

MAR 1 2004



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

Mr. Donald Hansen, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place
Portland, OR 97220

Dear Mr. Hansen:

In our January 8, 2004, proposed rule to implement the Council's recommendations for the 2004 groundfish specifications and management measures, NMFS announced that the 2002 lingcod harvest levels had exceeded the lingcod Acceptable Biological Catch (ABC). Under the Groundfish Fishery Management Plan (FMP,) ABCs are set at F_{MSY} . Fishing at a level that exceeds the MSY harvest rate is considered overfishing under the Magnuson-Stevens Act. Preliminary data for 2003 indicate that lingcod were also harvested at an overfishing rate in 2003.

As NMFS stated in the preamble to its proposed rule, lingcod overfishing has been largely due to excessive harvest levels in the California recreational fisheries. For 2002, recreational lingcod landings are estimated to have been 612 mt, exceeding the amount set aside for the recreational fisheries take by 286 mt. About 78 percent of the 2002 recreational fisheries lingcod landings were made into California ports, with the bulk of those landings occurring north of Point Conception, 34°27' N. lat.

In late January 2004, NMFS reviewed the available fisheries data for 2003 and began discussions with the California Department of Fish and Game (CDFG) about curtailing the 2004 California recreational fisheries harvests. By mid-February and in preparation for the NMFS 2004 groundfish specifications and management measures final rule, CDFG had proposed regulatory revisions for the California recreational lingcod fisheries intended to reduce the lingcod harvest rate. CDFG recommended increasing the lingcod size limit to 30 inches and reducing the bag limit from 2-fish to 1-fish. The state had calculated that, with an anticipated January-March 2004 lingcod catch of 31 mt, their regulatory recommendations for April-December 2004 would result in the California recreational fisheries 2004 take of lingcod being 291 mt. The Council's 2004 estimate for the California recreational fisheries lingcod take is 346.8 mt. If California's recreational fisheries catch stays at or below 291 mt, the remaining 55.8 mt should serve as a buffer against hooking mortality and other unanticipated sources of mortality.

Effective April 1, 2004, recreational vessels operating off the coast of California will be subject to a 30-inch size limit and a 1-fish bag limit for lingcod under Federal regulations. The California Fish and Game Commission (Commission) will be discussing this issue at its March 4-5, 2004 meeting. NMFS expects that the Commission will revise State regulations to conform to Federal regulations and that a State emergency regulation to conform will be implemented by April 1, 2004. If the Commission does not proceed with this emergency action, NMFS would need to respond immediately with more drastic Federal action, perhaps including pre-emption of state fishery management authority.

NMFS appreciates the Council's ongoing efforts to rebuild overfished groundfish species and to work with the states and NMFS to keep harvests at levels that will support rebuilding.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Robert Lohn".

607 D. Robert Lohn
Regional Administrator