishery; (2)

current estimates of relative abundance and availability of species caught incidentally; (3) ability of the foreign vessels to take the TALFF; (4) past and projected foreign and U.S. fishing effort; (5) status of stocks; (6) impacts on the domestic industry; and (7) other relevant information. Changes will be made following the same procedures as for annual or inseason changes to the specifications in Chapter 5.

Incidental catch percentages that would have applied to foreign fishing for Pacific whiting in 1990 appear in Chapter 11.

6.5.6.4 Prohibited Species

Prohibited species means salmonids, Pacific halibut, Dungeness crab, and any species of fish which that vessel is not specifically permitted to retain, including fish received in excess of any allocation. These species must be immediately returned to the sea with a minimum of injury after allowing for sampling by an observer, if any. This FMP authorizes the designation of other prohibited species, or the removal of species from this classification if consistent with the applicable law for that species.

6.5.6.5 Season, Area, and Gear Restrictions

Season. The season for the foreign fishery (any species) is June 1 to October 31, unless otherwise specified under the framework procedures of this FMP.

Area. The directed fishery for Pacific whiting may not be conducted in the following areas:

- south of 39° N latitude;
- north of 47°30' N latitude;
- shoreward of 12 nautical miles from shore;
- in the Columbia River Recreational Fishery Sanctuary (described in Chapter 11); or,
- in the Klamath River Sanctuary (described in Chapter 11).

Unless otherwise specified, the area restrictions listed above for the Pacific whiting fishery also apply to foreign fisheries for other species. (The sanctuaries may be removed, renamed, or coordinates refined, as needed.)

Gear. Unless otherwise specified, gear used in the directed foreign fishery (for any species) is an off-bottom (pelagic) trawl with minimum mesh size of 100 mm (3.92 inches) between opposing knots. Chafing gear may be used with this net if: the mesh size of the chafing gear is at least two times the mesh of the inner codend; it is aligned knot-to-knot to the inner net and tied to the straps and riblines; and, it is not connected directly to the terminal end of the codend. Fishing on-bottom or use of liners or any other method which would have the effect of reducing the mesh size in the codend are not allowed.

Season, area, and gear restrictions for a directed foreign fishery (including additional area restrictions on the Pacific whiting fishery) may be established, modified, or removed at any time in accordance with the procedures in Sections 6.2.2 and 6.2.3 or by vessel permit condition.

Season, area, and gear restrictions that would have applied to foreign fishing in 1990 appear in Chapter 11 (no foreign fishery has occurred since 1989).

6.5.6.6 Reporting and Recordkeeping Requirements

Foreign nations operating in the directed fishery are required to submit detailed reports of fishing effort, location, amount and disposition of catch by species or species group, and transfer of fish or fish products,

as needed for monitoring and management of the fishery. Unless otherwise specified, catch reports must be submitted weekly. The NMFS Regional Administrator may require daily reports when 90% of a nation's fishing allocation or incidental allowance for any species or species group is reached. In addition, each country must report the arrival, departure and positions of each of its vessels, as specified under the regulations and permit conditions, as necessary for monitoring deployment of the fleet.

Logbooks are required to fulfill the fishery conservation, management, and enforcement purposes of the Magnuson-Stevens Act. These logs may include a communications log, transfer log, and daily catch log which record haul by haul and daily catch, effort, and production information.

6.5.6.7 Dumping

Foreign vessels are prohibited from dumping pollutants and fishing gear which would degrade the environment or interfere with domestic fishing operations.

6.5.6.8 Fishery Closure

The directed foreign fishery shall cease each year when (1) that nation's allocation of TALFF is reached, (2) the maximum incidental catch allowance for that nation of any species or species group is reached, (3) the overall quota or harvest guideline for the allocated species is reached, (4) the applicable open season is ended, or (5) as necessary for resource conservation reasons under the points of concern mechanism.

6.5.6.9 Observers

The requirement to carry observers on foreign catcher vessels is the same as for joint venture processing vessels (Section 6.5.5.9).

6.5.6.10 Other Restrictions

The imposition of additional requirements for the conservation and management of fishery resources covered by the vessel permit, or for national defense or security reasons, is the same as for the joint venture fishery (Section 6.5.5.10).

The highest priority of this FMP is to provide for conservation of the resource. Any restriction on the foreign fishery may be modified under the points of concern mechanism for resource conservation reasons.

6.5.7 *Foreign--Recreational*

Foreign recreational fishing refers to any fishing from a foreign vessel not operated for profit or scientific research, and may not involve the sale, barter, or trade of any part of the catch. This FMP authorizes establishment of catch restrictions on the foreign recreational fishery which are consistent with the goals and objectives of the FMP and the national standards established by the Magnuson-Stevens Act.

6.5.8 *Access Limitation and Capacity Reduction Programs*

The current condition of the groundfish fisheries of the Washington, Oregon, and California region is such that further reduction of the limited entry fleet may be required in the near future. Research and monitoring programs may need to be developed and implemented for the fishery so that information required in a capacity reduction program is available. Such data should indicate the character and level of participation

in the fishery, including (1) investment in vessel and gear; (2) the number and type of units of gear; (3) the distribution of catch; (4) the value of catch; (5) the economic returns to the participants; (6) mobility between fisheries; and (7) various social and community considerations.

[Amended: 10-6.5.2.2, 11]

6.6 Essential Fish Habitat

The Magnuson-Stevens Act (revised in Public Law 104-267) and the Sustainable Fisheries Act (SFA) requires Councils to include descriptions of EFH in all federal FMPs, and also potential threats to EFH. In addition, the Magnuson-Stevens Act requires Federal agencies to consult with NMFS on activities that may adversely affect EFH. The Appendix of this FMP includes a description of EFH for the 80-plus groundfish species included in this plan, fishing effects on EFH, nonfishing effects on EFH, and options to avoid or minimize adverse effects on EFH or promote conservation and enhancement of EFH.

6.6.1 *Magnuson-Stevens Act Directives Relating to Essential Fish Habitat*

The Magnuson-Stevens Act defines EFH as “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.” To clarify this definition, the following interpretations are made: “waters” include aquatic areas and their associated physical, chemical, and biological properties that are used by fish, and may include areas historically used by fish where appropriate; “substrate” includes sediment, hard bottom, structures underlying the waters, and associated biological communities; “necessary” means “the habitat required to support a sustainable fishery and the managed species’ contribution to a healthy ecosystem;” and “spawning, breeding, feeding, or growth to maturity” covers the full life cycle of a species. The definition of EFH may include habitat for an individual species or an assemblage of species, whichever is appropriate to the FMP.

The Magnuson-Stevens Act requires Councils to identify in FMPs any fishing activities that may adversely affect EFH. The Magnuson-Stevens Act also requires that, where fishing-related adverse impacts to EFH are identified, FMPs must include management measures that minimize those adverse effects from fishing, to the extent practicable.

The FMP also identifies potential nonfishing threats to EFH. Upon implementation of the FMP amendment, federal agencies will be required to consult with NMFS on all activities, and proposed activities, authorized, funded, or undertaken by the agency that may adversely affect EFH. NMFS must provide recommendations to conserve EFH to federal agencies on such activities. NMFS must also provide recommendations to conserve EFH to state agencies if it receives information on their actions. The Council may provide EFH recommendations on actions that may affect habitat, including EFH. Such recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH resulting from actions or proposed actions authorized, funded, or undertaken by that agency. The Council will encourage federal agencies conducting or authorizing work that may adversely affect groundfish EFH to minimize disturbance to EFH.

6.6.2 *Definition of Essential Fish Habitat for Groundfish*

The Pacific Coast Groundfish FMP manages 80-plus species over a large and ecologically diverse area. Research on the life histories and habitats of these species varies in completeness, so while some species are well-studied, there is relatively little information on certain other species. Information about the habitats and life histories of the species managed by the FMP will certainly change over time, with varying degrees of information improvement for each species. For these reasons, it is impractical for the Council to include EFH definitions for each of the managed species in the body of the FMP. Therefore, the FMP includes a

description of a limited number of composite EFHs for all Pacific Coast groundfish species. Life histories and EFH designations for each of the individual species are provided in a separate EFH document which will be revised and updated to include new information as it becomes available. Such changes will not require FMP amendment. This framework approach is similar to the Council's stock assessment process, which annually uses the SAFE document to update information about groundfish stock status without amending the FMP. Like the SAFE document, any EFH updates will be reviewed in a Council public forum.

There are substantial gaps in the knowledge of many Pacific Coast groundfish species. This FMP identifies many of those data gaps and makes suggestions regarding future research efforts. The FMP also identifies where research is needed on fishing and nonfishing impacts on groundfish EFH. Protecting, conserving, and enhancing EFH are long-term goals of the Council, and these EFH provisions of the FMP are an important element in the Council's commitment to a better understanding of Pacific Coast groundfish populations and their habitat needs.

6.6.2.1 Composite Essential Fish Habitat Identification

The 80-plus groundfish species managed by this FMP occur throughout the EEZ and occupy diverse habitats at all stages in their life histories. Some species are widely dispersed during certain life stages, particularly those with pelagic eggs and larvae; the EFH for these species/stages is correspondingly large. On the other hand, the EFH of some species/stages may be comparatively small, such as that of adults of many nearshore rockfishes which show strong affinities to a particular location or type of substrate. As a consequence of the large number of species and their diverse habitat associations, the entire EEZ becomes EFH when all the individual EFHs are taken together.

EFH for Pacific Coast groundfish is defined as the aquatic habitat necessary to allow for groundfish production to support long-term sustainable fisheries for groundfish and for groundfish contributions to a healthy ecosystem. Descriptions of groundfish fishery EFH for each of the 80-plus species and their life stages result in over 400 EFH identifications. When these EFHs are taken together, the groundfish fishery EFH includes all waters from the mean higher high water line, and the upriver extent of saltwater intrusion in river mouths, along the coasts of Washington, Oregon, and California seaward to the boundary of the U.S. EEZ.

This FMP groups the various EFH descriptions into seven units called "composite" EFHs. This approach focuses on ecological relationships among species and between the species and their habitat, reflecting an ecosystem approach in defining EFH. Seven major habitat types are proposed as the basis for such assemblages or "composites". These major habitat types are readily recognizable by those who potentially may be required to consult about impacts to EFH, and their distributions are relatively stationary and measurable over time and space.

The seven "composite" EFH identifications are as follows.

1. Estuarine - Those waters, substrates and associated biological communities within bays and estuaries of the EEZ, from mean higher high water level (MHHW, which is the high tide line) or extent of upriver saltwater intrusion to the respective outer boundaries for each bay or estuary as defined in 33 CFR 80.1 (Coast Guard lines of demarcation).
2. Rocky Shelf - Those waters, substrates, and associated biological communities living on or within ten meters (5.5 fathoms) overlying rocky areas, including reefs, pinnacles, boulders and cobble, along the continental shelf, excluding canyons, from the high tide line MHHW to the shelf break (~200 meters or 109 fathoms).

3. Nonrocky Shelf - Those waters, substrates, and associated biological communities living on or within ten meters (5.5 fathoms) overlying the substrates of the continental shelf, excluding the rocky shelf and canyon composites, from the high tide line MHHW to the shelf break (~200 meters or 109 fathoms).
4. Canyon - Those waters, substrates, and associated biological communities living within submarine canyons, including the walls, beds, seafloor, and any outcrops or landslide morphology, such as slump scarps and debris fields.
5. Continental Slope/Basin - Those waters, substrates, and biological communities living on or within 20 meters (11 fathoms) overlying the substrates of the continental slope and basin below the shelf break (~200 meters or 109 fathoms) and extending to the westward boundary of the EEZ.
6. Neritic Zone - Those waters and biological communities living in the water column more than ten meters (5.5 fathoms) above the continental shelf.
7. Oceanic Zone - Those waters and biological communities living in the water column more than 20 meters (11 fathoms) above the continental slope and abyssal plain, extending to the westward boundary of the EEZ.

These composites are shown graphically in the following figures. There is inadequate information to produce a map of the rocky shelf composite, so the rocky and nonrocky shelf composites are combined in these figures.

6.6.3 Management Measures To Minimize Adverse Impacts on Essential Fish Habitat from Fishing

The Council may use any of the following management measures to minimize adverse effects on EFH from fishing, if there is evidence that a fishing activity is having an identifiable adverse effect on EFH. Such management measures shall be implemented under the Points of Concern Framework, Section 6.2.2.

- Fishing gear restrictions
- Time/area closures
- Harvest limits
- Other

In determining whether it is practicable to minimize an adverse effect from fishing, the Council will consider whether, and to what extent, the fishing activity is adversely impacting EFH, the nature and extent of the adverse effect on EFH, and whether management measures are practicable. The Council will consider the long and short term costs and benefits to the fishery and EFH, along with other appropriate factors, consistent with national standard 7.

6.6.4 Review and Revision of Essential Fish Habitat Definitions and Descriptions

The Council will periodically review the available information on EFH descriptions, fishing impacts and nonfishing impacts, and include new information in the annual SAFE document or similar document. A review and update of available information will be conducted at least once every five years as appropriate, but the Council may schedule more frequent reviews in response to recommendation by the Secretary or for other reasons.

[Amended: 11 (added)]

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11.0 MANAGEMENT MEASURES THAT CONTINUE IN EFFECT WITH IMPLEMENTATION OF AMENDMENT 4

[N.B. This chapter was previously numbered 12.0.]

The following management measures from the FMP, as amended, or implementing regulations continue in effect with implementation of Amendment 4, but may be modified in the future. The only changes are technical refinements: (1) commercial fishing is more accurately defined to include persons required by state law to have a commercial fishing license, but who have not obtained such a license; and (2) definitions for fixed gear, nontrawl gear, and commercial vertical hook-and-line gear have been added.

11.1 Vessel Identification

Display. The operator of a vessel which is over 25 feet in length and is engaged in commercial fishing for groundfish must display the vessel's official number on the port and starboard sides of the deckhouse or hull, and on a weather deck so as to be visible from above. The number must contrast with the background and be in block arabic numerals at least 18 inches high for vessels over 65 feet long and at least 10 inches high for vessels between 25 and 65 feet in length. The length of a vessel for purposes of this section is the length set forth in U.S. Coast Guard records or in state records if no U.S. Coast Guard record exists.

Maintenance of numbers. The operator of a vessel engaged in commercial fishing for groundfish shall keep the identifying markings required by paragraph (a) of this section clearly legible and in good repair, and must ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

Commercial passenger vessels. This section does not apply to vessels carrying fishing parties on a per-capita basis or by charter.

11.2 Gear Restrictions

These definitions and restrictions are taken from the current FMP, as amended, and its implementing regulations. Reasons for their selection are found in the FMP, its amendments, and associated documents. These restrictions have not been changed by Amendment 4.

11.2.1 Commercial Fishing

Commercial fishing is (a) fishing by a person who possesses a commercial fishing license or is required by law to possess such license issued by one of the states or the federal government as a prerequisite to taking, landing and/or sale; or, (b) fishing which results in or can be reasonably expected to result in sale, barter, trade or other disposition of fish for other than personal consumption.

Legal Gear. The following types of fishing gear are authorized, with the restrictions set forth in this section: trawl (bottom, pelagic, and roller), hook-and-line, longline, pot or trap, set net, trammel net, and spear.

11.2.1.1 Trawl gear

Trawl gear is a cone or funnel-shaped net which is towed or drawn through the water by one or two vessels. Trawls are used both on bottom and off bottom. They may be fished with or without trawl doors. They may employ warps or cables to herd fish. Trawl gear includes roller, bottom, and pelagic trawls, and, as appropriate, trawls used to catch non-groundfish species but which incidentally intercept groundfish.

11.2.1.1.1 Mesh size

Mesh size is the opening between knots. For all net gear, minimum mesh size means the smallest distance allowed between the inside of one knot to the inside of the opposing knot, regardless of twine size.

The minimum trawl mesh size allowed regionwide is 4.5 inches. Exceptions to accommodate biological differences between species, species distribution, and economic concerns are listed below.

Trawl nets may be used if they meet the minimum sizes set forth below. The minimum sizes apply to the last fifty meshes running the length of the net to the terminal (closed) end of the codend. Minimum trawl mesh size requirements are met if a 20-gauge stainless steel wedge, 3.0 or 4.5 inches (depending on the gear being measured) less one thickness of the metal at the widest part, can be passed with thumb pressure only through 16 of 20 sets of two meshes each of wet mesh in the codend.

MINIMUM TRAWL MESH SIZE (IN INCHES)

Trawl Type	Subarea				
	Vancouver	Columbia	Eureka	Monterey	Conception
Bottom	4.5	4.5	4.5	4.5	4.5
Roller or bobbin	3.0	3.0	3.0	4.5	4.5
Pelagic	3.0	3.0	3.0	3.0	3.0

11.2.1.1.2 Bottom (or flatfish bottom) trawl

A bottom trawl is a trawl in which the otter boards or the footrope of the net are in contact with the seabed, including pair trawls fished on-bottom, and Danish and Scottish seine gear.

All trawl nets used for flatfish which have continuous footrope contact with the bottom shall have a minimum mesh size of 4.5 inches or larger throughout the net. At least two continuous riblines must be sewn to the net, extending from the mouth of the trawl net to the terminal end of the codend, if the fishing vessel is simultaneously carrying aboard a net of less than 4.5 inch mesh size.

Riblines are heavy rope or lines that run down the sides, top, or underside of a trawl net from the mouth of the net to the terminal end of the codend to strengthen the net during fishing.

11.2.1.1.3 Roller (or bobbin) trawl.

A roller trawl has footropes equipped with rollers or bobbins made of wood, steel, rubber, plastic, or other hard material which keep the footrope above the seabed, thereby protecting the net.

In the Eureka, Columbia, and Vancouver subareas, trawl mesh size less than 4.5 inches is permitted provided that: (1) the rollers or bobbins are at least 14 inches in diameter and free to rotate, with at least two rollers or bobbins equally spaced on each side of the footrope within 10 feet of the center of the footrope of the net; and (2) a tickler chain (continuous chain, rope, or cable which contacts the sea floor ahead of the rollers) is not used.

11.2.1.1.4 Pelagic (midwater or off-bottom) trawl

A pelagic trawl is a trawl in which the otter boards may contact the seabed, but the footrope does not. Pair trawls, if fished in midwater, must follow the requirements for pelagic trawls.

Pelagic trawl nets must have unprotected footropes at the trawl mouth (without rollers, bobbins or discs), and codends must be single-walled (one wall of webbing knitted with single or double-ply mesh). Sweeplines, including the bottom leg of the bridle, must be bare. The minimum mesh size is 3.0-inches. (These restrictions apply only to the domestic fishery. Requirements for the foreign trawl fishery appear later in Section 11.5.)

11.2.1.1.5 Codend chafing gear

Chafing gear is webbing or other material attached to the bottom (underside) or around the codend of a trawl net to protect the codend from wear.

On 4.5-inch bottom trawls, encircling chafing gear may not be less than 15 inches minimum mesh. If mesh size is less than 15 inches, only the bottom one-half of the codend may be covered.

On 3-inch roller or pelagic and bobbin trawls, chafing gear is permitted but the upper one-half may not be less than 6-inch minimum mesh.

No chafing gear or chafing gear sections on any trawl may be connected directly to the terminal end of the codend.

11.2.1.1.6 Double-walled codends

A double-walled codend is a codend constructed of two walls of webbing.

Double-walled codends must not be used in any pelagic trawl, or in any other trawl with mesh size less than 4.5 inches. The double-walled portion may not be longer than 25 meshes or 12 feet, whichever is greater. Meshes must coincide knot-for-knot throughout the double-walled portion. Manufactured double-ply mesh (double twine tied into a single knot) is not considered to be double-walled.

11.2.1.2 Fixed gear

Fixed gear (anchored nontrawl gear) includes longline, pot, set net, and stationary hook-and-line gear. (See following section 11.2.1.3 on nontrawl gear.)

Fixed gear must be marked, individually or at each terminal end as appropriate, with a pole, flag, light, and radar reflector attached to each end of the set, and a buoy clearly identifying the owner. In addition, fixed gear shall not be left unattended for more than seven days.

Reporting of fixed gear locations is not required, but fixed gear fishermen are encouraged to do so with the U.S. Coast Guard. Reporting of fixed gear will facilitate compensation claims by fishermen who have lost fixed gear.

11.2.1.3 Nontrawl gear

Nontrawl gear includes all legal commercial gear other than trawl gear.

11.2.1.3.1 Commercial vertical hook-and-line

Commercial vertical hook-and-line gear is hook-and-line gear that involves a single line anchored at the bottom and buoyed at the surface so as to fish vertically.

11.2.1.3.2 Hook-and-line

Hook-and-line means one or more hooks attached to one or more lines. Commercial hook-and-line fisheries may be mobile (troll) or stationary (anchored).

11.2.1.3.3 Longline

A longline is a stationary, buoyed, and anchored groundline with hooks attached.

11.2.1.3.4 Set net

A set net is a stationary, buoyed, and anchored gillnet or trammel net.

Fishing for groundfish with set nets is prohibited north of 38°00' N. latitude (Pt. Reyes, California). Set netting for groundfish in the EEZ south of 38°00' N. latitude is governed by California State regulations.

11.2.1.3.5 Gillnet

A gillnet is a single-walled, rectangular net which is set upright in the water.

11.2.1.3.6 Trammel net

A trammel net is a gillnet made with two or more walls joined to a common float line.

11.2.1.3.7 Traps (or pots)

A trap or pot is a portable, enclosed device with one or more gates or entrances and one or more lines attached to surface floats.

Traps must have biodegradable escape panels constructed with #21 or smaller untreated cotton twine in such a manner that an opening at least 8 inches in diameter results when the twine deteriorates.

11.2.2 Recreational Fishing

Recreational fishing is fishing with authorized gear for personal use only, and not for sale or barter.

Legal Gear. The only types of fishing gear authorized for recreational fishing are hook-and-line and spear.

11.2.2.1 Hook-and-line

The definition is the same as above for the commercial fishery. Currently, there are no gear restrictions on recreational use of hook-and-line gear to harvest groundfish.

11.2.2.2 Spears

A spear is a sharp, pointed, or barbed instrument on a shaft. Spears may be propelled by hand or by mechanical means.

11.3 Species Managed with a Harvest Guideline or Quota

As described in Chapter 5, those species or species groups managed with a harvest guideline or quota at the time Amendment 4 is implemented will continue to be managed with a harvest guideline or quota until changed. These species and species groups initially are as follows:

Harvest Guideline:

- The Sebastes complex - north of Coos Bay, Oregon
- Yellowtail rockfish - north of Coos Bay, Oregon

Quota:

- Sablefish - coastwide
- Pacific ocean perch - for Columbia and Vancouver areas separately
- Widow rockfish - coastwide
- Pacific whiting - coastwide
- Shortbelly rockfish - coastwide
- Jack mackerel - north of 39° N. latitude

11.4 Catch Restrictions

Groundfish species harvested in the territorial sea (0-3 nautical miles) will be counted toward the catch limitations in this section. These catch restrictions apply only to domestic fisheries off Washington, Oregon, and California.

11.4.1 Commercial Fishing

California rockfish. The trip limit for a vessel engaged in fishing with a pelagic trawl with mesh size less than 4.5 inches in the Conception or Monterey subareas is 500 pounds or 5 percent by weight of all fish on board, whichever is greater, of the species group composed of bocaccio, chilipepper, splitnose, and yellowtail rockfishes per fishing trip.

Other species. Both annual and inseason catch restrictions have been imposed on the species listed below after implementation of the FMP in 1982. The catch restrictions implemented at the beginning of 1990 were published in the *Federal Register* at 55 FR 1036 (January 11, 1990), 55 FR 3747 (February 5, 1990), and 55 FR 11021 (March 26, 1990). These catch restrictions are likely to change as necessary before Amendment 4 is implemented. Further adjustments are expected when Amendment 4 is implemented, but cannot be announced with certainty at this time. The following general types of restrictions were effective during 1989 and 1990.

- Widow rockfish. Managed by species quota, beyond which landings are prohibited; trip landing and frequency limits, based on weekly landings; options for biweekly and, rarely, twice-weekly landings if state agencies notified in advance; limits generally have been reduced during the year, reaching incidental levels (3,000 pounds) per trip near the end of the season.
- Pacific ocean perch. Managed by species quota beyond which landings are prohibited; very small

trip landing limits to allow only incidental catches in other fisheries to be landed.

- Sebastes complex (including yellowtail rockfish). The Sebastes complex includes all rockfish managed by the FMP (see Table 3.1) except widow rockfish, Pacific ocean perch, shortbelly rockfish, and thornyheads (also called idiot or channel rockfish).

North of Coos Bay, Oregon: managed by a harvest guideline that equals the summed ABCs of the species in the complex, with primary goal of not exceeding the ABC for yellowtail rockfish (as it applies north of Coos Bay); trip landing and frequency limits, based on weekly landings; options for biweekly and twice-weekly landings if state agencies notified in advance; trip limits reduced during the year, reaching incidental levels near the end of the season, to minimize landings above the harvest guideline.

South of Coos Bay, Oregon: trip landing limit.

- Sablefish. Trawl fishery: managed by species quota and gear allocation, beyond which landings are prohibited; trip landing and rarely trip frequency limits with biweekly and twice-weekly options; trip limits intended to allow landing predominantly of incidental catch; includes a trip limit on sablefish smaller than 22-inches (total length).

Nontrawl fishery (fixed gear including troll): managed by species quota and gear allocation beyond which landings are prohibited; trip limit on sablefish smaller than 22 inches (total length); otherwise no restriction until an incidental trip limit is imposed near the end of the season.

- Deepwater complex (which consists of sablefish, Dover sole, arrowtooth flounder, and thornyheads). Managed to achieve species quota or trawl allocation for sablefish; for about five months in 1989, trawl trip landing and frequency limits on the complex, including separate landing and frequency limits for sablefish (including a trip limit on sablefish smaller than 22 inches).

11.4.2 Recreational Fishing

The current bag limits for each person engaged in recreational fishing are three lingcod per day and 15 rockfish per day. Amendment 4, at Section 6.2.1, establishes bag and size limits for the recreational fishery as "routine" management measures. As "routine" management measures, Amendment 4 intends for bag and size limits for lingcod and rockfish to be adjustable by the single meeting, single *Federal Register* "notice" process described in Section 6.2. Multi-day limits are authorized by a valid permit issued by the State of California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

11.4.3 Restrictions on the Catch of Groundfish in Non-Groundfish Fisheries

11.4.3.1 Pink shrimp

The trip limit for a vessel engaged in fishing for pink shrimp is 1,500 pounds (multiplied by the number of days of the fishing trip) of groundfish species, excluding catches of Pacific whiting, shortbelly rockfish, or arrowtooth flounder which are not limited.

11.4.3.2 Spot and ridgeback prawns

The trip limit for a vessel engaged in fishing for spot or ridgeback prawns is 1,000 pounds of groundfish species per fishing trip.

11.5 Joint Ventures

These provisions reflect the latest restrictions (as of March 1990) on joint venture fisheries. Many of these restrictions may be modified, as explained in Chapter 6.

11.5.1 Pacific Whiting

- Target amount. JVP is announced with the annual specifications on January 1 each year. (At the beginning of 1990, the JVP for Pacific whiting was 161,000 mt.)
- Incidental allowances. In the Pacific whiting joint venture, the incidental retention limits are applied to 5,000 mt increments of whiting received. If a retention limit is reached, further amounts of that species may not be retained until the full 5,000 mt increment of whiting is received.

Current incidental retention limits for the Pacific whiting joint venture are:

Pacific ocean perch	0.062%
Other rockfish (excluding POP)	0.738%
Sablefish	0.173%
Flatfish	0.1%
Jack mackerel (north of 39° N. lat.)	3.0%
Other species	0.5%

* Unless otherwise specified, shortbelly rockfish are included in the "other rockfish" category.

- Prohibited species. Prohibited species means salmonids, Pacific halibut, Dungeness crab, and any species of fish which that vessel is not specifically authorized to retain, including fish received in excess of any authorization.
- Season. Currently no restriction on season.
- Area. No U.S.-harvested whiting may be received or processed south of 39° N. latitude.

11.5.2 Jack Mackerel (North of 39° N. Latitude)

- Target amount. JVP is announced with the annual specifications on January 1 each year. (In 1990, the JVP for jack mackerel was 5,000 mt.)
- Incidental allowances. If a joint venture for jack mackerel north of 39° N. latitude were to develop, incidental retention allowances provisionally would be the same as for the Pacific whiting joint venture, but could be modified if better information becomes available, and thus could differ from the incidental percentages in the whiting joint venture. Unless otherwise specified, the incidental percentage for Pacific whiting taken in a joint venture for jack mackerel is 3.0 percent, the same as for jack mackerel taken in the Pacific whiting joint venture.
- Prohibited species. The same as for the Pacific whiting joint venture.
- Season. Currently no restriction.

- Area. As long as the FMP manages only that portion of the jack mackerel stock north of 39° N. latitude, a joint venture for jack mackerel south of 39° N. latitude cannot be authorized.

11.5.3 Shortbelly Rockfish

- Target amount. JVP is announced with the annual specifications on January 1 each year. (The JVP for shortbelly rockfish in 1990 was 12,500 mt.)
- Incidental species. To be determined.
- Prohibited species. The same as for Pacific whiting joint venture.
- Season. Currently no restriction.
- Area. No U.S.-harvested shortbelly rockfish may be received or processed south of 39° N. latitude.

Shortbelly rockfish are most concentrated south of 39° N. latitude. A request to conduct a joint venture for shortbelly rockfish in 1989 resulted in a finding that much of the area needed for the fishery would be closed for reasons of national security.

11.6 Foreign Fishery

These provisions reflect the latest restrictions (as of March 1990) on the directed foreign fishery. Many of these restrictions may be modified, as explained in Chapter 6.

11.6.1 Pacific Whiting

These provisions would have been in effect for a directed foreign fishery for Pacific whiting in 1990 if there had been a TALFF and foreign interest.

- Target amount. TALFF is announced with the annual specifications on January 1 each year, and subsequently may be divided into national allocations which may not be exceeded. (In 1990, there was no TALFF for Pacific whiting.)
- Incidental allowances. Current incidental catch percentages for the Pacific whiting directed fishery, if there were such a fishery in 1990, are:

Pacific ocean perch	0.062%
Other rockfish (excluding POP) *	0.738%
Sablefish	0.173%
Flatfish	0.1%
Jack mackerel (north of 39° N. lat.)	3.0%
Other species	0.5%

* Unless otherwise specified, shortbelly rockfish are included in the "other rockfish" category.

- Prohibited species. Prohibited species means salmonids, Pacific halibut, Dungeness crab, and any

species of fish which that vessel is not specifically permitted to retain, including fish received in excess of any allocation.

- Season. June 1 - October 31.

- Closed areas.

(a) 47°30' N. latitude to the U.S.-Canada boundary;

(b) U.S.-Mexico border to 39° N. latitude;

(c) area landward of 12 nm;

(d) "Columbia River Pot and Recreational Fishery Sanctuary" -- that area between 46°00' N. latitude and 47°00' N. latitude and east of a line connecting the following coordinates in the order listed: 46°00' N. latitude, 124°55' W. longitude; 46°20' N. latitude, 124°40' W. longitude; and 47°00' N. latitude, 125°20' W. longitude;

(e) "Klamath River Pot Sanctuary" -- that area between 41°20' N. latitude and 41°37' N. latitude and east of a line connecting the following coordinates in the order listed: 41°20' N. latitude, 124°32' W. longitude, and 41°37' N. latitude, 124°34' W. longitude.

- Gear restrictions.

Pelagic trawls with a minimum mesh size of 100 mm (3.94 inches, between opposing knots, stretched when wet) must be used. Codend liners or other devices which have the effect of reducing mesh size or improving ability to fish on the bottom are prohibited. Fishing on the seabed is prohibited.

Chafing gear may be used but must be of a mesh size greater than or equal to two meshes of the codend, i.e. a minimum of 200 mm. The chafing gear must be tied to the straps and riblines and connected so that it is aligned to the codend knot-to-knot. Chafing gear must not be connected directly to the terminal end of the codend. Thread size of the chafing gear shall not be more than four times the diameter of that used in the codend.

11.6.2 *Jack Mackerel (North of 39° N. Latitude)*

- Target amount. TALFF is announced with the annual specifications on January 1 each year, and subsequently may be divided into national allocations which may not be exceeded. (In 1990, the TALFF for jack mackerel was 4,600 mt.)

- Incidental allowances. To be determined.

- Prohibited species. The same as foreign fishery for Pacific whiting.

- Area. North of 39° N. latitude.

- Gear restrictions. The same as foreign fishery for Pacific whiting.

11.7 Prohibitions

The following prohibitions apply and may be expanded, modified, or removed as needed to implement the FMP, as amended.

Nationwide: It is unlawful for any person to do any of the following --

- (a) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, land, import, or export any fish or parts thereof taken or retained in violation of the Magnuson-Stevens Act or any regulation or permit issued under the Magnuson-Stevens Act.
- (b) Transfer or attempt to transfer, directly or indirectly, any U.S.- harvested fish to any foreign fishing vessel, while such vessel is in the EEZ, unless the foreign fishing vessel has been issued a permit under section 204 of the Magnuson-Stevens Act which authorizes the receipt by such vessel of U.S.-harvested fish.
- (c) Fail to comply immediately with enforcement and boarding procedures specified in the implementing regulations.
- (d) Refuse to allow an authorized officer to board a fishing vessel, or to enter areas of custody for purposes of conducting any search, inspection, or seizure in connection with the enforcement of the Magnuson-Stevens Act.
- (e) Dispose of fish or parts thereof or other matter in any manner, after any communication or signal from an authorized officer, or after the approach by an authorized officer or an enforcement vessel.
- (f) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search, inspection, or seizure in connection with enforcement of the Magnuson-Stevens Act.
- (g) Interfere with, delay, or prevent by any means, the apprehension or of another person, knowing that such person has committed any act prohibited by the Magnuson-Stevens Act.
- (h) Resist a lawful arrest for any act prohibited under the Magnuson-Stevens Act.

Washington, Oregon, and California: In addition to the nationwide prohibitions listed above, it is unlawful for any person to --

- (a) Sell, offer to sell, or purchase any groundfish taken in the course of recreational groundfish fishing.
- (b) Retain any prohibited species unless authorized by other applicable law.
- (c) Falsify or fail to affix and maintain vessel and gear markings.
- (d) Fish for groundfish in violation of any terms or conditions attached to an experimental fishing permit.
- (e) Fish for groundfish using gear not authorized under the FMP or under an experimental fishing permit.

- (f) Take and retain, possess or land more groundfish than specified under any regulation, notice, permit, or experimental fishing permit implemented under this FMP.
- (g) Violate any other provision of the implementing regulations at 50 CFR Parts 620, 663 or 611, the Magnuson-Stevens Act, any notice, or any other regulation or permit promulgated under the Magnuson-Stevens Act.
- (h) Make any false statement, oral or written, to an authorized officer concerning the taking, catching, harvesting, possession, landing, purchase, sale, or transfer of any fish.
- (i) Interfere with, obstruct, delay, or prevent by any means a lawful investigation or search conducted in the process of enforcing the Magnuson-Stevens Act.
- (j) Refuse to submit fishing gear or fish subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such as inspection.
- (k) Falsify or fail to make and/or file any and all reports of groundfish landings, containing all data, and in the exact manner, required by the applicable state law, provided that person is required to do so by the applicable state law.
- (l) Fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, if the weight of the total delivery exceeds 3,000 pounds (round weight or round weight equivalent).
- (m) Possess, deploy, haul, or carry onboard a fishing vessel subject to the implementing regulations (50 CFR Part 663) a set net, trap or pot, longline, or commercial vertical hook-and-line that is not in compliance with the gear restrictions, unless such gear is the gear of another vessel that has been retrieved at sea and made inoperable or stowed in a manner not capable of being fished. The disposal at sea of such gear is prohibited by Annex V of the International Convention for the Prevention of Pollution from Ships, 1973 (Annex V of MARPOL 73/78).

11.8 Facilitation of Enforcement

The following provisions currently are included in the FMP's implementing regulations (as of March 23, 1990) and may be expanded, modified, or removed as necessary to facilitate enforcement of the provisions of the FMP, as amended, and the Magnuson-Stevens Act.

(a) General. The operator of, or any other person aboard, any fishing vessel subject to Parts 630 through 699 of this chapter must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Magnuson-Stevens Act and this chapter.

(b) Communications.

(1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) VHF-FM radiotelephone is the preferred method for communicating between vessels. If the size

of the vessel and the wind, sea, and visibility conditions allow, a loudhailer may be used instead of the radio. Hand signals, placards, high frequency radiotelephone, or voice may be employed by an authorized officer, and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop. In the International Code of Signals, "L" (.-.) means "you should stop your vessel instantly".

(4) Failure of a vessel's operator promptly to stop the vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes prima facie evidence of the offense of refusal to permit an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) Boarding. The operator of a vessel directed to stop must:

(1) Guard Channel 16, VHF-FM if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer or observer, provide a manrope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to ensure the safety of the authorized officer and the boarding party.

(d) Signals. The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (.-.-) is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (.-. --. -. --) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (... --.- ...--) means "you should stop or heave to; I am going to board you."

Note: Period (.) means a short flash of light; dash (-) means a long flash of light.

11.9 Penalties

Any person committing or fishing vessel used in the commission of a violation of the Magnuson-Stevens Act or any regulation issued under the Magnuson-Stevens Act, is subject to the civil and criminal penalty provisions and civil forfeiture provisions of the Magnuson-Stevens Act, to Part 621 of this chapter, to 15 CFR Part 904 (Civil Procedures), and to any other applicable law.