

Classification

This action is authorized by the Tuna Conventions Act, 16 U.S.C. 951–961 and 971 *et seq.*

On December 8, 1999, NMFS prepared a biological opinion (BO) assessing the impacts of the fisheries as they would operate under the regulations (65 FR 47, January 3, 2000) implementing the International Dolphin Conservation Program Act (IDCPA). NMFS concluded that the fishing activities conducted under those regulations are not likely 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. This rule will not result in any changes in the fisheries such that there would be impacts beyond those considered in that BO. The IATTC has also taken action to reduce sea turtle injury and mortality from interactions in the purse seine fishery so impacts of the fisheries should be lower than in the past. Because this closure does not alter the scope of the fishery management regime analyzed in the IDCPA rule, or the scope of the impacts considered in that consultation, NMFS is relying on that analysis to conclude that this rule will not likely 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. Therefore, NMFS has determined that additional consultation is not required for this action.

The eastern Pacific Ocean tuna purse seine fisheries occasionally interact with a variety of species of dolphin, and dolphin takes are authorized and managed under the IDCPA. These quotas do not affect the administration of that program, which is consistent with section 303(a)(2) of the Marine Mammal Protection Act (MMPA). Therefore, this rule is consistent with the MMPA.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The purpose of this action is to prohibit the use of purse seine gear to harvest tuna in a portion of the Convention Area in December 2003, consistent with the October 2003 IATTC recommendation. The closure is intended to promote conservation of tuna stocks by eliminating purse seine fishing

mortality by vessels from all parties to the IATTC. The proposed closure would apply to the U.S. tuna purse seine fleet, which consists of 10–20 small vessels (carrying capacity below 400 short tons (363 metric tons)) and 4–6 large vessels (carrying capacity 400 short tons (363 metric tons) or greater). The large vessels generally fish outside U.S. waters and deliver their catch to foreign ports or transship to processors outside the mainland United States. The large vessels are categorized as large business entities (revenues in excess of \$3.5 million per year). The closure should not significantly affect their operations as they are capable of fishing in other areas that would remain open. The small vessels are categorized as small business entities (revenues below \$3.5 million per year). They fish in the U.S. exclusive economic zone most of the year for small pelagic fish (Pacific sardine, Pacific mackerel) and for market squid in the winter. However, some small vessels harvest tuna seasonally when they are available, usually late in the summer and early fall. The proposed time/area closure should have little effect on small vessels because there is little tuna fishing by small vessels in that time/area stratum. The small vessel fleet should not be affected by the time/area closure as the closed waters are out of the range of almost all the small vessels. In addition, the small vessels will be able to target market squid or sardine in December as is their normal pattern. As a result, an Initial Regulatory Flexibility Analysis was not prepared.

Authority: 16 U.S.C. 951–961 and 971 *et seq.*

Dated: November 4, 2003.

William T. Hogarth,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 110303A]

RIN 0648–AR35

Fisheries off West Coast States and in the Western Pacific; Notice of Availability of FMP Amendment

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council (Pacific Council) has submitted

Amendment 16–2 to the Pacific Coast Groundfish Fishery Management Plan (FMP) for Secretarial review.

Amendment 16–2 would amend the FMP to include overfished species rebuilding plans for lingcod, canary rockfish, darkblotched rockfish, and Pacific ocean perch (POP). Amendment 16–2 is intended to address the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to protect and rebuild overfished species managed under a Federal FMP. Amendment 16–2 is also intended to partially respond to a Court order in which NMFS was ordered to provide Pacific Coast groundfish rebuilding plans as FMPs, FMP amendments, or regulations, per the Magnuson-Stevens Act.

DATES: Comments on Amendment 16–2 must be received on or before January 6, 2004.

ADDRESSES: Comments on Amendment 16–2 or supporting documents should be sent to D. Robert Lohn, Administrator, Northwest Region, National Marine Fisheries Service, Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070, attn: Becky Renko

Copies of Amendment 16–2 and the Environmental Impact Statement/Regulatory Impact Review/Initial Regulatory Flexibility Analysis for the amendment are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT:

Becky Renko (Northwest Region, NMFS), phone: 206–526–6150; fax: 206–526–6736 and e-mail: becky.renko@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the internet at the website of the Office of the Federal Register: <http://www.gpoaccess.gov/fr/index.html>.

Background

The Magnuson-Stevens Act requires each regional fishery management council to submit fishery management plans or plan amendments to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires NMFS, immediately upon receiving a fishery management plan or plan amendment, to publish notification in the **Federal Register** that the fishery management plan or plan amendment is available for public review and comment. At the end of the comment period, NMFS considers the public comments received during the

comment period described above in determining whether to approve, partially approve, or disapprove the fishery management plan or plan amendment.

NMFS declared the POP and lingcod stocks overfished on March 3, 1999. This was followed by canary rockfish, which was declared overfished on January 4, 2000 (65 FR 221) and darkblotched rockfish, which was declared overfished on January 11, 2001 (66 FR 2338). Because the spawning stock biomass levels for these stocks were determined to be below the minimum stock size threshold defined by the FMP, rebuilding plans had to be implemented to return the stocks to their maximum sustainable yield biomass levels (target biomass). Amendment 16–2, would revise the FMP to include overfished species rebuilding plans for lingcod, canary rockfish, darkblotched rockfish, and POP.

The rebuilding plans being adopted under Amendment 16–2 were approved by the Pacific Council at its June 2003 meeting. These rebuilding plans specify rebuilding parameters for individual stocks and are intended to address the Magnuson-Stevens Act requirement to protect and rebuild overfished species, in particular National Standard 1 on overfishing and section 304(e). When making the recommendation to implement these rebuilding plans, the Pacific Council sought to balance the rebuilding risks to each stock with the short and long-term socio-economic costs borne by groundfish buyers, commercial harvesters, and recreational operators as a result of constraining the fisheries to reduce total mortality of these overfished species.

On August 18, 2003 (68 FR 49415), NMFS published a notice of availability for Amendment 16–1 to the FMP. Amendment 16–1 will amend the FMP to require that Pacific Coast groundfish overfished species rebuilding plans be added into the FMP via FMP amendment, and then implemented through Federal regulations. For each approved overfished species rebuilding plan, the following parameters are to be specified in the FMP: estimates of unfished biomass and target biomass, the year the stock would be rebuilt in the absence of fishing, the year the stock would be rebuilt if the maximum time period permissible under the National Standard Guidelines were applied, and the target year in which the stock would be rebuilt under the adopted rebuilding plan.

As required by the standards proposed in Amendment 16–1, the rebuilding plans under Amendment 16–2 for lingcod, canary rockfish, darkblotched rockfish, and POP include estimates of unfished biomass and target biomass, the year the stock would be rebuilt in the absence of fishing, the year the stock would be rebuilt if the maximum time period permissible under the National Standard Guidelines were applied, and the target year in which the stock would be rebuilt under the adopted rebuilding plan for each species. Amendment 16–2 would add these parameters to section 4.5.4. of the FMP. Other relevant information on each of these overfished stocks, such as stock distribution, fishery interaction, and the rebuilding strategy would also be added to section 4.5.4 of the FMP. The information described above would be included in the FMP to serve as management benchmarks.

NMFS plans to publish a proposed rule that would codify in Federal regulations the two rebuilding parameters needed to establish annual or biannual optimum yields (OYs). These parameters are the target year for rebuilding and the harvest control rule that is to be used during the rebuilding period. The target rebuilding year is the year the stock will have been rebuilt under the adopted rebuilding plan. The harvest control rule expresses a given fishing mortality rate that is to be used over the course of rebuilding, unless modified in a subsequent rulemaking.

An approved rebuilding plan will be implemented through setting OYs and establishing management measures necessary to maintain the fishing mortality within the OYs to achieve objectives related to rebuilding requirements.

Public comments on Amendment 16–2 must be received by January 6, 2004, to be considered by NMFS in the decision whether to approve, disapprove, or partially approve amendment 16–2. A proposed rule to implement Amendment 16–2 has been submitted for Secretarial review and approval. NMFS expects to publish and request public comments on proposed regulations to implement Amendment 16–2 in the near future.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 4, 2003.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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