AMENDMENT 12 TO THE PACIFIC COAST GROUNDFISH FISHERY MANAGEMENT PLAN:

PROCESS FOR DEVELOPING STOCK REBUILDING PLANS; REBUILDING PLAN CONTENTS; AND DECLARING THE GROUNDFISH FISHERY TO BE FULLY UTILIZED

ENVIRONMENTAL ASSESSMENT, REGULATORY IMPACT REVIEW
and PROPOSED CHANGES TO THE FMP

Prepared by the staff of the
Pacific Fishery Management Council

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1.0 INTRODUCTION

This document describes a proposed amendment (the 12th) to the Pacific coast groundfish fishery management plan (FMP). This proposed amendment addresses plans for rebuilding overfished groundfish stocks and provisions for foreign fishing. Rebuilding measures were included in FMP Amendment 11 the Pacific Fishery Management Council (Council) completed late in 1998. That amendment included a definition of "overfished" and, according to the definition, the Secretary of Commerce (through its fishery management agency, the National Marine Fisheries Service, NMFS) notified the Council that three stocks met the definition.

Official rebuilding plans are a new invention, and NMFS and the various councils are debating what form these plans should take, how the councils should prepare them, and other factors. Some of the questions are: should rebuilding plans be FMP amendments, regulations, or take some different status? Are there ways to avoid the cumbersome and time-consuming FMP amendment process and regulatory process? If so, what document would NMFS review and approve? What are appropriate administrative procedures? How can NMFS and the public be certain these plans will be appropriate and adequate and, when completed and approved, that the Council will act in accordance with the plans over time?

The Council is firmly committed to rebuilding overfished groundfish stocks and intends to establish an efficient process to ensure its rebuilding plans are comprehensive, timely, flexible, and successful. To accomplish these objectives, the Council has written this amendment to provide clearer guidance for development of rebuilding plans, better describe the administrative procedures, and clarify its intentions to develop management proposals to implement the plans until the stock has fully recovered. In addition to this FMP amendment, the Council has already prepared and submitted rebuilding plans for three overfished stocks and has begun preparation of rebuilding plans for two additional species. Management measures to implement the first three rebuilding plans were included in the annual specifications published in the Federal Register on January 4, 2000. Those plans and management measures are discussed briefly in this document as examples of the types of measures that may be necessary to rebuild overfished stocks.

1.1 Background

The groundfish fisheries in the Exclusive Economic Zone (EEZ) offshore of Washington, Oregon, and California are managed by the Pacific Coast Groundfish Fishery Management Plan (FMP). The FMP was prepared by the Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Actions taken to amend the FMP or implement other regulations governing the groundfish fisheries must meet the requirements of Federal laws and regulations. In addition to the Magnuson-Stevens Act, the most important of these are the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), Executive Order (EO) 12866, and the Regulatory Flexibility Act (RFA). NEPA, EO 12866 and the RFA require a description of the purpose and need for the proposed action as well as a description of alternative actions which may address the problem. However, the only regulatory changes would be elimination of references to foreign fishing. The primary purpose of this amendment to the FMP (Amendment 12) is intended to bring it into compliance with the Magnuson-Stevens Act by revising and clarifying the administrative procedures for preparing plans to rebuild overfished groundfish stocks.

The Magnuson-Stevens Act, as revised in 1996, contains a number of provisions pertaining to the content of FMPs and a requirement that all FMPs be updated so as to be consistent with those provisions by October 11, 1998. In early 1997, the Council reviewed the FMP and began the process to amend it as necessary to bring it back into compliance with new requirements. Among the provisions of that amendment were definitions of "overfishing" and "overfished." When NMFS approved those provisions, the agency notified the Council that three groundfish stocks are now determined to be overfished according to the amended FMP. The Magnuson-Stevens Act requires councils to prepare rebuilding plans within 12 months of such a notification. This document discusses options to address this mandate.

Section 303 of the Magnuson-Stevens Act, titled "Contents of Fishery Management Plans," lists the required provisions each FMP must contain or address. The specific provision addressed in this FMP amendment is

> (10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, ***in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;*** (emphasis added)

The Secretary of Commerce has established advisory guidelines, based on the Magnuson-Stevens Act's "National Standards," to assist in this process of developing FMPs and FMP amendments. The final rule revising the national standard guidelines was published in the Federal Register on May 1, 1998.

1.2 Council Decision Process and Public Meetings

On March 3, 1999, the Council was notified that Amendment 11 to the groundfish FMP had been approved and that according to the FMP's revised definition of "overfished" stocks, three species met the criteria and must be rebuilt. With the help of NMFS and the authors of the recent assessments for these three species, the Council began developing the information necessary for developing rebuilding plans. At its June 1999 meeting, the Council reviewed preliminary scientific analyses of current stock condition, maximum sustainable yield (MSY) stock size, and the time period required to allow each of the three stocks to rebuild. The Council also held discussions with NMFS and the public about what a rebuilding plan would look like, since the Council had never prepared one under the new legal requirements. A range of opinions was discussed, from requiring an FMP amendment each time a rebuilding plan is prepared or revised, to informal procedures that avoid "red tape." However, opinions appear to be nearly unanimous that (1) rebuilding plans are necessary and appropriate, (2) the public should be involved in their development, (3) the best science should provide the basis for determining the necessary harvest reductions, (4) that rebuilding plans should not disrupt traditional fishing more than necessary, and (5) that the needs for fishing sectors and fishing communities should be considered and, if necessary, conservation burdens and benefits should be shared equitably. The Council took preliminary action on the amendment in September 1999 but delayed final consideration until April 2000. During the interim, at the November 1999 meeting, the Council adopted management measures to initiate implementation of the first three rebuilding plans. The Council also learned that two additional stocks are overfished. At its April 3-7, 2000 meeting, the Council provided an additional opportunity for public comment on the proposed amendment and draft environmental assessment prior to taking final action.

2.0 DEVELOPMENT OF REBUILDING PLANS FOR OVERFISHED GROUNDFISH STOCKS

2.1 Purpose and Need for Action

The Magnuson-Stevens Act and National Standard Guidelines state that within one year of notification that a stock is overfished, the Council must prepare and submit a rebuilding plan for the stock. Amendment 11 echoed most of the provisions of the Magnuson-Stevens Act and guidelines but did not clearly specify the administrative procedures to develop and approve these plans, nor did it establish clear goals and objectives or describe the contents of rebuilding plans. The Council has already prepared and submitted rebuilding plans for three stocks (bocaccio in California, Pacific ocean perch primarily in Oregon and Washington, and lingcod along the entire coast) that meet the criteria of "overfished." The Council is also preparing plans for two additional species (cowcod and canary rockfish) which will be completed and submitted around December 2000.

2.2 Alternatives Including Proposed Action

Alternative 1 (Status quo or no action). Do not amend the FMP. The Council will prepare rebuilding plans as stated in the FMP, during the annual management process. OY recommendations will be consistent with the Council's rebuilding plans. Allocations and other non-routine measures will be implemented though the appropriate rule-making process. No regulations are proposed at this time.

Alternative 2 (Framework amendment). The Council will prepare a plan amendment that clarifies the process for preparing and approving rebuilding plans. Rebuilding goals and objectives will be included in the FMP; the open access allocation for each overfished stock may be suspended for the duration of the plan but may be reinstated without FMP or regulatory amendment. Individual rebuilding plans are expected to be submitted to NMFS along with the Council's annual management recommendations. NMFS may approve, disapprove, or partially approve a rebuilding plan; whatever the decision, the Council will be informed in writing, including any reasons for not concurring with the Council's recommendations. Rebuilding plans may be revised through the same process, and will remain in effect for the duration of the rebuilding period or until revised. The Council will make available its proposed rebuilding plans and those approved by NMFS in the SAFE document or by similar means. Any non-routine management measures will be implemented through the appropriate rule-making process. No regulations are proposed at this time.

2.3 Synopsis of Alternatives

Alternative 1 is simpler and less formal for both the Council and NMFS. The FMP currently says whenever the Council is notified or believes a stock is overfished, it will develop a rebuilding plan as part of annual management process. Under this option, a rebuilding plan is neither part of the FMP nor a regulation. Rather, it may be a Council policy statement or other classification. The FMP also says "The recommended numerical OY values will include any necessary actions to rebuild any stock determined to be below its overfished/rebuilding threshold and may include adjustments to address uncertainty in the status of the stock." Thus, NMFS will have to approve or disapprove the Council's overall harvest recommendations for each overfished stock on an annual basis. If NMFS believes the recommended OY is inconsistent with the rebuilding plan, including the plan's goals, objectives and schedules, the RA could disapprove the recommended OY. This approach may not provide the certainty and continuity NMFS is seeking.

Alternative 2 would be similar to Alternative 1 but would establish clearer procedures for developing rebuilding plans and would establish general rebuilding goals and objectives. It would authorize suspension of the open access allocation share, but would require regulatory amendment to establish a different percentage. Alternative 2 would clarify the procedure for NMFS to review and approve each rebuilding plan or plan revision and specify that each plan will remain in effect from year to year. It would describe the contents of rebuilding plans, procedures for preparing them, and provide a clearer statement that OYs and other Council management recommendations will be consistent with the rebuilding plan.

2.4 Background

There are strong opinions and disagreements about rebuilding plans for west coast groundfish stocks, due in large part to the absence of adequate information about how many fish are in the ocean, how much the populations have changed over the years, and what has caused abundances to decline. Stock assessments for west coast groundfish are typically based on several sources of information that often conflict. The primary data source is usually the series of surveys conducted by NMFS to determine population trends over the years. Unfortunately, these surveys have been conducted infrequently and do not measure abundance of some species (especially rockfish) as well as we would like. Some people tend to believe the survey information more than other sources of information that may not be "scientifically validated." Other people, especially fishers who may frequently encounter these species and may have many years of their own personal experience and observations, may tend to disbelieve survey information that conflicts with their observations. When a new stock assessment indicates a stock is overfished, the absence of undisputed information becomes a much more serious problem.

While there may be general agreement about the condition of a stock, which is the case with bocaccio and POP, it is extremely difficult to decide how best to protect the overfished stock. The magnitude of catch reductions necessary is likely to severely disrupt individual fishers, communities, and even entire fishing sectors. As a stock declines, it is less likely to be encountered by individual fishers. However, it may be impossible to avoid bycatch of an overfished stock in the course of fishing for non-overfished ones. In order to achieve the rebuilding schedule, it may be necessary to curtail fishing for healthier stocks in some areas or to restrict some gears more than others.

2.5 Description of the West Coast Groundfish Fishery

The Pacific coast groundfish fishery is a year-round, multi-species fishery that takes place off the coasts of Washington, Oregon, and California. The West Coast groundfish fishery is made up of commercial and recreational fishers and vessels, as well as groundfish buyers and processing facilities. Certain Indian tribes in Washington state also harvest groundfish species.

Commercial Fishery Within the commercial fishing sector, there are approximately 580 vessels that have federal permits to fish for groundfish with specified gear (this is the limited entry sector). In addition, about 1,792 vessels have harvested groundfish in recent years under open access provisions that do not require a federal permit. Some open access fishers and vessels take groundfish incidentally with other fish species, while others actively target groundfish species. Open access vessels generally take much smaller amounts of groundfish than limited entry vessels. The revenue characteristics of the commercial fishing sector are illustrated in Tables 1-4.

Most of the Pacific coast non-tribal, commercial groundfish harvest is taken by the limited entry fleet. The groundfish limited entry program was established in 1994 for trawl, longline, and trap (or pot) gears. There are also several open access fisheries that take groundfish incidentally or in small amounts; participants in those fisheries may use, but are not limited to longline, vertical hook-and-line, troll, pot, setnet, trammel net, shrimp and prawn trawl, California halibut trawl, and sea cucumber trawl. Open access fisheries that land groundfish are more commonly targeting on non-groundfish species with some incidental groundfish landings, although there is a significant open access hook-and-line fleet that targets and lands groundfish. In addition to these non-tribal commercial fisheries, members of the Makah, Quileute, Hoh, and Quinault tribes participate in commercial, and ceremonial and subsistence fisheries for groundfish off the Washington coast. Participants in the tribal commercial fishery use similar gear to non-tribal fishers who operate off Washington, and groundfish caught in the tribal commercial fishery is sold through the same markets as non-tribal commercial groundfish catch.

There are about 500 vessels with Pacific coast groundfish limited entry permits, of which approximately 55% are trawl vessels, 40% are longline vessels, and 5% are trap vessels. Each permit is endorsed for a particular gear type and that gear endorsement cannot be changed, so the distribution of permits between gear types is fairly stable. The number of total permits will only change if multiple permits are combined to create a new permit with a longer length endorsement, or if a permit is not renewed. Limited entry permits

can be sold and leased out by their owners, so the distribution of permits between the three states often shifts. At the beginning of 2000, roughly 39% of the limited entry permits were assigned to vessels making landings in California, 37% to vessels making landings in Oregon, and 23% to vessels making landings in Washington.

Because open access groundfish landings vary according to which non-groundfish fisheries are landing groundfish as bycatch, the number of open access boats that land groundfish accordingly varies with the changes in those non-groundfish fisheries. In recent years, however, approximately 1,500 vessels per year have making small groundfish landings against open access allocations. Of these vessels, about 1,000 land their catch in California, about 400 land their catch in Oregon, and about 100 land their catch in Washington.

Limited entry fishers who use bottom trawl, longline, and pot gears target on many different species, with the largest landings by volume (other than Pacific whiting) from these species: Dover sole, sablefish, thornyheads, widow rockfish, and yellowtail rockfish. There are 55 rockfish species managed by the Pacific coast groundfish FMP and, taken as a whole, rockfish landings represent the highest volume of non-whiting landings in the Pacific coast commercial groundfish fishery.

In addition to these mixed-species fisheries, there is a distinct mid-water trawl fishery that targets Pacific whiting (*Merluccius productus*). Pacific whiting landings are significantly higher in volume than any other Pacific coast groundfish species. In 1998, whiting accounted for approximately 66% of all Pacific coast commercial groundfish shoreside landings by weight. The Pacific whiting fleet includes catcher boats that deliver to shore-based processing plants and to at-sea processor ships, as well as catcher-processor ships. Whiting is a high volume species, but it commands a relatively low price per pound, so it accounts for only about 9% of all Pacific coast commercial groundfish shoreside landings by value. [For more specific information on distribution of groundfish catch by volume and by value, see the 1999-2000 SAFE document.]

With the exception of the portion of Pacific whiting catch that is processed at sea, all other Pacific coast groundfish catch is processed in shore-based processing plants along the Pacific coast. By weight, 1998 commercial groundfish landings were distributed among the three states as follows: Washington, 13%; Oregon, 69%; California, 18%. By value, commercial groundfish landings are distributed among the three states as follows: Washington, 15%; Oregon, 43%; California, 41%. The discrepancies between the Oregon and California portions of the landings are expected because Oregon processors handle a relatively high percent of the shore-based whiting landings. Conversely, California fishers land more of the low volume, high value species as a proportion of the total state-wide catch than Oregon fishers.

Catcher vessel owners and operators employ a variety of strategies throughout the year. Fishers from the northern ports may fish in Alaska as well for West Coast groundfish. Others may change their operations throughout the year, targeting on salmon, shrimp, crab, or albacore, in addition to various high-value groundfish species. Factory trawlers and mothership processors that participate in the Pacific whiting fishery also participate in the Alaska pollock seasons. Commercial fisheries landings for species other than groundfish vary along the length of the coast. Dungeness crab landings are particularly high in Washington state, squid, anchovies, and other coastal pelagic species figure heavily in California commercial landings, with salmon, shrimp, and highly migratory species such as albacore more widely distributed, and varying from year to year.

Table 1: Numbers of Vessels With Some 1999 Groundfish Revenue, Grouped by the Percentage of Total 1999 Revenue Derived from Groundfish (by principal groundfish state and fleet)

	Percentage of Total Revenue Derived From Groundfish					
	<5%	5-10%	10-25%	25-50%	50-75%	75-100%
WASHINGTON:						
Limited Entry						
Trawl	0	0	0	0	1	24
Non-trawl	2	0	1	3	2	52
Open Access	54	9	3	2	2	32
OREGON:						
Limited Entry						
Trawl	1	1	6	16	19	70
Non-trawl	1	0	19	23	5	11
Open Access	195	23	24	17	21	71
CALIFORNIA:						
Limited Entry						
Trawl	5	3	7	19	21	50
Non-trawl	9	4	16	5	10	34
Open Access	366	64	68	71	50	425
COASTWIDE:						
Limited Entry						
Trawl	6	4	13	35	41	144
Non-trawl	12	4	36	31	17	97
Open Access	615	96	95	90	73	528

Note: A vessel having a permit at any time during the year was treated as LE for the year. Any permitted vessel with a trawl endorsement was assigned to the LE trawl group. Only vessels that earned groundfish revenue during 1999 were included. Catch from vessels landed in multiple states was attributed to the state in which the groundfish revenue was greatest.

Table 2: Percentages of Vessels in Each Fleet With Some 1999 Groundfish Revenue, Grouped by the Percentage of Total 1999 Revenue Derived from Groundfish (by principal groundfish state and fleet)

	Percentage of Total Revenue Derived From Groundfish					
	<5%	5-10%	10-25%	25-50%	50-75%	75-100%
WASHINGTON:						
Limited Entry						
Trawl	0%	0%	0%	0%	4%	96%
Non-trawl	3%	0%	2%	5%	3%	87%
Open Access	53%	9%	3%	2%	2%	31%
OREGON:						
Limited Entry						
Trawl	1%	1%	5%	14%	17%	62%
Non-trawl	2%	0%	32%	39%	8%	19%
Open Access	56%	7%	7%	5%	6%	20%
CALIFORNIA:						
Limited Entry						
Trawl	5%	3%	7%	18%	20%	48%
Non-trawl	12%	5%	21%	6%	13%	44%
Open Access	35%	6%	7%	7%	5%	41%
COASTWIDE:						
Limited Entry						
Trawl	2%	2%	5%	14%	17%	59%
Non-trawl	6%	2%	18%	16%	9%	49%
Open Access	41%	6%	6%	6%	5%	35%

Note: A vessel having a permit at any time during the year was treated as LE for the year. Any permitted vessel with a trawl endorsement was assigned to the LE trawl group. Only vessels that earned groundfish revenue during 1999 were included.

Table 3: Percentage of Vessels in Revenue Categories, by Fishery/Gear Category and State, 1999 Groundfish (thousands of dollars)

	<$5	$5-$25	$25-50	$50-$100	$100-$200	>$200
	Percent	Percent	Percent	Percent	Percent	Percent
WASHINGTON:						
Limited Entry						
Trawl	0	0	0	20	32	48
Non-trawl	5	18	33	42	2	0
Open Access	85	15	0	0	0	0
OREGON:						
Limited Entry						
Trawl	2	3	9	9	34	44
Non-trawl	3	7	37	36	17	0
Open Access	83	15	1	0	0	0
CALIFORNIA:						
Limited Entry						
Trawl	10	6	9	28	33	15
Non-trawl	24	26	24	18	6	1
Open Access	80	16	3	1	0	0
COASTWIDE:						
Limited Entry						
Trawl	5	4	8	18	33	32
Non-trawl	12	18	31	30	8	1
Open Access	81	16	2	1	0	0

Note: A vessel having a permit at any time during the year was treated as LE for the year. Any permitted vessel with a trawl endorsement was assigned to the LE trawl group. Only vessels that earned groundfish revenue during 1999 were included. Catch from vessels landed in multiple states was attributed to the state in which the groundfish revenue was greatest.

Table 4: Percentage of Vessels in Revenue Categories, by Fishery/Gear Category and State, 1999 All Species (thousands of dollars)

	<$5	$5-$25	$25-50	$50-$100	$100-$200	>$200
	Percent	Percent	Percent	Percent	Percent	Percent
WASHINGTON:						
Limited Entry						
Trawl	0	0	0	16	32	52
Non-trawl	2	15	30	48	5	0
Open Access	40	27	10	10	9	4
OREGON:						
Limited Entry						
Trawl	1	1	4	4	25	65
Non-trawl	0	0	12	17	37	34
Open Access	35	34	11	8	7	5
CALIFORNIA:						
Limited Entry						
Trawl	4	3	2	14	41	36
Non-trawl	5	18	24	35	14	4
Open Access	42	30	12	10	5	1
COASTWIDE:						
Limited Entry						
Trawl	2	2	3	10	33	51
Non-trawl	3	12	22	34	18	12
Open Access	40	31	12	10	6	3

Note: A vessel having a permit at any time during the year was treated as LE for the year. Any permitted vessel with a trawl endorsement was assigned to the LE trawl group. Only vessels that earned groundfish revenue during 1999 were included. Catch from vessels landed in multiple states was attributed to the state in which the groundfish revenue was greatest.

Marine Recreational Fisheries - Within the recreational sector, there are commercial passenger fishing vessels (charter boats) that are hired to carry individuals on fishing trips, and private boats. The recreational sector also includes individuals who fish from shore, skin and scuba divers, and non-consumptive users. NMFS data collection on Pacific Coast marine recreational fishing surveys four separate modes of marine recreational fishing: (1) fishing from piers, docks, and jetties; (2) fishing from beaches and banks; (3) fishing from party and charter boats; and (4) fishing from private and rental boats. According to NMFS data from 1998, California recreational groundfish catch is moderately higher than in Oregon, and Washington recreational groundfish catch is significantly lower than in either of the other two states. Rockfish are the most common groundfish species caught by recreational fishers, especially nearshore species such as black rockfish and blue rockfish. Marine recreational fisheries also take large numbers of lingcod and cabezon. Recreational fishing is generally managed by the states, although federal regulations are implemented for lingcod and rockfish, including bag limits, boat limits, size limits and, in 2000, seasons.

Foreign Fisheries - No foreign vessels have harvested or processed groundfish since the late 1980s.

2.6 Environmental Consequences

A stock that has declined in abundance to the degree it triggers the overfished definition is in trouble and needs protection from fishing pressure. At the same time, an industry that depends on such a stock may also be suffering due to the harvest opportunity that has already been lost. Therefore, rebuilding plans must deal with both biological and socioeconomic issues. The biological components of a rebuilding plan include estimation of the time it would take the stock to fully recover in the absence of all fishing, that is a complete cessation of mortality from fishing gear and activities. This evaluation may be based mainly on theory, because many aspects of most species' life histories are poorly understood and unpredictable. For example, environmental conditions such as water temperature may improve or impede reproductive success. Abundance of predators or competitors will affect recovery rate. The species' inherent productivity and longevity are only estimated, and estimates are likely overly optimistic or overly pessimistic. The current condition and MSY stock size are typically only rough estimates. The stock's response to harvest protection will depend on environmental factors beyond human control. Frequent adjustments may be necessary in response to the measured progress, and the Council intends to review the progress every two years.

Groundfish species are not distributed evenly along the coast; there are "hot spots" and areas that have few of any given species. Therefore, the burdens of rebuilding will affect different geographic areas differently. Likewise, fishers using different fishing strategies will be affected differently.

2.6.1 Socioeconomic Impacts

Neither the status quo nor the preferred alternative has direct regulatory impacts; each merely describes the process the Council will adhere to in developing rebuilding plans for overfished stocks. However, any rebuilding plan will require fishing restrictions to reduce harvests. Stock protection measures will impose impacts on the industry and may result in severe economic hardship. If the geographic distribution of the overfished stock and the extent of its decline are small, it may be possible to soften the extent and intensity of economic impacts. In cases of severe stock depletion, widespread harvest restrictions may be necessary, not just for the overfished stock but also for other species that inhabit similar habitats. The Council intends to allocate the conservation burdens in an equitable manner, which will often require allocation of fishing privileges among various fishing sectors, geographic regions or time periods. To the extent possible, the impacts and tradeoffs will be evaluated before regulatory actions are taken. However, in many cases the extent of social and economic impacts will unfold over time and may be only crudely estimated in advance.

Although neither of the alternatives is regulatory in nature, the following discussion is provided to provide an example of how rebuilding plans under either alternative may affect the human environment in the future.

2.6.1.1 Example: Year 2000 management measures to begin the rebuilding process for lingcod, bocaccio and canary rockfish

Although canary rockfish was not declared overfished until January 2000, in November 1999 the Council adopted management measures to ensure its protection from further overfishing. The management strategy adopted by the Council separates the major rockfish stocks from the *Sebastes* complex and divides the remaining species into assemblages. The intent is to bring harvest levels more closely in line with the ABCs for individual species and the various rockfish groups. In previous years, the single OY for the *Sebastes* complex inadvertently created an opportunity to overharvest some (generally higher-valued or more easily caught) species in the complex rather than spreading harvest over the entire complex. In effect, the ABCs for some species were subsidizing other species. By grouping the species differently and establishing management measures for each group, the Council intends to maintain fishing opportunities for abundant stocks while improving protection for depleted ones. Most of the stocks known to be overfished or depleted are shelf species, and the new strategy provides a way to reduce harvest of shelf species while allowing continued fishing for other species. In Washington and Oregon, recreational fishers primarily target nearshore stocks, with a lower level of fishing for shelf species and virtually no fishing for slope species. Therefor, most of the anticipated recreational harvest is deducted from the nearshore rockfish component, with the remainder deducted from the shelf component. In California, recreational catch spreads from the nearshore component into the shelf component. Deducting recreational harvest from the minor nearshore and shelf rockfish categories leaves less for the commercial sectors, especially with respect to nearshore rockfish. The strategy is expected to spread fishing effort more appropriately over the various stocks, but it will likely impact open access and limited entry nontrawl fishers more than some other groups since they have been the primary commercial harvesters of nearshore stocks. Although a greater portion of the shelf rockfish category is provided to the commercial sectors, the occurrence of depleted and overfished stocks in continental shelf areas results in limited fishing for those species and co-occurring species.

The FMP specifies that commercial (limited entry and open access) allocations are determined after the anticipated recreational harvest levels have been deducted from the total optimum yield. The Council may make specific allocations between the recreational and commercial sectors and within sectors as well. For the year 2000, the Council did not specify allocation shares, but rather took a more general approach. To achieve the necessary harvest reductions, the Council approved measures to reduce the overall recreational harvest of bocaccio and lingcod, determined the amount of reduction expected from the measures, and then allocated the remainder among limited entry and open access sectors. The reductions were not necessarily proportional between the sectors, but the Council believes they were fair and equitable.

Recreational fisheries examples Each of the three coastal states proposed measures to reduce recreational catch in its waters, and the Council generally endorsed those proposals. This resulted in different restrictions from state to state. However, similar catch reductions are intended and expected in each state. The states and the Council considered the tradeoffs between shortened seasons, reduced bag limits, size limits, and area restrictions.

Washington recreational fishery example The following is a summary of the recreational measures the Council adopted for next year.

- For lingcod, the open season is April 1 through October 31 with a bag limit of 1 fish, minimum size limit of 24 inches.
- Fishing for rockfish is allowed all year, with a 10-fish bag limit of which no more than 2 fish may be canary rockfish and no more than 2 fish may be yelloweye rockfish.

The recreational fishery for lingcod is closed 5 months in order to achieve the necessary catch reduction. The closure generally corresponds with the nest-guarding period when lingcod eggs and male lingcod are particularly vulnerable. The magnitude of catch reduction that will result from the canary rockfish sub-limit is not clear. Previous recreational bag limits allowed fishers to take 10 canary rockfish, but fishers rarely caught that many. The main benefit of the sub-limit may be to discourage fishers from targeting canary rockfish.

Oregon recreational fishery example

- Fishing for lingcod and rockfish will be allowed all year.
- The rockfish bag limit will be reduced to 10 of which no more than 3 may be canary rockfish.
- For lingcod, the bag limit will be 1 fish with a minimum size limit of 24 inches and maximum size of 34 inches.

Oregon was able to maintain a year-round recreational season by imposing a "slot limit" for lingcod, that is, a minimum and maximum size. The necessary catch reduction results from the 34 inches maximum size.

California recreational fishery example

- The rockfish and lingcod season will be closed south of 36° N latitude (near Point Lopez) during January and February; between 36° N latitude and 40°10' N latitude (near Cape Mendocino), the rockfish and lingcod season will be closed during March and April.
- For lingcod, the bag limit will be 2 per day with a minimum size of 26 inches.
- For rockfish, the bag limit will be 10 per day of which no more than 3 each may be bocaccio or canary rockfish and not more than 1 cowcod per angler, but not over 2 cowcod per boat.
- Not more than 3 hooks per angler may be used while fishing for rockfish or lingcod, and the entire skin must remain on rockfish fillets that are filleted at sea; no filleting of cabezon at sea will be allowed.

The following minimum size limits will be in effect for recreational fishing in California: bocaccio - 10 inches; cabezon - 14 inches; greenling - 12 inches; and sculpins (family Scorpaenidae) - 10 inches. These size limits are the same as those for the commercial fishery.

Limited entry trawl fishery example In order to reduce harvest of shelf rockfish species, the Council endorsed an idea proposed by limited entry commercial fishing industry representatives to restrict the use of bottom trawls with large rollers on the footrope. The footrope of a bottom trawl is the line along the bottom front edge of the net that contacts the ocean floor. In recent years, innovative limited entry trawl fishers learned that, by stringing large rollers on their footropes, they could pull their nets over rocky terrain without snagging. Without the protection of such rollers, trawls cannot be fished as effectively in the rocky areas where canary rockfish and lingcod live. The Council chose to prohibit vessels that use large footropes, defined as more than 8 inches maximum diameter, from landing nearshore and shelf rockfish and most flatfish species. The Council also recommended that chafing gear to protect the bottom of trawl nets be prohibited. (Chafing gear is material that protects the trawl from abrasion and tearing on rough areas of the ocean floor.) Although limited entry trawl vessels are not prohibited from using large footropes in nearshore and continental shelf areas, they are not allowed to retain and sell most of the fish they might catch there. The Council believes this will provide enough disincentive to prevent inappropriate trawl activity in these areas and effectively reduce both catch and bycatch of shelf rockfish species. Any trawls, including those with footropes larger than 8 inches diameter, may be used to harvest a limited number of species that inhabit the deeper areas of the shelf and continental slope, primarily Dover and rex soles, thornyheads, sablefish, and deep-water rockfish. During some periods, large-diameter footrope trawls may also be used for arrowtooth flounder and petrale sole.

Another part of the strategy to allow commercial limited entry harvest of relatively abundant stocks without impacting depleted ones involves the use of midwater or pelagic trawls. Midwater trawls are pulled through the water column, usually without touching the bottom. These nets are very effective for catching species that live above the ocean floor, such as Pacific whiting and widow rockfish. Current restrictions ensure these nets may not be fortified for fishing on the bottom. Bottom trawl nets can also catch widow rockfish, but typically canary and yellowtail rockfish are caught at the same time. The Council believes the only way the widow rockfish OY can be caught without impacting canary rockfish is with midwater trawl gear. Midwater gear may also be the best way to harvest yellowtail rockfish without harming canary rockfish.

Fishers will need to alter their fishing strategies as well as change gear. In order to comply with these regulations and continue fishing for other species on the continental shelf, many trawl fishers will modify their trawl nets. This means either replacing all rollers on the footrope that are larger than 8 inches in diameter

or totally replacing the footrope. Those limited entry trawl vessels that did not have midwater nets would choose to obtain it or forego the larger trip limits for widow, chilipepper and yellowtail rockfish. In many cases, purchase of midwater gear would not be practical. Not all vessels have sufficient horsepower and electronic gear to fish midwater nets effectively. In some cases, the vessel may not be near enough to adequate densities of midwater species to make gear purchases cost effective. Others may not have capital available to purchase this expensive gear.

Vessels that target primarily continental slope species (e.g., the Dover sole, thornyheads and trawl-caught sablefish complex) and already have midwater trawl gear would tend to be less affected than vessels that have traditionally targeted nearshore and/or shelf rockfish species. Also, vessels with permits to fish non-groundfish species such as pink shrimp and Dungeness crab would be less affected.

The management strategy for 2000 will require trawl fishers to make a conscious effort to avoid species of concern. A number of small trip limits have been established to provide for unavoidable bycatch, but these would not provide enough revenue for profitable fishing. If fishers treat these bycatch allowances as targets, discard mortality would increase and thwart the conservation efforts.

Limited Entry Fixed-gear (Non-trawl) Fisheries example

Most limited entry fixed-gear vessels primarily target sablefish with some incidental catch of other species. These fisheries seldom take any of the overfished species, and have the same trip limits as the limited entry trawl sector, with the exception of sablefish.

Open access fisheries example

The commercial open access fishery operates primarily in nearshore and shelf areas and includes vessels that use a wide variety of mobile and stationary gears. Among the gear types used are various vertical hook-and-line gears, trolled hook-and-line gear, fixed longline gear, pot gear, and non-groundfish trawl gears. Lingcod and many species of rockfish are extremely susceptible to hook-and-line gear. In some cases, hook-and-line gears can be used to selectively harvest a single species or group of closely associated species. However, such selective harvest requires specific gear and expertise. Due to the small open access allocations in 2000, open access trip limits are much smaller than in previous years.

2.6.2 Socioeconomic Summary

Rebuilding overfished stocks will require sacrifices by all harvesters during the rebuilding period. It is likely that measures will be necessary to allocate the conservation burdens among the various sectors that participate in harvesting the overfished stock and, possibly, to ensure the benefits of rebuilding are shared equitably.

The alternatives under consideration, including the status quo, have no regulatory effect and are only administrative and procedure in nature. The Council does not expect any economic impacts from any of the FMP amendment alternatives themselves; it is the regulations and other management measures that will cause economic impacts. However, there may be more or less confusion about the goals and procedures under the various alternatives, and the administrative costs of preparing rebuilding plans will differ. Likewise, there is no direct impact on groundfish populations, the ecosystem or the marine environment. The Council would likely develop similar or identical rebuilding plans and harvest limits under all the alternatives, including the status quo.

2.6.3 Physical and Biological Impacts

The environmental impacts generally associated with fishery management actions are effects resulting from (1) harvest of fish stocks which may result in changes in food availability to predators and scavengers, changes in the population structure of target fish stocks, and changes in the marine ecosystem community structure; (2) changes in the physical and biological structure of the marine environment as a result of fishing

practices, e.g., effects of gear use and fish processing discards; and (3) entanglement/entrapment of non-target organisms in active or inactive fishing gear.

Amendment 11 established an OY "control rule" (Figure 1) that includes a default interim rebuilding plan for stocks with biomass smaller than the established overfished/rebuilding threshold (the proxy is 25% of the estimated unfished stock size or reproductive potential). This default interim rebuilding adjustment is intended to be in effect until a formal rebuilding plan is developed. One consideration is that formal rebuilding plans will attempt to phase into the default OY rule when the stock exceeds the rebuilding threshold, maintaining the intention to rebuild within the approved schedule.

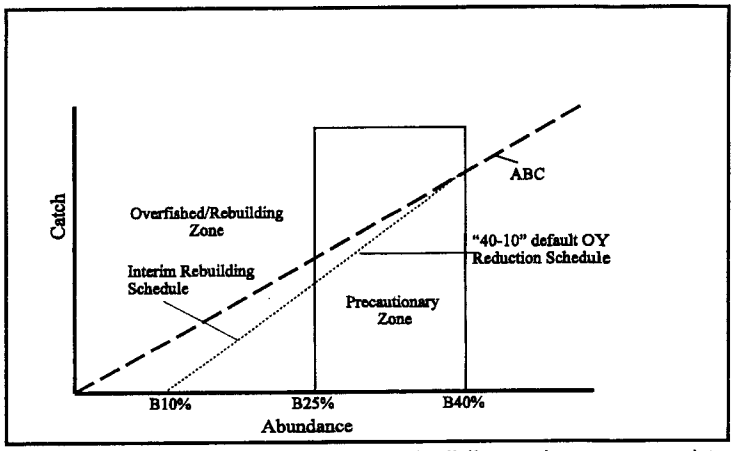

Figure 1. Illustration of interim rebuilding rule compared to ABC and default OY rules.

Alternative 1. Under the status quo alternative, the Council would develop rebuilding plans in accordance with the Magnuson-Stevens Act. The intended effect would be to immediately prevent further depletion of the overfished stock and reduce human fishing impacts to the extent the stock may recover as quickly as possible (within 10 years, if possible, in accordance with the National Standard Guidelines). The length of each rebuilding program will depend on the inherent productivity of the species, environmental conditions (including availability of prey and habitat, abundance of predators, water temperature, etc.), and fishing. Of these, fishing often has the smallest impact but is the only factor the Council and NMFS can control. Reduced fishing will reduce any effects of fishing gear on the physical structure of the ocean floor, such as overturned rocks and boulders, crushed and dislodged benthic creatures such as corals and anemones, and suspension and redisposition of sediments.

Alternative 2. Under the preferred alternative, the same impacts on the physical and biological environment are anticipated (both type and quantity).

2.6.4 Administrative, Research and Funding Impacts

The research and management agencies will need to develop better information on the condition of the overfished stock and to monitor changes in stock condition over time. Every two years there must be a review and evaluation of the program to ensure the rebuilding time period and other objectives are achieved. The requirement to evaluate stock condition every two years will severely strain the stock assessment resources available to the west coast management process. Typically, stocks are assessed in a three year rotation pattern, and the assessment program is strained to the max already. Currently, three species have been classified as overfished, and two more are expected in the 1999 assessments. It is very possible the assessment resources could become consumed by reassessing overfished stocks every year with no time to evaluate the condition of other stocks, some of which may be overfished also. The data collection programs must be substantially improved and expanded to provide the data necessary to monitor progress without bogging down the entire management process.

2.7 Summary

The primary social effect of Alternative 2 in the short term might be intangible benefits from a clearer, more consistent policy for setting harvest levels, and elimination of unnecessary administrative procedures for NMFS and the Council.

3.0 REMOVAL OF FOREIGN FISHING PROVISIONS

3.1 Purpose and Need for Action

The FMP provides for foreign fishing opportunities for groundfish species that are not fully utilized by U.S. fishers and fish processors. The FMP limits these opportunities to two species: Pacific whiting and shortbelly rockfish. (Previously, jack mackerel was also a potentially under-utilized species, but this stock was removed from the groundfish fishery management unit by Amendment 11 and moved to the coastal pelagic species fishery management unit.) There has been no surplus to U.S. fishing needs since the late 1980s, when U.S. vessels first harvested the entire whiting OY and U.S. fish processors processed the entire catch. Therefore, these foreign fishing provisions reflect a bygone era and conditions are not likely to change in the future. Therefore, the administrative requirements to consider foreign fishing each year result in waste of federal and public resources. If surpluses to U.S. fishing and processing needs should become available in the future, a subsequent amendment would be required to authorize foreign fishing again.

3.2 Alternatives Including Proposed Action

Alternative 1 (Status quo or no action). Do not amend the FMP. NMFS will continue to survey the U.S. fishing and processing industry each year to determine if there is adequate capacity and intent to take the optimum yields (OYs) for Pacific whiting and shortbelly rockfish. The Council will continue to consider the NMFS survey results at its two fall meetings and will make recommendations to NMFS regarding allocations for joint venture processing (JVP) and/or the total allowable level of foreign fishing (TALFF).

Alternative 2 (proposed action). The fishery management unit would be declared fully utilized, which would eliminate opportunities for foreign fishing and fish processing. The FMP provisions authorizing foreign fishing will be removed from the FMP. NMFS would no longer survey the U.S. industry regarding the capacity and intent to take the OYs for Pacific whiting and shortbelly rockfish. The Council would no longer consider foreign fishing in its annual management process. References to foreign fishing would be removed from the federal groundfish regulations.

3.3 Background

The only foreign fishing opportunity available under the FMP has been for Pacific whiting (although shortbelly rockfish and jack mackerel were available, they were never harvested). The foreign whiting fishery was a major fishery during the late 1970s to mid 1980s, but growth of U.S. fish harvesting capacity eliminated most fishing opportunity in 1988. Development of a new whiting processing technique led to rapid elimination of foreign processing as well, and since 1990 the fishery has been conducted entirely by U.S. fishers, fishing vessels, and fish processors. However, the FMP still requires the NMFS to survey the U.S. industry each year to determine whether there will be any surplus stock that could be made available to foreign nations. This survey, and the annual Council recommendation regarding foreign and joint venture fishing, are unnecessary vestiges of a past era and no longer make sense. Unless there is a total collapse of the U.S. whiting industry, whiting will continue to be fully utilized by U.S. vessels.

3.4 Synopsis of Alternatives

Alternative 1 would require NMFS to continue conducting annual surveys of the U.S. fishing and processing industries to determine if any surplus of the whiting or shortbelly rockfish OYs would remain unutilized and thus be available for foreign operations. Given the overfished and depleted status of several groundfish species, and the severely overcapitalized status of the U.S. fishing and fish processing industries, it is extremely doubtful there will be any surplus groundfish for allocation to JVP or TALFF.

3.5 Description of the West Coast Groundfish Fishery

The Pacific coast groundfish fishing and processing sectors are described in section 2.5.

3.6 Environmental, Social and Economic Consequences

No environmental consequences are anticipated from either the status quo or alternative. The whiting resource will continue to managed with an OY, and fishing will be controlled by seasons, allocations, landing limits, gear regulations, etc. Likewise, no social or economic consequences are anticipated because no foreign fishing has been authorized for over 10 years. Since 1996, the entire whiting resource has been allocated among three sectors of the U.S. fishing industry: shore-based vessels, catcher processors, and vessels that deliver to mothership processors. Each of these allocations has been fully utilized. Between 1990 and 1996, the entire whiting optimum yield (OY) as divided in various ways among U.S. participants, and U.S. fishing and processing capacity each year has exceeded the annual OY.

Alternative 2 would reduce administrative costs by eliminating the requirement that NMFS survey the U.S. fishing and processing sectors each year to determine if there is capacity and intent to take the entire groundfish allowable harvest. This provision requires NMFS to prepare a letter to the Council summarizing the survey results, and the Council reviewing the results and providing a recommendation to allow or not allow foreign fishing or processing. Elimination of these unnecessary administrative procedures will result in more efficient use of NMFS and Council resources (time and dollars). The improvement has not been quantified, but is believed to be minimal. The only regulatory change associated with this amendment is removal of references to foreign fishing.

4.0 SUMMARY OF ENVIRONMENTAL CONSEQUENCES

This assessment has been prepared according to 40 CFR 1501.3, 1508.27, and 1508.9 and National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-6 in order to determine whether an Environmental Impact Statement is required for any major action that will have a significant impact on the quality of the human environment. An EIS is not required if the EA concludes that there is no significant impact.

The need for action, alternatives, and impacts are covered in Sections 2.1 and 3.1 of this document. No immediate regulatory change is anticipated under either alternative.

The implementation of proposed changes to the groundfish FMP would not be a major action having significant impact on the quality of the marine or human environment of the West Coast. Mitigating measures related to such changes would be unnecessary. No unavoidable, adverse impacts on protected species, wetlands, or the marine environment would be expected to result from the recommended action.

Section 1508.27 of the CEQ Regulations lists ten specific points to be considered in determining whether or not impacts are significant. These ten points cover the five criteria for non-significance listed in Section 6.11 of NOAA Administrative Order 216-6.

Beneficial and Adverse Impacts

Over the short term there will be some adverse economic impacts resulting from the reductions in harvest levels, however, over the long terms benefits are expected to be greater than would have occurred if higher harvest levels had been maintained.

Neither of the alternatives would jeopardize the productive capability of the target resource species or any related stocks. In general, the Council's actions are directed at preventing overfishing and maintaining optimum yield. The Council relies on the best scientific information available, which typically comes from stock assessment documents prepared each year by various authors and the advice of its GMT and SSC. Short-term harvest reductions may result in some shift of effort onto other species. Vessels may seek to make-up any short-term reduction in revenue with effort increases in other fisheries. These effort shifts are expected to be monitored and controlled either as part of the management program for groundfish or other state and federal management programs for the species to which effort is redirected.

Public Health or Safety

The proposed actions are not expected to adversely impact public health or safety.

Unique Characteristics

The proposed actions are not expected to have any significant adverse impact on unique characteristics of the area such as historic or cultural resources, park lands, wetlands, or ecologically critical areas.

Controversial Effects

The proposed actions are not expected to involve significant controversial issues for the broader public. The reductions in biomass indicated by recent stock assessments are being challenged by some fishery participants; harvest reductions that are likely to result from rebuilding plans are likely to exacerbate this situation. On the other hand, a different sector of the public has supported more conservative management to ensure that overfished stocks are rebuilt as quickly as possible, that no overfishing be allowed, and that rebuilding plans place the needs of the fish as the highest priority.

Uncertainty or Unique/Unknown Risks

The proposed actions would not be expected to have any significant effects on the human environment that are highly uncertain or involve unique or unknown risks.

Precedent/Principle Setting

The proposed actions are not expected to have any significant effects in establishing a precedent and do not include actions which would represent a decision in principle about a future consideration.

Relationship/Cumulative Impact

The proposed actions are not expected to have any significant cumulative impacts that could have a substantial adverse effect on the fishery resources or any related resource.

Historical/Cultural Impacts

The proposed actions are not expected to have any significant effects on historical sites listed in the National Register of Historic Places and will not result in any significant impacts on significant scientific, cultural, or historic resources.

Interaction with Existing Laws for Habitat Protection

The proposed actions are not expected to have any significant interaction which might threaten a violation of Federal, state, or local law or requirements imposed for the protection of the environment. The proposed action has no direct effect on ocean or coastal habitat.

4.1 Other Applicable Law

4.1.1 Endangered Species Act (ESA)

NMFS issued Biological Opinions under the ESA on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999 pertaining to the effects of the groundfish fishery on Sacramento River winter chinook, Snake River fall chinook, Snake River spring/summer chinook, Central Valley spring chinook, California coastal chinook, Puget Sound chinook, lower Columbia River chinook, upper Willamette River chinook, Upper Columbia River Spring chinook, Hood Canal summer run chum, Columbia River Chum, Central California coastal coho, Oregon coastal coho, Snake River sockeye, Ozette Lake sockeye, southern California steelhead, south-central California steelhead, central California

coast steelhead, upper Columbia River steelhead, Snake River Basin steelhead, lower Columbia River steelhead, California Central Valley steelhead, upper Willamette River steelhead, middle Columbia River steelhead, Umpqua river cutthroat trout, and the southwest Washington/Columbia cutthroat trout. The opinions concluded that implementation of the FMP for the Pacific Coast Groundfish Fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. Amendment 12 would not have effects that fall outside of the scope of effects considered in these Biological Opinions; therefore, additional consultations on these species are not required for this action. None of the alternatives for any of the issues discussed above are expected to affect the incidental mortality levels of listed salmon species.

4.1.2 Marine Mammal Protection Act (MMPA)

Section 118 of the MMPA requires that NMFS publish, at least annually, a list of fisheries placing all U.S. commercial fisheries into one of three categories describing the level of incidental serious injury and mortality of marine mammals in each fishery. Definitions of the fishery classification criteria for Categories I, II, and III fisheries are found in the implementing regulations for section 118 of the MMPA (50 CFR part 229.) Pacific Coast groundfish fisheries are considered Category III fisheries, where the annual mortality and serious injury of a stock by the fishery is less than or equal to 1 percent of the PBR level.

Under the MMPA, marine mammals whose abundance falls below the optimum sustainable population level (usually regarded as 60% of carrying capacity or maximum population size) can be listed as "depleted". Populations listed as threatened or endangered under the ESA are automatically depleted under the terms of the MMPA. Currently the Stellar sea lion population off Washington, Oregon, and California is listed as threatened under the ESA and the fur seal population is listed as depleted under the MMPA. Incidental takes of these species in the Pacific coast fisheries are well under their annual Potential Biological Removal (PBR) levels. None of the alternatives under any of the issues discussed above are likely to affect the incidental mortality levels of species protected under the MMPA.

4.1.3 Seabirds

Human activities affect seabirds through direct mortality from: 1) collisions with vessels, 2) entanglement with fishing gear, 3) entanglement with discarded plastics and other debris, and 4) shooting. Indirect effects include: 1) competition with fisheries for food, 2) alteration of the food web dynamics due to commercial and recreational removals, 3) disruption of avian feeding habits resulting from dependency on fish wastes, 4) fish-waste related increases in gull populations that prey of other bird species, and marine pollution and changes in water quality.

Seabirds are caught incidentally to all types of fishing operations, but the vulnerability of bird species to gear types differ with feeding ecology. Fishing gear used in the groundfish fishery includes trawl, hook-and-line, pot, and setnet. Hook-and-line gear occasionally catches surface-feeding seabirds that are attempting to capture bait as the line is being set; some birds are caught on hooks and drown. Trawl gear appears to catch surface-feeding and diving birds that are feeding and scavenging while the net is being hauled. Pot gear does not commonly catch birds, though rare reports of dead diving and surface-feeding birds exist in pot gear. Setnet gear, which is legal only in southern California waters, has documented effects on seabirds as well (Wohl, 1998). None of the alternatives under any of the issues discussed above are likely to affect the incidental mortality of seabirds.

4.1.4 National Environmental Policy Act (NEPA)

NMFS initially has determined that implementation of either alternative for this issue would not significantly affect the quality of the human environment, and therefore preparation of an environmental impact statement is not required by Section 102(C) of NEPA or its implementing regulations.

4.1.5 Executive Order 12866 (EO 12866)

The only regulatory change proposed under the preferred alternative is removal of references to foreign fishing. There has been no foreign fishing for groundfish since 1988, and no foreign fish processing since 1990. Therefore EO 12866 is not relevant.

4.1.6 Regulatory Flexibility Act (RFA)

The only immediate regulatory change anticipated from the proposed amendment to the groundfish FMP relates to removal of references to foreign fishing. This is essentially a formality, because there has been no foreign fishing for Pacific coast groundfish for over a decade.

Rebuilding plans under either alternative would require federal implementing regulations, which will be evaluated at that time. The following discussion is intended to provide an overview of impacts that may occur from future related actions.

An RIR also is designed to determine whether a proposed rule has a "significant economic impact on a substantial number of small entities" under the RFA. The purpose of the RFA is to relieve small businesses, small organizations, and small governmental entities from burdensome regulations and record keeping requirements. If the proposed action meets both the "significant" and "substantial" criteria, preparation of an Initial Regulatory Flexibility Analysis (IRFA) is required.

The category of small businesses potentially affected by future regulations to rebuild overfished stocks is virtually the entire groundfish fishery, including the catcher/processor fleet of ten vessels that operates only in the offshore whiting fishery. An example of the types of impacts that may be expected when rebuilding plans are developed and implemented was discussed above in section 2.5.1, particularly 2.5.1.1. An IRFA is conducted to make a preliminary determination as to whether a proposed action would have a "significant economic impact on a substantial number of small entities." In addition, an IRFA provides an estimate of the number of small businesses affected, a description of the small businesses affected, and a discussion of the nature and size of the impacts.

Section 2.5 describes the vessels that participate in the groundfish fishery. For the purposes of the RFA, all fishing vessels that operate in the Pacific groundfish fishery would be considered "small entities," with the exception of the 10 catcher/processors in the Pacific whiting fishery. Shore-based groundfish processors also may be considered "small entities." Motherships operating in the whiting fishery are not small businesses; they are floating processing facilities that do not harvest groundfish. (The Small Business Administration defines a small business in the commercial fishing activity as a firm with receipts of up to $2 million annually (thus eliminating at-sea processing vessels) and a processor with fewer than 500 employees. The average at-sea processor during 1991 earned $33 million in revenues from pollock, whiting, cod and other species and so does not meet the definition of a "small entity.") Therefore, all but 10 vessels operating in the groundfish fishery off Washington, Oregon, and California would be considered small businesses, and these 2,260 vessels (478 limited entry + 1,792 open access - 10 catcher/processors) would be considered the universe for purposes of an analysis under the RFA.

The proposed FMP amendment is required under the mandate of the Magnuson-Stevens Act, and regulations to implement rebuilding plans could affect a maximum of 2,270 vessels. Of these, approximately 2,260 (almost 100%) are considered small entities.

Substantial number of small entities. Under the FMP's license limitation (limited entry) program, approximately 468 vessels landed groundfish shoreside in 1996, and approximately 1,792 vessels operated in the open access fishery, for a total of 2,260 small businesses. An undetermined number also participate in recreational fisheries. In general NMFS has indicated that a "substantial number" of small entities to be more than 20% of those small entities engaged in the fishery. In this case, all vessels participating in the groundfish fishery potentially could be affected by rebuilding plans, depending on the species identified as overfished and harvest reductions necessary to rebuild them to maximum sustainable levels.

Significant economic impacts. Rebuilding plans are required under the Magnuson-Stevens Act. Regulations implementing such plans, whether developed under the status quo or preferred alternative, are likely to be significant. It is likely many small businesses will see reduction in annual gross revenues by more than 5%, and it is likely that more than 2% of small business entities will be forced to cease business operations. The Council is supportive of ongoing efforts by various state and federal agencies to mitigate the social and economic impacts of regulations necessary to rebuild overfished stocks.

Section 2.5 presents the potential impacts which would be used in making determinations under the RFA. Many small businesses could experience greatly reduced income because the amount available for harvest will be reduced in order to hasten stock recovery. Vessels that routinely depend on overfished species, or that take overfished species incidentally to normal fishing operations, are expected to be affected most severely.

4.1.7 Paperwork Reduction Act (PRA)

The proposed FMP amendment contains no collection-of-information requirement subject to the PRA.

4.1.8 Coastal Zone Management Act (CZMA)

Any of the alternatives considered would be implemented in a manner that is consistent to the maximum extent practicable with applicable State coastal zone management programs. NMFS will corresponded with the responsible State agencies under Section 307 of the CZMA to obtain their concurrence in this finding.

4.1.9 Executive Order 12612 (EO 12612)

This action does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under EO 12612.

4.2 Coordination and Consultation

Measures to reduce recreational and commercial fishing in order to initiate the rebuilding programs were discussed and endorsed by the Council at it's the November 1999 meeting in Sacramento, California.

Finding of no Significant Impact

For the reasons discussed in this document, neither implementation of the proposed action nor the status quo would significantly affect the quality of the human environment, and the preparation of an environmental impact statement on the final action is not required by Section 102 (2)(C) of NEPA or its implementing regulations.

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Assistant Administrator for Fisheries Date

5.0 LIST OF PREPARERS

This document was prepared by the Council staff with contributions from NMFS scientists and managers, in consultation with NOAA General Counsel, Northwest Region:

Mr. Jim Glock, Pacific Fishery Management Council

Proposed Amendment 12 to the Pacific Coast Groundfish Fishery Management Plan: Rebuilding Plan Process and Declaring the Groundfish Resources Fully Utilized

Alternative 1 (Status quo) Do not amend the fishery management plan (FMP). The Council will prepare rebuilding plans as stated in the FMP, during the annual management process. Optimum yield (OY) recommendations will be consistent with the Pacific Fishery Management Council's (Council) rebuilding plans. Allocations and other non-routine measures will be implemented though the appropriate rule-making process.

Synopsis: this is a simple and less formal approach for both the Council and NMFS. The FMP currently says whenever the Council is notified or believes a stock is overfished, it will develop a rebuilding plan as part of the annual management process. Under this option, a rebuilding plan would be neither part of the FMP nor a regulation. Rather, it could be classified as a Council or National Marine Fisheries Service (NMFS) policy statement or given some other designation. The FMP also says "The recommended numerical OY values will include any necessary actions to rebuild any stock determined to be below its overfished/rebuilding threshold and may include adjustments to address uncertainty in the status of the stock." Thus, NMFS currently approves or disapproves the Council's overall harvest recommendations for each overfished stock on an annual basis. If NMFS believes the recommended OY is inconsistent with the rebuilding plan, including the plan's goals, objectives and schedules, NMFS could disapprove the recommended OY and/or associated management measures. This approach does not provide any additional policy guidance or procedures and may be perceived as not providing adequate certainty and continuity.

Alternative 2 (Framework amendment). The FMP will be amended to (1) clarify the process for preparing and approving rebuilding programs; (2) establish rebuilding goals and objectives; (3) authorize temporary adjustments to the open access allocation for any overfished stock and associated species without FMP amendment for the duration of the rebuilding program; reinstatement of the allocations specified in the FMP is expected and may be done without further analysis because it is within the original analysis; (4) authorize the Council and NMFS to prohibit vessels with limited entry permits from fishing in the open access fishery when the limited entry fishery is closed (that is, limited entry vessels could be prohibited from landing a groundfish species when the limited entry fishery for that species is closed); (5)revise procedures for preparing and distributing the SAFE document; and (6) declare the groundfish resource to be fully utilized by U.S. fishers and processors, eliminating foreign and joint venture fishing unless the FMP is amended to reinstate such opportunities.

Under this alternative, individual rebuilding programs would not be FMP amendments or regulatory amendments; they would generally be submitted to NMFS along with the Council's annual management recommendations. NMFS would be able to approve, disapprove, or partially approve a rebuilding plan; whatever the decision, the Council would be informed in writing, including any reasons for not concurring with the Council's recommendations. Rebuilding plans would be revised through the same process, and would remain in effect for the duration of the rebuilding period or until revised. The Council would make available its proposed rebuilding plans and those approved by NMFS in the SAFE document or by similar means. Any non-routine management measures would be implemented through the appropriate rule-making process.

Synopsis: this alternative would similar to alternative 1 but would establish clearer procedures for developing rebuilding plans and would establish general rebuilding goals and objectives. It would authorize temporary revisions to the open access allocation share for the overfished stock through regulatory amendments, if necessary, but only until the stock is rebuilt. Alternative 2 would clarify the procedure for NMFS to review and approve each rebuilding plan or plan revision and specify that each plan will remain in effect from year to year. It would describe the contents of rebuilding plans and provide a clearer statement that OYs will be consistent with the rebuilding plan. Rebuilding plans will be made available by means of the SAFE document or other method. Limited entry and open access provisions will be amended, and foreign fishing would be eliminated.

Chapter 5 of the FMP describes how rebuilding plans will be developed and implemented, beginning with a description of the annual Stock Assessment and Fishery Evaluation document. ***(Proposed changes to the FMP are identified in bold italics text like this)***

5.0 SPECIFICATION AND APPORTIONMENT OF HARVEST LEVELS

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The annual specification process, in general terms, occurs as follows:

1. The Council will determine the MSY or MSY proxy and ABC for each major stock. Typically, the MSY proxy will be in terms of a fishing mortality rate (Fx%,) and ABC will be the Fx% applied to the current biomass estimate.

2. Every species will either have its own designated OY or be included in a multispecies OY. Species which are included in a multispecies OY may also have individual OYs, have individual HGs, or be included in a HG for a subgroup of the multispecies OY. Stocks without quantitative or qualitative assessment information may be included in a numerical or non-numerical OY.

3. To determine the OY for each stock, the Council will determine the best estimate of current abundance and its relation to its precautionary and overfished thresholds. If the abundance is above the precautionary threshold, OY will be equal to or less than ABC. If abundance falls below the precautionary threshold, OY will be reduced according to the harvest control rule for that stock. If abundance falls below the overfished/rebuilding threshold, OY will be set according to the interim rebuilding rule until the Council develops a formal rebuilding plan for that species.

4. For any stock the Secretary has declared overfished or approaching the overfished condition, or for any stock the Council determines is in need of rebuilding, the Council will develop a rebuilding plan ***and submit it in the same manner as recommendations of the annual management process. Once approved, a rebuilding plan will remain in effect for the specified duration or until the Council recommends and the Secretary approves revision.***

5. The Council may reserve and deduct a portion of the ABC of any stock to provide for compensation for vessels conducting scientific research authorized by NMFS. Prior to the research activities, the Council will authorize amounts to be made available to a research reserve. However, the deduction from the ABC will be made in the year after the "compensation fishing"; the amounts deducted from the ABC will reflect the actual catch during compensation fishing activities.

6. The Council will identify stocks which are likely to be fully harvested (i.e., the ABC, OY, or HG achieved) in the absence of specific management measures and for which allocation between limited entry and open access sectors of the fishery is appropriate.

7. ~~The Council will recommend the apportionment of numerical specifications between DAH, DAP, JVP, TALFF, and the reserve.~~ ***The groundfish resource is fully utilized by U.S. fishing vessels and seafood processors. The Council may entertain applications for foreign or joint venture fishing or processing at any time, but fishing opportunities may be established only through amendment to this FMP. This section supercedes other provisions of this FMP relating to foreign and joint venture fishing.***

This chapter describes the steps in this process.

5.1 SAFE Document

For the purpose of providing the best available scientific information to the Council for evaluating the status of the fisheries relative to the MSY and overfishing definition, developing ABCs, determining the need for individual species or species group management, setting and adjusting numerical harvest levels, assessing

social and economic conditions in the fishery, and updating the appendices of this fishery management plan (FMP); a SAFE document is prepared annually. Not all species and species groups can be reevaluated every year due to limited state and federal resources. However, the SAFE document will in general contain the following information:

1. A report on the current status of Washington, Oregon, and California groundfish resources by major species or species group.
2. Specify and update estimates of harvest control rule parameters for those species or species groups for which information is available.
3. Estimates of MSY and ABC for major species or species groups.
4. Catch statistics (landings and value) for commercial, recreational, and charter sectors.
5. Recommendations of species or species groups for individual management by OYs.
6. A brief history of the harvesting sector of the fishery, including recreational sectors.
7. A brief history of regional groundfish management.
8. A summary of the most recent economic information available, including number of vessels and economic characteristics by gear type.
9. Other relevant biological, social, economic, ecological, and essential fish habitat information which may be useful to the Council.
10. ***A description of any rebuilding plans currently in effect, a summary of the information relevant to the rebuilding plans, and any management measures proposed or currently in effect to achieve the rebuilding plan goals and objectives.***

The ***preliminary*** SAFE document is normally completed late in the year, generally late October, when the most current stock assessment and fisheries performance information is available ***and prior to the meeting at which the Council approves its final management recommendations for the upcoming year.*** The Council will make the ***preliminary*** SAFE document available to the public by such means as mailing lists or newsletters and will provide copies upon request. ***A final SAFE may be prepared after the Council has made its final recommendations for the upcoming year and will include the final recommendations, including summaries of proposed and pre-existing rebuilding plans. The final SAFE document, if prepared, will also be made available upon request.***

5.3.2 Determination of OY

Reduction in catches or fishing rates for either precautionary or rebuilding purposes is an important component of converting values of ABC to values of OY. This relationship is specified by the harvest control rule. All OYs will remain in effect until revised, and, whether revised or not, will be announced at the beginning of the year along with other specifications.

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Determination of Numerical OYs If Stock Assessment Information Is Available (Category 1)

The Council will follow these steps in determining numerical OYs. The recommended numerical OY values will include any necessary actions to rebuild any stock determined to be below its overfished/rebuilding threshold and may include adjustments to address uncertainty in the status of the stock.

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4. . . . If the abundance falls below the overfished/rebuilding threshold, the harvest control rule will generally specify a greater reduction in exploitation as an interim management response toward rebuilding the stock while a formal rebuilding plan is being developed. The rebuilding plan will include a specific harvest control rule designed to rebuild the stock, and that control rule will be used in this stage of the determination of OY.

5. ***OY recommendations will be consistent with established rebuilding plans and achievement of their goals and objectives unless otherwise adjusted in accordance with section 6 below.***
   (a) In cases where overfishing is occurring, Council action will be sufficient to end overfishing.
   (b) In cases where a stock or stock complex is overfished, Council action will specify a time period for rebuilding the stock or stock complex that satisfies the requirements of section 304(e)(4)(A) of the Magnuson-Stevens Act.
      (i) The Council will consider a number of factors in determining the time period for rebuilding:
         (1) The status and biology of the stock or stock complex.
         (2) Interactions between the stock or stock complex and other components of the marine ecosystem (also referred to as "other environmental conditions").
         (3) The needs of fishing communities.
         (4) Recommendations by international organizations in which the United States participates.
         (5) Management measures under an international agreement in which the United States participates.
      (ii) These factors enter into the specification of the time period for rebuilding as follows:
         (1) The lower limit of the specified time period for rebuilding is determined by the status and biology of the stock or stock complex and its interactions with other components of the marine ecosystem and is defined as the amount of time that would be required for rebuilding if fishing mortality were eliminated entirely.
         (2) If the lower limit is less than ten years, then the specified time period for rebuilding may be adjusted upward to the extent warranted by the needs of fishing communities and recommendations by international organizations in which the United States participates, except that no such upward adjustment can result in the specified time period exceeding ten years, unless management measures under an international agreement in which the United States participates dictate otherwise.
         (3) If the lower limit is ten years or greater, then the specified time period for rebuilding may be adjusted upward to the extent warranted by the needs of fishing communities and recommendations by international organizations in which the United States participates, except that no such upward adjustment can exceed the rebuilding period calculated in the absence of fishing mortality, plus one mean generation time or equivalent period based on the species' life-history characteristics. For example, suppose a stock could be rebuilt within twelve years in the absence of any fishing mortality, and has a mean generation time of eight years. The rebuilding period, in this case, could be as long as 20 years.
      (iii) Any new rebuilding program will commence as soon as the first measures to rebuild the stock or stock complex are implemented.
      (iv) Any pre-existing rebuilding plans will be reviewed to determine whether they are in compliance with all requirements of the Magnuson-Stevens Act. (Note: Only Pacific ocean perch falls into this category.)
   (c) For fisheries managed under an international agreement, Council action must reflect traditional participation in the fishery, relative to other nations, by fishermen of the United States.
   (d) For any stock that has been declared overfished, the open access/limited entry allocation shares may be temporarily revised for the duration of the rebuilding period by amendment to the regulations in accordance with the normal allocation process described in this FMP. However, the Council may at any time recommend the shares specified in chapter 12 of this FMP be reinstated without requiring further analysis. Once reinstated, any change may be made only through the allocation process.
   (e) For any stock that has been declared overfished, any vessel with a limited entry permit may be prohibited from operating in the open access fishery when the limited entry fishery has been closed.
6. (The first sentence is moved from 5 above and revised as follows). ~~These~~ ***A***djustments to OY could include increasing OY above the default value up to the overfishing level as long as the management still allows achievement of ***established rebuilding goals and objectives***. ~~the rebuilding specified in the National Standard Guidelines:~~ ***In limited circumstances, t***hese adjustments could include increasing OY above the overfishing level as long as the harvest meets the standards of the mixed stock exception in the National Standard Guidelines: * * *

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5.3.6 Stock Rebuilding ***Requirements***

As required by the Magnuson-Stevens Act within one year of being notified by the Secretary that a stock is overfished or approaching a condition of being overfished, the Council will prepare a recommendation to end the overfished condition and rebuild the stock(s) or to prevent the overfished condition from occurring. ***A new rebuilding plan or revision to an existing plan proposed by the Council will be submitted to the Secretary along with annual management recommendations as part of the regular annual management process. Once approved by the Secretary, a rebuilding plan will remain in effect for the specified duration of the rebuilding program, or until modified. The Council will make all approved rebuilding plans available in the annual SAFE document or by other means.*** The Council may recommend the Secretary implement interim measures to reduce overfishing until the Council's program has been developed and implemented.

The Council intends its stock rebuilding plans to provide targets, checkpoints and guidance for rebuilding overfished stocks to healthy and productive levels. The rebuilding plans themselves will not be regulations but principles and policies. They are intended to provide a clear vision of the intended results and the means to achieve those results. They will provide the strategies and objectives that regulations are intended to achieve, and proposed regulations and results will be measured against the rebuilding plans. It is likely that rebuilding plans will be revised over time to respond to new information, changing conditions and success or lack of success in achieving the rebuilding schedule and other goals. As with all Council activities, public participation is critical to the development, implementation and success of management programs.

5.3.6.1 Goals and Objectives of Rebuilding Plans

The goals of rebuilding programs are to (1) achieve the population size and structure that will support the maximum sustainable yield within the specified time period; (2) minimize, to the extent practicable, the social and economic impacts associated with rebuilding, including adverse impacts on fishing communities; (3) fairly and equitably distribute both the conservation burdens (overfishing restrictions) and recovery benefits among commercial, recreational and charter fishing sectors; (4) protect the quantity and quality of habitat necessary to support the stock at healthy levels in the future; and (5) promote widespread public awareness, understanding and support for the rebuilding program.

5.6.3.2 Contents of Rebuilding Plans

To achieve the rebuilding goals, the Council will strive to (1) explain the status of the overfished stock, pointing out where lack of information and uncertainty may require that conservative assumptions be made in order to maintain a risk-averse management approach; (2) identify present and historical harvesters of the stock; (3) develop harvest sharing plans for the rebuilding period and for when rebuilding is completed; (4) set harvest levels that will achieve the specified rebuilding schedule; (5) implement any necessary measures to allocate the resource in accordance with harvest sharing plans; (6) promote innovative methods to reduce bycatch and bycatch mortality of the overfished stock; (7) monitor fishing mortality and the condition of the stock at least every two years to ensure the goals and objectives are being achieved; (8) identify any critical or important habitat areas and implement measures to ensure their protection; and (9) promote public education regarding these goals, objectives and the measures intended to achieve them.

~~For a stock that is overfished, t~~ The rebuilding plan will specify ***any individual goals and objectives including*** a time period for ending the overfished condition and rebuilding the stock ***and the target biomass to be achieved. The plan will explain how the rebuilding period was determined, including any calculations that demonstrate the scientific validity of the rebuilding period. The plan will identify potential or likely allocations among sectors, identify the types of management measures that will***

likely be imposed to ensure rebuilding in the specified period, and provide other information that may be useful to achieve the goals and objectives.

The Council may consider a number of factors in determining the time period for rebuilding, including:

1. The status and biology of the stock or stock complex.
2. Interactions between the stock or stock complex and other components of the marine ecosystem or environmental conditions.
3. The needs of fishing communities.
4. Recommendations by international organizations in which the United States participates.
5. Management measures under an international agreement in which the United States participates.

The lower limit of the specified time period for rebuilding will be determined by the status and biology of the stock or stock complex and its interactions with other components of the marine ecosystem or environmental conditions and is defined as the amount of time that would be required for rebuilding if fishing mortality were eliminated entirely.

If the lower limit is less than ten years, then the specified time period for rebuilding may be adjusted upward to the extent warranted by the needs of fishing communities and recommendations by international organizations in which the United States participates, except that no such upward adjustment may result in the specified time period exceeding ten years, unless management measures under an international agreement in which the United States participates dictate otherwise.

If the lower limit is ten years or greater, then the specified time period for rebuilding may be adjusted upward to the extent warranted by the needs of fishing communities and recommendations by international organizations in which the United States participates, except that no such upward adjustment can exceed the rebuilding period calculated in the absence of fishing mortality, plus one mean generation time or equivalent period based on the species' life-history characteristics. For example, if a stock could be rebuilt within 12 years in the absence of any fishing mortality, and has a mean generation time of eight years, the rebuilding period could be as long as 20 years.

In general, the Council will ***also*** consider the following questions in developing rebuilding plans.

1. What is the apparent cause of the current condition (historical fishing patterns, a declining abundance or recruitment trend, a change in assessment methodology, or other factors)?
2. Is there a downward trend in recruitment that may indicate insufficient compensation in the spawner-recruitment relationship?
3. Based on an comparison of historical harvest levels (including discards) relative to recommended ABC levels, has there been chronic over harvest?
4. Is human-induced environmental degradation implicated in the current stock condition? Have natural environmental changes been observed that may be affecting growth, reproduction, and/or survival?
5. Would reduction in fishing mortality be likely to improve the condition of the stock?
6. Is the particular species caught incidentally with other species? Is it a major or minor component in a mixed-stock complex?
7. ***What types of management measures are anticipated and/or appropriate to achieve the biological, social, economic and community goals and objectives of the rebuilding plan?***

5.6.3.3 Process for Development and Approval of Rebuilding Plans

Upon receiving notification that a stock is overfished, the Council will identify one or more individuals to draft the rebuilding plan. If possible, the Council will schedule review and adoption of the proposed rebuilding plan to coincide with the annual management process. A draft of the plan will be reviewed and preliminary action taken (tentative adoption or identification of preferred alternatives), followed by final adoption at a subsequent meeting. The tentative plan or alternatives will be made available to the public and considered by the Council at a minimum of two meetings unless stock conditions suggest more immediate action is warranted. Upon completing it final

recommendations, the Council will submit the proposed rebuilding plan or revision to an existing plan to NMFS for concurrence. In most cases, this will be concurrent with its recommendations for annual management measures. In addition, any proposed regulations to implement the plan will be developed in accordance with the framework procedures of this FMP. The Council may designate a state or states to take the lead in working with its citizens to develop management proposals to achieve the rebuilding. Allocation proposals require consideration at a minimum of three Council meetings, as specified in the allocation framework. Rebuilding plans will be reviewed periodically, at least every 2 years, and the Council may propose revisions to existing plans at any time, although in general this will be occur only during the annual management process.

NMFS will review the Council's recommendations and supporting information upon receipt and may approve, disapprove, or partially approve each rebuilding plan. The Council will be notified in writing of the NMFS decision. If NMFS does not concur with the Council's recommendation, reasons for the disapproval will be included in the notification. Once approved, a rebuilding plan will remain in effect for the length of the specified rebuilding period or until revised. Any revisions to a rebuilding plan must also be approved by NMFS.