

be limited to the contract's allocable share of the contractor's total IR&D/B&P expenditures. In pricing contracts for such foreign military sales—

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4. Section 225.7303-5 is added to read as follows:

225.7303-5 Acquisitions wholly paid for from nonrepayable funds.

(a) In accordance with 22 U.S.C. 2762(d), foreign military sales wholly paid for from funds made available on a nonrepayable basis shall be priced on the same costing basis with regard to profit, overhead, IR&D/B&P, and other costing elements, as is applicable to acquisitions of like items purchased by DoD for its own use.

(b) Direct costs associated with meeting a foreign customer's additional or unique requirements will be allowable under such contracts. Indirect burden rates applicable to such direct costs shall be permitted at the same rates applicable to acquisitions of like items purchased by DoD for its own use.

(c) A U.S. defense contractor may not recover costs incurred to implement its offset agreement with a foreign government or international organization if the organization if the foreign military sale Letter of Offer and Acceptance is financed with funds made available on a nonrepayable basis.

[FR Doc. 96-10542 Filed 4-29-96; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 663

[Docket No. 951227306-6117-02; I.D. 121295C]

Foreign Fishing; Pacific Coast Groundfish Fishery; Annual Specifications; and Correction

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

ACTION: Final 1996 groundfish fishery specifications for Pacific whiting and correction.

SUMMARY: NMFS announces the 1996 fishery specifications for Pacific whiting in the U.S. exclusive economic zone (EEZ) and state waters off the coasts of Washington, Oregon, and California as authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP). The specifications include the level of the acceptable biological catch

(ABC) and harvest guideline, including the distribution between domestic and foreign fishing operations. The intended effect of this action is to establish allowable harvest levels of Pacific whiting based on the best available scientific information. Corrections are also made to Table 1 in the annual specifications and management measures for the Pacific coast groundfish fishery.

EFFECTIVE DATE: May 15, 1996, until the effective date of the 1997 annual specifications and management measures, which will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Northwest Region, NMFS) 206-526-6140; or Rodney R. McInnis (Southwest Region, NMFS) 310-980-4040.

SUPPLEMENTARY INFORMATION: The FMP requires that fishery specifications for groundfish be evaluated each calendar year, that harvest guidelines or quotas be specified for species or species groups in need of additional protection, and that management measures designed to achieve the harvest guidelines or quotas be published in the Federal Register and made effective by January 1, the beginning of the fishing year. This was done for the 1996 groundfish fishery (61 FR 279, January 4, 1996), with one exception, Pacific whiting (whiting). Final specifications for whiting were not announced because the Pacific Fishery Management Council (Council), which makes management recommendations to NMFS, decided to delay its consideration until 1995 hydroacoustic survey information could be included in the assessment on whiting and the new results reviewed. Consequently, preliminary specifications for whiting were announced concurrent with the final specifications for other groundfish species. As in the past, the specifications include fish caught in state ocean waters (0-3 nautical miles (nm) offshore) as well as fish caught in the EEZ (3-200 nm offshore).

In 1994, the ABC for whiting was substantially higher than in previous years, primarily because it was based on data from the 1992 hydroacoustic survey that utilized new, more sensitive equipment, and extended farther offshore and farther north to encompass the species' range. To provide for cautious exploitation until the 1992 survey results could be confirmed, a conservative harvest rate policy was adopted in 1994 and 1995 to minimize the risk to the resource if the ABC is later found to be too high. Because initial results of the recent 1995 survey

were favorable, the Council initially supported resumption of the moderate exploitation rate in 1996. When applied to the previous year's stock assessment, this resulted in a preliminary ABC recommendation of 123,000 metric tons (mt) for the U.S. and Canada combined. The Council also recommended that the preliminary U.S. harvest guideline continue at 80 percent (98,400 mt) of the ABC. When the preliminary specifications were announced, NMFS indicated that the final specifications could be higher or lower, depending on the information resulting from the new survey and stock assessment on whiting.

At its March 1996 meeting in Portland, OR, the Council reviewed the new stock assessment, which indicated that the biomass of 3-year-old whiting was 60 percent greater than expected, and that a moderate abundance of 2-year-old fish will be recruited to the fishery in 1996. However, the Council recommended delaying the return to the moderate exploitation rate until resolution of new questions concerning the correct hydroacoustic target strength used in estimating biomass. The target strength calibrates the hydroacoustic survey data into absolute biomass of whiting. Even so, by applying the conservative exploitation rate to the new stock assessment, the Council's final ABC recommendation (U.S. and Canadian combined) of 265,000 mt is 42,000 mt higher than the 1995 ABC of 223,000 mt and more than double the preliminary ABC of 123,000 mt. (Under the new stock assessment, a moderate exploitation rate would have led to a 1996 ABC of 369,000 mt.)

The Council also confirmed its preliminary recommendation to set the U.S. harvest guideline at 80 percent of the U.S.-Canadian ABC. Therefore, the final U.S. harvest guideline is 212,000 mt for 1996. If Canada adopts the same ABC and calculates its share as 30 percent of the total catch, as in the recent past, the U.S.-Canadian ABC will be exceeded by about 14 percent. These overages have not caused a biological problem, particularly given the large increase in the ABC in 1994 and use of the conservative exploitation rate in 1994-96. The total harvest will not reach the overfishing level. Bilateral discussions with Canada are expected to continue.

The whiting harvest guideline in 1996 is designated entirely for domestic harvesting and processing, and there is no surplus for joint venture or foreign fishing operations.

Public comments on the preliminary whiting specifications were requested through February 5, 1996, but none were received. Whiting caught in 1996

before the effective date of this action will be counted toward the new harvest guideline.

Other Changes to the Whiting Fishery

The start of the regular whiting season north of 42° N. lat. is changed from April 15 to May 15 (61 FR 16402, April 15, 1996). In addition, NMFS has proposed a framework regulation for implementing the treaty rights of certain Washington State coastal treaty Indian tribes and presented options for an

allocation to the Makah tribe in 1996 (61 FR 10303, March 13, 1996). This proposal also appears in a separate Federal Register document, and is not yet approved. Other specifications and management measures announced at (61 FR 279, January 4, 1996) or at 50 CFR part 663 are not changed by this action except as corrected.

Correction of Publication

In the publication of the annual specifications and management

measures on January 4, 1996 (I.D. 121295C), in the table on page 280, under "roundfish," the entry for pacific whiting, under "rockfish," the entries thornyheads, yellowtail, and the text of footnotes d and n at the end of the table are corrected as set forth. For the convenience of the user, the table is revised to include these changes to read as follows:

BILLING CODE 3510-22-W

Table 1. 1996 Specifications of Acceptable Biological Catch (ABC), Harvest Guidelines, and Limited Entry and Open Access Allocations, by International North Pacific Fisheries Commission (INPFC) subareas

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC) (x 1,000 mt)						Harvest Guideline (x 1,000 mt)	Allocations (x 1,000 mt)				
	Vancouver a/	Columbia	Eureka	Monte- rey	Concep- tion	Total ABC		Limited Entry		Open Access		
								1000 mt	%	1000 mt	%	
Roundfish:												
Lingcod b/	1.3		0.3	0.7	0.1	2.4	2.4	1.21	80.9	0.29	19.1	
Pacific cod	3.2		c/	c/	c/	3.2	--	--	--	--	--	
Pacific whiting d/			265.0			265.0	212.0	--	--	--	--	
Sablefish e/ f/		8.7			0.425	9.1	7.8	6.557	93.4	0.463	6.6	
Jack mackerel g/		52.6			--	52.6	52.6	--	--	--	--	
Rockfish:												
POP h/	0.0	0.0	c/	c/	c/	0.0	0.75	--	--	--	--	
Shortbelly			23.5			23.5	23.5	--	--	--	--	
Widow i/			7.7			7.7	6.5	6.26	96.3	0.24	3.7	
Thornyheads:			8.0		-	8.0	--	--	--	--	--	
Shortspine e/j/			1.0		-	1.0	1.5	1.496	99.75	0.004	0.25	
Longspine e/k/			7.0		-	7.0	6.0	--	--	--	--	

(Table 1. continued)												
	ACCEPTABLE BIOLOGICAL CATCH (ABC) (x 1,000 mt)								Allocations (x 1,000 mt)			
Species	Vancouver a/	Columbia	Eureka	Monte-rey	Concep-tion	Total ABC	Harvest Guideline (x 1,000 mt)	Limited Entry			Open Access	
								1000 mt	%	1000 mt	%	
Sebastes complex: k/	11.9			13.2		11.9 N 13.2 S	11.2 N 13.2 S	10.12 8.76	90.4 67.4	1.08 4.24	9.6 32.6	
Bocaccio l/	c/	c/		1.7		1.7	1.7	1.01	67.4	0.49	32.6	
Canary m/	1.0		0.25	c/	c/	1.25	0.85	0.78	91.2	0.07	8.8	
Chilipepper	c/	c/		4.0		4.0	--	--	--	--	--	
Yellowtail n/	1.19	2.97	2.58	c/	c/	6.74	3.59 N 2.58 S	3.25 2.33	90.4 90.4	0.35 0.25	9.6 9.6	
Remaining rockfish	0.8	3.7		7.0		11.5	--	--	--	--	--	
Flatfish:												
Dover sole e/o/	0.82-1.57	3.0	2.9	3.16-4.36	1.0	10.88-12.83	11.05 WOC 2.85 Col	--	--	--	--	
English sole	2.0			1.1		3.1	--	--	--	--	--	
Petrals sole	1.2		0.5	0.8	0.2	2.7	--	--	--	--	--	
Arrowtooth flounder			5.8			5.8	--	--	--	--	--	
Other flatfish	0.7	3.0	1.7	1.8	0.5	7.7	--	--	--	--	--	
Other fish p/	2.5	7.0	1.2	2.0	2.0	14.7	--	--	--	--	--	

- a/ U.S. Vancouver only, except for Pacific whiting
- b/ The lingcod stock assessment covers the entire Vancouver INPFC area, including Canada, and the Columbia subarea north of Cape Falcon. The U.S. ABC is based on 50 percent of the ABC for this assessment area plus 400 mt for the Columbia subarea south of Cape Falcon. The coastwide harvest guideline equals the sum of the ABCs and includes a recreational harvest of 900 mt. The limited entry and open-access percents are applied only to the commercial portion of the harvest guideline, which is 1,500 mt (the 2,400 mt harvest guideline minus 900 mt for estimated recreational harvest).
- c/ These species are not common nor important in the areas footnoted. Accordingly, for convenience, Pacific cod is included in the "other fish" category for the areas footnoted, and rockfish species are included in the "remaining rockfish" category for the areas footnoted only.
- d/ The ABC is coastwide, including Canadian waters. The U.S. harvest guideline is set at 80 percent of the U.S./Canada ABC. The allocation to Washington coastal treaty tribes will be determined in a separate rulemaking. The 40 percent reserve for shore-based processing will be based on the commercial portion of the harvest guideline (the U.S. harvest guideline minus the tribal allocation).
- e/ Dover sole, thornyheads, and trawl-caught sablefish are managed together as the "DTS complex" (formerly called the deepwater complex). There is no harvest guideline for the DTS complex.
- f/ The 7,800 mt sablefish harvest guideline is the 8,700 mt ABC north of the Conception subarea (north of 36° N. latitude) reduced by 900 mt for estimated discards. The 7,800-mt harvest guideline is reduced by 780 mt for the treaty tribes before dividing the remaining 7,020 mt between the limited entry (6,557 mt) and open-access (463 mt) fisheries. The limited entry allocation is further allocated 58 percent (3,803 mt) to the trawl fishery, and 42 percent (2,754 mt) to the nontrawl fishery, both of which are harvest guidelines.
- g/ Only jack mackerel north of 39°00' N. latitude are managed by the FMP. The ABC and harvest guideline include area beyond 200 nm.
- h/ The POP harvest guideline for landed catch applies to the Vancouver/Columbia subareas combined.
- i/ The 6,500 mt harvest guideline for widow rockfish is derived by subtracting 16 percent for estimated discards (1,200 mt) from the ABC (7,700 mt).
- j/ The thornyhead ABCs and harvest guidelines apply north of Point Conception, CA. The harvest guideline represents landed catch. Limited entry and open-access allocations are set for the first time for shortspine thornyheads because open-access harvest has exceeded traditional levels during the 1984-1988 window period.
- k/ The Sebastes-North harvest guideline (11,200 mt) applies to the Vancouver and Columbia subareas and equals the sum of the ABCs as follows: canary (1,000 mt), yellowtail rockfish (6,740 mt coastwide minus 300 mt for the Eureka subarea), and remaining rockfish (4,500 mt), minus 720 mt for estimated discards (150 mt for canary rockfish and 570 mt for yellowtail rockfish north of Cape Lookout). Within the Sebastes-North harvest guideline are two small harvest guidelines for commercial harvest of black rockfish by the Makah, Quileute, Hoh, and Quinault Indian tribes: 20,000 pounds (9,072 kg) for the EEZ north of Cape Alava (48°09'30" N. latitude) and 10,000 pounds (4,536 kg) between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude). The Sebastes-South harvest guideline is the sum of the ABCs for the species in the Eureka/Monterey/Conception subareas: bocaccio (1,700 mt), canary (250 mt), chilipepper (4,000 mt), yellowtail rockfish (300 mt), and remaining rockfish (7,000 mt).
- l/ The bocaccio harvest guideline applies to the Eureka, Monterey, and Conception subareas; as trip-limit induced discards are believed to be minimal, there is no deduction for discards. The open-access and limited entry allocation percentages for bocaccio are applied only to the commercial portion of the harvest guideline, which is 1,500 mt in 1995 (1,700 mt harvest guideline minus 200 mt estimated recreational harvest).
- m/ The canary rockfish harvest guideline for the Vancouver/Columbia area is the sum of the ABCs minus 150 mt for estimated discards.

- n/ The 1993 yellowtail rockfish assessment addressed three separate areas: U.S. Vancouver; Columbia north of Cape Falcon; and Columbia south of Cape Falcon plus Eureka. For this table, the 2,970 mt Columbia ABC is for north Columbia only, and the Eureka ABC is for the Eureka subarea plus south Columbia. The total ABC for yellowtail rockfish is divided into two harvest guidelines: 3,590 mt for the northern area (4,160 mt for Vancouver plus Columbia north of Cape Lookout, close to Cape Falcon minus 570 mt for discards) and 2,580 mt for the southern area (Eureka plus Columbia area south of Cape Lookout). The harvest guidelines for the Sebastes complex apply to different areas, north and south of the Columbia/Eureka border at 43°00'00" N. latitude. For calculating the Sebastes complex harvest guidelines, 300 mt of yellowtail rockfish is estimated for the Eureka subarea. Therefore, 300 mt of the yellowtail rockfish southern harvest guideline is included in the southern Sebastes complex harvest guideline, and the remainder of the yellowtail rockfish southern harvest guideline is included in the northern Sebastes complex harvest guideline.)
- o/ The 11,050 mt coastwide harvest guideline for Dover sole (the upper end of the ABC range for the Vancouver subarea and the lower end of the ABC for the Monterey subarea (which are the recent average catches in those two subareas), plus the ABCs for the Columbia, Eureka and Conception subareas, minus 580 mt for estimated discards. The coastwide harvest guideline includes a 2,850 mt harvest guideline for the Columbia subarea (3,000 mt ABC minus 150 mt estimated discards).
- p/ Includes sharks, skates, rays, ratfish, morids, grenadiers, and other groundfish species noted above in footnote c/.

Classification

The final specifications and management measures for 1996 are issued under the authority of the Magnuson Fishery Conservation and Management Act and are in accordance with 50 CFR parts 611 and 663, the regulations implementing the FMP.

NMFS finds good cause, pursuant to 5 U.S.C. 553(d)(3), to waive a portion of the 30-day delay in effectiveness, so that this rule may become effective before the fishery begins on May 15, 1996. The

initial whiting specifications were announced January 4, 1996 (61 FR 27), and explained clearly to the public that the harvest guideline might be adjusted later by notice in the Federal Register. This final rule is that notice. Since this action has been publicized widely through the Council process, the industry is aware of the increase and would be hurt if the final specifications were not effective on May 15. Since the at-sea processing sector is capable of taking its share of the harvest guideline

within less than a month, delaying full releases of the harvest guideline may cause an unnecessary disruption in fishing. Therefore, it would be contrary to the public interest to delay the effectiveness of the rule beyond the start of the fishery.

Dated: April 23, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 96-10663 Filed 4-29-96; 8:45 am]

BILLING CODE 3510-22-W