

GROUND FISH MANAGEMENT TEAM REPORT ON THE NMFS PREFERRED  
ALTERNATIVE FOR 2011-12 HARVEST SPECIFICATIONS FOR YELLOWEYE  
ROCKFISH AND COWCOD

A. Implications of the Delay in the Approval and Implementation of 2011 Regulation for Recreational Fisheries .....	2
1. California .....	2
2. Oregon .....	2
3. Washington .....	2
B. General Comments on the NMFS Alternative .....	3
C. Value of an ACT .....	3
D. Yelloweye.....	4
1. General Comments on Yelloweye.....	4
2. California Recreational.....	5
3. Oregon Recreational .....	6
4. Washington Recreational.....	6
5. Trawl.....	6
6. Nearshore Fixed Gear Fishery.....	7
Impacts under a 14 mt ACL .....	7
Impacts under a 17 mt ACL.....	8
Impacts under a 20 mt ACL.....	8
7. Non-Nearshore.....	8
8. Research.....	9
9. Other Set Asides.....	9
E. Cowcod.....	9
1. Trawl Fishery .....	10
2. California Recreational Fishery .....	10
Projected Recreational Cowcod Impacts with 30 fm Depth Restriction and Retention of Shelf Rockfish in the CCA .....	10
Shelf Rockfish Retention .....	11
Changes to CCA Depth Restrictions .....	11
F. Review of the FEIS.....	12
G. References.....	15

## **A. Implications of the Delay in the Approval and Implementation of 2011 Regulation for Recreational Fisheries**

### *1. California*

The 2011-2012 recreational management measures that were approved in June 2010 by the Council included modifications to: lingcod size limit and spawning closure, scorpionfish depth restrictions, cabezon bag limits, and depth restrictions and species retention within the Cowcod Conservation Area (CCA). Although these regulation changes have also been approved by the California Fish and Game Commission, they cannot be implemented into state regulations prior to their adoption in Federal rule.

The delayed approval of the 2011-2012 Final Environmental Impact Statement (FEIS) has caused confusion among recreational anglers who were expecting regulations to be in effect for the 2011 season. California Department of Fish and Game (CDFG) has informed the Groundfish Management Team (GMT) that the delay has increased the agency's workload from the need to respond to public inquiries, conduct outreach and education efforts, and revise state regulation booklets. In the event that the National Marine Fisheries Service (NMFS) adopted management measures differ from the Council recommendations, future inseason actions and revised state regulatory packages may be necessary.

### *2. Oregon*

The only regulatory change to the Oregon recreational bottomfish fishery for 2011 and 2012 that was approved by the Council in June of 2010 was a seasonal one fish sub-bag limit for cabezon, from April 1 through September 30. The Oregon Fish and Wildlife Commission has already taken action to include this regulation in state regulations. This is possible since the state regulation is more restrictive than the current federal regulation.

### *3. Washington*

Recreational management measures approved by the Council in June 2010 include a reduced aggregate groundfish daily limit from 15 to 12, a sub-limit for cabezon of two per day, a shortened-time period for the 20 fm depth restriction in the north coast management area and allowance for rockfish retention seaward of 30 fm in the south coast management area.

Inseason changes effective March 1, 2011 implemented the reduced aggregate groundfish daily limit and corrected the opening date for the lingcod season in Marine Areas 1-3 so it conforms to the analysis in the FEIS.

The delay in the adoption of the final harvest specifications for 2011 will result in a delay of the provision to allow rockfish retention seaward of 30 fm in Washington's south coast management area beyond the expected effective date of March 15, 2011. Washington Department of Fish and Wildlife (WDFW) will notify the fishing community of this delay. Regulations implementing the 20 fathom depth restriction in the north coast management area will be implemented on schedule following adoption of regulations based on the FEIS for 2011-2012. Washington

Department of Fish and Wildlife implemented the cabezon sub-bag limit through emergency regulation because it is more restrictive than current federal rules.

## **B. General Comments on the NMFS Alternative**

Mr. Frank Lockhart, Ms. Mariam McCall, and Mr. Kevin Duffy gave a joint briefing to the Groundfish Management Team (GMT) and Groundfish Advisory Subpanel (GAP) on the NMFS preferred alternative. Mr. Lockhart also came to the GMT to answer follow-up questions. We appreciate his time. We have not had time to review the FEIS in any detail.

We cannot provide the Council with analysis on the question of whether the 2074  $T_{\text{Target}}$  for yelloweye associated with the NMFS alternative is too far out in time or not because we are unclear on the legal standard that determines that question.

Some of us are also unclear on how the NMFS alternative does or does not depart from the constant harvest rate approach that the Council has followed when setting and adjusting rebuilding plans based on updates of stock status and biology. At NMFS' request, the discussion has focused primarily on differences between 14 mt and 17 mt on how the "needs" of communities are affected by that difference. The 14 mt originated with the Council's ramp-down strategy, which itself was based on the previous assessment. The most recent stock assessment differed from the previous assessment in that it estimated the stock to be larger in scale (i.e., absolute size) by ~35 percent, improved in status (i.e., size relative to its the estimated unfished size) because of estimated progress in rebuilding and on account of scientific uncertainty, and slightly less productive (i.e., expected to rebuild at a slightly lower pace at a given harvest rate).

Lastly, some on the team point to the significance of the comments that we raised to the Council in June 2010 on the evaluation of long-term conservation in the Council's rebuilding plans. There was not sufficient time to brief the Council in detail or have the analyses reviewed by the SSC because the Council was asked to respond to the court decision at the June meeting. We do hope to have opportunity to explore these analyses with the Council and SSC in the future.

## **C. Value of an ACT**

One important difference between the Council's final preferred alternative and the NMFS alternative is that there is no ACT for yelloweye. The GMT sees benefit in the buffer between the annual catch limit (ACL) and ACT. Higher than expected catch from within any fishing sector or elsewhere can create the need for an inseason adjustment. The annual catch target (ACT) buffer reduces the probability that the management measures set for a sector have to be changed inseason. The buffer also provides opportunity for research, as described below.

We note that the ACT benefit can be had for a buffer less than 3 mt. The difference is one of degree and risk, which is difficult to quantify. As we understand it, NMFS has expressed concerns with the  $T_{\text{Target}}$  associated with the ACL of 20 mt, which is 2084. A 1 mt buffer (i.e., an ACT of 17 mt and ACL of 18 mt) would correspond to a  $T_{\text{Target}}$  of 2077 if based on the same logic of the 20 mt ACL corresponding to 2084 (i.e., the  $T_{\text{Target}}$  is estimated based on the constant

harvest rate associated with the ACL). Again, we do not know how to aid the Council in weighing the benefit of a 1 mt ACT buffer against the 3 year difference in  $T_{\text{Target}}$  between the NMFS preferred ACL and an ACL of 18 mt.

The Council's Final Preferred Alternative (FPA) for cowcod did not specifically include an ACT, yet management measures were set for a harvest level of 3 mt and a 1 mt buffer was left unallocated. In effect, this served the same purpose as an ACT buffer. Under the NMFS preferred alternative, that 1 mt buffer has been eliminated.

## **D. Yelloweye**

### *1. General Comments on Yelloweye*

Our understanding from the briefings we received, NMFS is still looking for input on the difference between the 17 mt ACL and the 14 mt optimum yield (OY) that was in place in 2010 by court order and remains in place now. The question, again, is how the 3 mt difference affects the "needs of fishing communities" during 2011-2012.

The Council's judgment of how well a particular ACL addresses the "needs of fishing communities" is based in large part on the GMT's projections of catch. Yelloweye is encountered in several sectors and a full explanation of the difference between a 14 mt and 17 mt ACL involves a look at the projections for each sector. It also involves consideration of how the Council chooses to apportion the ACL between sectors. We discuss the sectors most affected by yelloweye rebuilding below, sector-by-sector, trying to keep to a summary of the salient points.

We would first like to make a couple of general points that apply across all sectors. Both relate to the general point that the Council's assessment of the "needs of fishing communities" involves awareness of catch variability and the risk that this variability poses to planned catch limits (e.g., harvest guidelines) in each sector. The Council makes a judgment on how a certain level of catch might affect a given sector based on a projection knowing full well that catch might come in above or below that projection. The question is what level of risk to plan for in each sector. The imprecision of our projection models makes it a difficult question to answer.

Catch variability applies to all sectors and all stocks, yet yelloweye has been highly variable and this variability has been enough to affect management. In response, the Council has taken a precautionary approach to catch uncertainty in each sector, although the degree of risk aversion is different from sector to sector.

The first point we draw from this is that this precautionary planning approach makes it likely that yelloweye catch will come in lower than the sum of the individual projections. However, the imprecision of GMT impact projection models does lead to occasional circumstances, such as seen in 2007, where the sum of sector impact projections are exceeded by the unexpected overage in one sector. This underscores the benefit of an ACT for a stock like yelloweye, as discussed briefly below. Illustrative of these points is catch has remained below the OY since 2003, and considerably so in all but one year. In 2009, the official estimate of catch was 11 mt even though the Council had management measures targeted at the 17 mt OY.

A natural question to such a result is why do fishing communities “need” 17 mt, or 14 mt for that matter, if catch came in so much lower? The same question can be asked of individual sectors that came in lower than the amounts the Council planned for. The answer is that we do not have much confidence that the result will be the same in future years. Catch variability means that catch could come in high based on the same management measures. The 2009 and 2010 California recreational catch provides an example of this. In 2009 catch was above the projection enough to exceed the harvest guideline. In 2010, with identical management measures in place, the catch came in at 1.2 mt (preliminary estimate), well below the harvest guideline.

The ramp-down for yelloweye meant that we had little data on which to base catch projections. The Council achieved reductions in catch with changing management measures, or at least with management measures for which we had little to go on in terms of predicting fishing effort and catch. As management measures stabilize, the data should improve and our projections should become more precise.

## *2. California Recreational*

Approval of harvest specifications lower than those adopted by the Council may require reductions in season lengths to keep catch within the revised limits for California. Shallower depth restrictions North of Point Arena where the majority of yelloweye impacts originate is no longer possible as they are already constrained to a 20 fm depth restriction and further reductions would be considered a risk to vessel safety. If NMFS adopts a yelloweye ACL lower than 17 mt, seasons even shorter than the already extremely limited lengths (e.g., three months in the Mendocino Management Area) may be necessary to keep catches under the revised limits (2011-2012 SPEX EIS). This would include a one and a half month season in the Mendocino Management under a 14 mt ACL. Imposing further restrictions due to a lower ACL would cause further economic impacts to communities north of Point Arena, particularly Fort Bragg and Shelter Cove.

In total, the reductions in fishing opportunity in terms of reduced season lengths under a 14 mt ACL is equivalent to a coast wide combined loss of six and a half months of fishing season equivalent to 170,000 fishing trips with an estimated revenue of 20 million dollars in expenditures associated with these trips (March 2011, Agenda Item H.2.c, CDFG Letter). Those dependent on the recreational fishery for their incomes would be the most affected, though the coastal community as a whole would suffer from the loss of expenditures by anglers. These communities have already lost millions of dollars over the last decade due to the management measures taken to rebuild overfished species. A 14 mt ACL for 2011-2012 further exacerbates these economic effects. CDFG submitted public comments to NMFS on the 2011-12 Biennial Specifications and Management Measures (RIN 0648-BA01) which further discusses the economic impacts to these communities over the last decade as a result of management measures taken to protect overfished species.

### *3. Oregon Recreational*

With regard to the delay in the approval of ACLs and ACTs for yelloweye rockfish, approval of harvest specifications lower than those adopted by the Council may require changes to season and depth restrictions to keep catch within the revised limits for Oregon. If an ACL (ACT) less than 17 mt is approved by NMFS, actions such as shallower depth restrictions, decreased bag limits or full fishery closure, may be necessary on the part of the state to prevent adjusted harvest guidelines from being exceeded. This will likely cause economic impacts to coastal Oregon communities, particularly Garibaldi and Gold Beach, which rely heavily on the recreational bottomfish and halibut fisheries. Oregon Department of Fish and Wildlife (ODFW) provided a document to NMFS via public comment, included in the briefing book under Agenda Item H.2., on the “Proposed 2011–2012 harvest specifications and management measures for Pacific Coast Groundfish Fishery” that outlines these impacts. As an example, the estimated loss of revenue from the decreased number of angler trips projected under a 13 mt yelloweye ACL, rather than 17 mt, for Garibaldi, a city of less than 1,000 people, is projected to be up to \$3.3 million.

### *4. Washington Recreational*

If the final harvest specifications for yelloweye rockfish result in a lower ACL and ACT than what the Council approved, additional changes to Washington recreational management measures may be necessary to stay under lower harvest guideline amounts. If NMFS adopts an ACL less than 17 mt it is likely that more constraining depth restrictions and rockfish retention allowances would be necessary to keep the recreational harvest under revised limits. More restrictive management measures will negatively impact local communities that are dependent on sport fishing. These communities are mostly remote areas that rely on the economic benefits created by recreational harvest opportunities. WDFW discussed these impacts in more detail in public comments submitted on the proposed rule to implement the 2011-2012 Biennial Specifications and Management Measures.

Washington’s recreational yelloweye impacts are also tied very closely to the halibut fishery. Between 75 percent and 85 percent of the yelloweye impacts occur during the primary recreational halibut fishery. In 2011, the International Pacific Halibut Commission (IPHC) Area 2A Pacific halibut quota for 2011 is approximately 12 percent more than in 2010 and will likely result in more fishing days for recreational halibut fishing and could potentially increase yelloweye impacts in 2011. Impacts resulting from changes in halibut quotas are difficult to incorporate into pre-season projections because the quotas are announced annually and not available at when projections are developed. Economic factors such as fuel prices can also have an impact on the effort level in recreational fisheries. Coastal fishing grounds are hundreds of miles from urban centers and increases in fuel prices can influence whether or not someone chooses to plan a fishing trip.

### *5. Trawl*

The GMT has heard concern from fishery participants and others that the interim yelloweye trawl allocation of 0.3 mt (recommended by the Council in November of 2010) may be too small for the individual fishing quota (IFQ) fishery.

We have also heard anecdotal reports that the limited yelloweye quota pounds (QP) available has limited trawling effort on the shelf. We cannot analyze whether the effect is truly occurring or not, as we do not yet have depth information available and the fishery has only been open for less than two months, yet the risk averse reaction sounds plausible, given that the dominant species landed so far have been mainly Dover sole-thornyhead-sablefish (DTS) and petrale sole, as of March 2. IFQ participants respond to individual incentives. So even if the 0.3 mt reflects the annual catch in the trawl sector, catch variability among individuals could be enough to cause risk-averse behavior.

Yelloweye bycatch is also a concern for fixed gear longline vessels targeting sablefish north of 40° 10'. Some on the team raised the risk that IFQ gear switching poses to the sector as a whole under the 0.3 mt allocation. The 2009 Total Mortality Report shows that the limited entry (LE) non-nearshore fixed gear sector took 1.3 mt of yelloweye rockfish, substantially more than the LE non-whiting trawl sector (0.1mt). Fixed gear participation in the IFQ program may also be experiencing a similar “chilling effect” because of risk aversion to the yelloweye QP.

The NMFS alternative in the final SPEX EIS describes an ACL for yelloweye rockfish of 17 mt, and an IFQ allocation for yelloweye rockfish of 0.6 mt. Whether this amount would be enough to improve upon the risk-averse situation, we cannot say with certainty. The effect of the low yelloweye allocation is something that will have to be analyzed over the long-term.

#### *6. Nearshore Fixed Gear Fishery*

The GMT notes that the nearshore fishery off California and Oregon was restrained in 2009 when the OY was reduced to 17 mt. At that time, the shoreward RCA was moved from 30 fm to 20 fm off both California and Oregon to limit access to areas of high yelloweye bycatch and reduce impacts. We point out, therefore, that this fishery was already constrained significantly beginning in 2009. As illustrated below, opportunities in this fishery were further reduced in June 2010 as a direct result of the court ruling to reduce the yelloweye ACL to 14 mt (e.g., higher trip limits). However, impacts were temporarily reduced after the states of Oregon and Washington voluntarily rescinded research projects to allow prosecution of commercial and recreational fisheries for the remainder of 2011. We point this out to illustrate that the concept of “status quo” is not static and should be addressed with caution (see ODFW 2011).

#### Impacts under a 14 mt ACL

Under a 14 mt ACL, and assuming the prosecution of research and exempted fishing, few management measures are available to reduce yelloweye catch relative to levels described in the 2011-2012 FEIS. Available options include total closure in certain areas (vessel safety concerns prohibit implementing a depth restriction shallower than 20 fm) and/or trip limit reductions that are so severe they may not be economically viable (e.g., up to 75 percent reductions relative to recent average landings – see 2011-2012 FEIS).

The nearshore fishery is a specialized fishery of small to medium vessels that focus fishing operations only in certain regions along the coastline in both California and Oregon (CDFG 2011; ODFW 2011). For example in Oregon, 76% of nearshore species occur in the Brookings

port group (Brookings, Gold Beach, and Port Orford; ODFW 2011). This fishery provides the sole income for many nearshore fishers or represents a significant component in many fishermen's fishing strategy (CDFG 2011; ODFW 2011). The severe reductions in landings that would be required for this fishery under a 14 mt yelloweye rockfish ACL (see 2011-2012 FEIS) would potentially result in disproportionate impacts along the coasts of Oregon and California, destabilize the fishery, and be in direct conflict with the Magnuson-Stevens Act (MSA).

The states of Oregon and California described impacts of a 14 mt ACL to not only the fishermen but also the affected communities (CDFG 2011; ODFW 2011). The nearshore fishery in many of these communities serves primarily specialty "live-fish" markets. For example, the Brookings port group (southern Oregon) provides more live-fish landings than any other port group along the U.S. west coast (2011-2012 FEIS). Note that fish buyers are different for this fishery than those for other commercial fisheries. It is quite probable that if nearshore landings were severely restricted, the primary live-fish buyers in some of these specialized ports would leave. The loss of a single fish buyer could put an end to live-fish deliveries for these specialized fishing communities. Since many of these affected ports exhibit little or no trawl landings (2011-2012 FEIS), they lack the infrastructure to compensate for fish buyers leaving the area.

#### Impacts under a 17 mt ACL

Under a 17 mt ACL, the current management measures (76 FR 11381, March 2, 2011) are expected to remain in effect assuming the yelloweye allocation to the nearshore remains at 1.1 mt. The restrictive RCAs will still remain in place to reduce yelloweye encounters and trip limits will be held at reduced levels to keep yelloweye impacts within the nearshore allocation. If the nearshore allocation is reduced either as a result of an overage in another sector or due to re-allocation by the Council, few if any management measures exist with the nearshore to find any savings (see discussion under 14 mt).

#### Impacts under a 20 mt ACL

Under a 20 mt ACL, the amount of opportunity available to the nearshore fishery is dependent upon their allocation. There may be the potential to relax some of the restrictive management measures implemented in 2009 depending on the amount of yelloweye allocated to this fishery. For example, landing limits may be increased relative to the current fishery (76 FR 11381, March 2, 2011) and historical fishing grounds may be reopened by moving the 20 fm Rockfish Conservation Area (RCA) back to 30 fm in some areas. Liberating the RCA to 30 fm may reduce gear conflicts, increase fishing efficiency, and reduce the likelihood of local depletions.

### *7. Non-Nearshore*

The non-trawl RCA mitigates yelloweye bycatch in this sector. The Council's FPA would move the one management area in the north with a 125 fm in place back to 100 fm.

As reported in the 2009 Total Mortality report, this sector experienced bycatch rates in the LE non-primary and open access daily trip limit (DTL) subsectors estimated to be double what we use to project bycatch. Yet with the 2009 bycatch rates updated into the model, the projected impact remains unchanged from what was in the DEIS. The Council's preferred management measures can remain in place under either the 14 mt or 17 mt ACL, yet there is no room for higher than projected catches under the 14 mt scenario. Despite the lack of change in projected impact, we do recognize that there is some probability that catch will exceed the projected impact again in 2011 or 2012. We will discuss this more tomorrow under inseason.

### *8. Research*

The GMT has been notified that IPHC will be doing a pilot project in Area 2A, expanding their stock assessment survey from 20 fm to 10 fm, and from 275 fm to 400 fm, with the goal of reducing bias and the coefficient of variance of the survey. The GMT has not had the opportunity to analyze what additional impacts to yelloweye rockfish might result from the survey expansion. Dr. Leaman advised the Council when speaking to Agenda Item F.1 at this meeting, that IPHC staff is projecting yelloweye impacts from the survey expansion to be similar to what has occurred when WDFW and ODFW have added enhanced rockfish survey stations to the standard IPHC stock assessment survey in previous years. Due to the delay in SPEX and the disapproval of the yelloweye rebuilding plan, and the associated 14 mt yelloweye OY at the beginning of 2011, ODFW and WDFW cancelled these research projects for 2011.

We began 2011 with a 14 mt yelloweye OY, waiting on publication of the FEIS by NMFS with the final yelloweye ACL/ACT. Due to the possibility of a 14 mt ACL for 2011, ODFW and WDFW cancelled planned rockfish research and ODFW withdrew an exempted fishing permit (EFP) application for a project designed to obtain biological data. While this was done to allow the recreational fishery to attain a longer season length and commercial fisheries to attain a larger fraction of their target species allocations under 14 mt, this is not sustainable in the long term. No research means no new data to inform stock assessments which means improvements in our knowledge of stock status will be forgone.

### *9. Other Set Asides*

The GMT notes that other fishery set asides such as tribal and incidental open access are also not directly managed through Council and NMFS regulatory controls (see Agenda Item I.4.b, Supplemental GMT Report, April 2010). These are commonly referred to as "unchangeable" for purposes of allocation decisions during the biennial specifications and management measures process as they do not change based on the harvest level chosen.

## **E. Cowcod**

The NMFS preferred alternative reduces the ACL for cowcod from 4 mt under the Council Final preferred alternative to 3 mt and does not include the 30 fm depth restriction and retention of shelf rockfish in the CCA adopted by the Council in June. The following is a summary of the

implications of the differences in the NMFS preferred alternative for each sector relative to the information provided for consideration by the Council in the SPEX process.

### *1. Trawl Fishery*

The current take of cowcod consists of research catches and unavoidable bycatch in the trawl and recreational fisheries south of 40°10' N lat (Cape Mendocino). The WCGOP Total Mortality Reports from 2004-2009 indicate that cowcod bycatch in the trawl fishery is the most variable (ranging from 0.2 mt to 3.0 mt annually, CDFG 2011). Cowcod bycatch varies considerably year to year and small changes to cowcod bycatch allowances can have a large effect on this fishery. The Council's recommended trawl bycatch allowance of 1.8 mt (under their FPA) cannot completely account for historical variability of bycatch and could still restrict this fishery. The bycatch needs in this fishery are unknown as the trawl rationalization program gets underway and fishermen learn to access healthy species while avoiding bycatch species. Despite all attempts to avoid cowcod, the potential for disaster tows is concerning.

Under the NMFS preferred alternative (3 mt), the cowcod allocation to the trawl fishery remains at 1.8 mt.

### *2. California Recreational Fishery*

#### Projected Recreational Cowcod Impacts with 30 fm Depth Restriction and Retention of Shelf Rockfish in the CCA

Cowcod impacts are not expected to increase as a result of the 30 fm depth restriction or allowing retention of shelf rockfish in the CCA making the proposed action risk neutral (2011-2012 SPEX). Cowcod impacts are modeled for the entire region south of 34° 27' N. lat. including the CCA, based on a 60 fm depth restriction outside the CCA despite the shallower depth restriction within the CCA. As a result, the RecFISH model overestimates cowcod impacts.

The projected non-trawl impacts on cowcod include the 0.17 mt for the coast wide recreational impacts which are rounded up to 0.2 mt. The fixed gear fisheries are expected to have negligible impacts and as a result the total projected impacts for the non-trawl fishery is 0.2 mt. Even with a 3 mt ACL for cowcod, any unanticipated increase in cowcod impacts resulting from Council adopted management measures could be accommodated by the 0.7 mt buffer between the projected impacts and the non-trawl allocation of 0.9 mt. The catch of cowcod is tracked with a one week lag in the California recreational fishery. In the event that catch is tracking high, emergency action can be taken to prevent the non-trawl allocation from being exceeded. Thus the buffer between projected impacts and the allocation to the non-trawl fishery is sufficient to cover management uncertainty, even with a 3 mt ACL.

## Shelf Rockfish Retention

The proposal to retain shelf rockfish within the CCA can be considered independent from any changes to depth restrictions. Under the current regulations, shelf rockfish cannot be retained while fishing in 20 fm or less within the CCA. Public comment provided to the Council, the California Fish and Game Commission, and NMFS indicate wastage of discarded shelf rockfish had a detrimental impact on the fishing experience and preventing wastage of discarded fish by allowing retention of shelf rockfish in the open depths of the CCA was a high priority for anglers.

Allowing retention of shelf rockfish within the CCA would reduce wastage by converting discard mortality into retained catch. In addition, under the status quo regulations, shelf rockfish are subject to discard mortality while anglers pursue the 10-fish rockfish, cabezon and greenling bag limit of nearshore rockfish species, cabezon and greenlings while discarding shelf rockfish. Allowing retention of shelf rockfish would further reduce wastage by decreasing the number of rockfish encountered in attaining the 10 fish bag limit.

Cowcod impacts are not expected to increase as a result of allowing retention of shelf rockfish in the CCA (2011-2012 SPEX). Any increase in other shelf rockfish impacts are expected to be primarily composed of the fraction of discarded fish that would have survived after being discarded. Access to shelf rockfish has been limited due to overfished species, and as a result, the total mortality of the minor shelf rockfish complex has been far less than the ACL. Any small increase in shelf rockfish as a result of turning discarded fish into landed catch would result in total impacts that are still far below the ACL and does not pose any conservation risks. Wastage of discarded shelf rockfish in the CCA would continue under the NFMS preferred alternative. Reduction of waste and increased opportunity are a high priority for anglers in the Southern California bight fishing from Santa Barbara, Port Hueneme, Los Angeles, Long Beach, Dana Point, and San Diego among others. Given that the proposed actions are risk neutral, improvements to the quality of fishing opportunity are worth implementing.

## Changes to CCA Depth Restrictions

The proposal to increase the depth restriction from 20 fm to 30 fm within the CCA was excluded from the NMFS preferred alternative in the revised SPEX EIS, citing a lack of new data since implementation of the CCA to justify the action and concerns regarding increased interaction with juvenile cowcod. The GMT notes more data is available than when the analyses was conducted in 2000 to establish the CCAs in 2001. New data or analyses from submersible surveys, commercial trawl data, and recreational data indicate that both adult and juvenile cowcod are exceedingly uncommon within 30 fm (2011-2012 SPEX EIS, Appendix B). Juvenile cowcod do occur at depths greater than 30 fm (Love and Yoklavich, 2008). However, data from the trawl fishery and submersible surveys (Butler et al. 2003) as well as MRFSS/CRFS recreational survey data from 1999 to 2009 from south of Point Conception (34° 27' N. lat.) indicate that adult and juvenile cowcod are extremely uncommon in depths shallower than 40 fm.

Thus new data are now available that indicate encounters with cowcod within the Council adopted 30 fm depth restriction are likely to be so infrequent that impacts are not expected to increase appreciably because of the deeper depth restriction. When the CCA was established, the intent was to prevent the OY (now supplanted by the ACL) from being exceeded. Should NMFS choose to reduce the cowcod ACL to 3 mt from the Council adopted 4 mt, the proposed management measures are still expected to keep the recreational impacts well below the non-trawl allocation (0.9 mt). Analysis provided in the 2011-2012 biennial regulatory specifications indicate that the depth restrictions in the CCA could be increased to expand fishing grounds without appreciable increases in impacts on cowcod.

This increased and improved fishing opportunity is of great importance to recreational anglers south of Point Conception as evidenced by public comments received by the Council, the Fish and Game Commission and NMFS regarding the proposed changes to depth and retention regulation in the CCA. Fishing for species such as yellowtail or white seabass is legal in depths greater than the 20 fm groundfish depth restriction and anglers fishing for these species sometimes encounter rockfish species which are discarded. Allowing retention of rockfish within 30 fm would result in a reduction of waste of discarded rockfish currently encountered as bycatch. Such regulatory discards are not popular with anglers, especially since rockfish at this depth are likely to suffer mortal injury from barotrauma or hooking mortality. The increased fishable area would also provide greater fishing opportunity for those fishing for rockfish after failing to catch tuna offshore. As noted above, reduction of waste and increased opportunity are a high priority for anglers in the Southern California and this risk neutral improvement to the quality of fishing opportunity is worth implementing. Improvements in fishing opportunity would be forgone and reduced wastage due to discard mortality would continue under the NMFS preferred alternative.

## **F. Review of the FEIS**

As stated above, the 2011-2012 SPEX FEIS was published on Friday. The GMT has not yet had the opportunity to review the contents of this document thoroughly and will likely have comments in a later statement. We did have time to note some differences between the NMFS preferred alternative and the Council alternative, as captured in the tables that follow.

Overfished species allocations and harvest guidelines under Alternative 4 (NMFS final preferred), from Table 2-119, page 203 of the FEIS

2011								
Sector	Bocaccio	Canary	Cowcod	DKB	POP	Petrale	Widow	Yelloweye
Off the top ACL deductions <sup>a/</sup>	13.4	20.0	0.3	18.7	12.9	65.4	60.9	5.9
<b>Fishery Harvest Guideline</b>	249.6	82.0	2.7	279.0	144.0	911.0	539.0	11.1
Limited Entry Non-Whiting Trawl	60.0	20.0	1.8	240.0	107.0	871.0	235.0	0.6
Non-nearshore <sup>b/</sup>								
LE FG	57.9	2.3	0.9	14.0	7.0	35.0	49.0	2.4
OA DTL								
Nearshore Fixed Gear <sup>b/</sup>	0.7	4.0						
Washington Recreational <sup>b/</sup>	--	2.0						
Oregon Recreational <sup>b/</sup>	--	7.0						2.4
California Recreational <sup>b/</sup>	131.0	14.5						3.1
Limited Entry Whiting Trawl								
Catcher Processor	--	4.8	--	9.0	10.0	5.0	87.0	--
Mothership	--	3.4	--	6.0	7.0		61.0	--
Shoreside	--	5.9	--	11.0	13 <sup>c/</sup>	<sup>c/</sup>	107.0	--

<sup>a/</sup> Assumes that the application of new Amendment 21 allocation structure specified at 50 CFR 660.55

<sup>b/</sup> Values represent HGs which may be adjusted within the non-trawl allocation

<sup>c/</sup> Under trawl rationalization, the allocation is included as part of the bottom trawl and not in addition to.

Overfished species allocations and harvest guidelines under Council FPA, from Table 2-66, page 146 of the DEIS

2011								
Sector	Bocaccio	Canary	Cowcod	DKB	POP	Petrale	Widow	Yelloweye
Off the top ACL deductions <sup>a/</sup>	13.4	20.0	0.3	18.7	12.9	65.4	60.9	5.9
<b>Fishery Harvest Guideline</b>	249.6	82.0	3.7	279.0	144.0	911.0	539.0	11.1
Limited Entry Non-Whiting Trawl	60.0	20.0	1.8	240.3	107.0	871.0	235.5	0.6
Non-nearshore <sup>b/</sup>								
LE FG	57.9	2.2	0.9	15.0	7.0	35.0	49.0	2.4
OA DTL								
Nearshore Fixed Gear <sup>b/</sup>	0.7	3.0						
Washington Recreational <sup>b/</sup>	--	2.0						2.6
Oregon Recreational <sup>b/</sup>	--	7.0						2.4
California Recreational <sup>b/</sup>	131.0	14.5						3.1
Limited Entry Whiting Trawl								
Catcher Processor	--	4.8	--	8.5	10.2		86.7	0.0
Mothership	--	3.4	--	6.0	7.2		61.2	0.0
Shoreside	--	5.9	--	10.5	12.6 <sup>c/</sup>	<sup>c/</sup>	107.1	0.0

<sup>a/</sup> Assumes that the application of new Amendment 21 allocation structure specified at 50 CFR 660.55.

<sup>b/</sup> Values represent HGs which may be adjusted within the non-trawl allocation.

<sup>c/</sup> Under trawl rationalization, the shoreside whiting trawl allocation is included as part of the entire shoreside trawl sector allocation.

## **G. References**

Butler J.L., Jacobson L.D., Barnes J.T. and H. Moser. 2003. Biology and population dynamics of cowcod (*Sebastes levis*) in the southern California Bight. *Fishery Bulletin* 101(2): 260-280.

CDFG. 2011. Pacific Fishery Management Council, Agenda Item H.2.c, CDFG Letter, March 2011.

FEIS. 2011. Proposed Harvest Specifications and Management Measures for the 2011-2012 Pacific Coast Groundfish Fishery and Amendment 16-5 to the Pacific Coast Groundfish Fishery Management Plan to Update Existing Rebuilding Plans and Adopt a Rebuilding Plan for Petrale Sole. Final Environmental Impact Statement. The Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR, 97220 and National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115-0070. February 2011.

Love, M.S and M. Yoklavich. 2008. Habitat characteristics of juvenile cowcod, *Sebastes levis* (Scorpaenidae), in Southern California. *Environ Biol Fish* (2008) 82:195–202.

ODFW. 2011. Pacific Fishery Management Council, Agenda Item H.2.c., ODFW Letter 2, March 2011.