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**Exhibit E.4.b.
Supplemental Revised CDFG Report
March 2004**

**REVISED STATEMENT on 2004 Inseason Changes for California's
Recreational Fishery for Presentation at March 2004 Council Meeting**

**State Changes to 2004 Recreational Groundfish Regulations Approved
Prior to March 2004 Council Meeting**

At the November 2003 Council meeting, the RecFIN catch estimates from Wave 4 (July – August) in California were considerably higher than anticipated and resulted in the cumulative coastwide landings for lingcod, canary, and the minor nearshore rockfish to exceed the annual coastwide OYs. In addition, coastwide landings for lingcod exceeded the ABC, resulting in coastwide closure of all groundfish fisheries.

Following the November Council meeting, CDFG proposed changes to the California groundfish regulations approved for 2004. The changes adopted by the Fish and Game Commission at its March 4-5, 2004 meeting are as follows.

1. Increase the number of recreational fisheries that the California Department of Fish and Game is authorized to close with 10-day notice when an annual harvest limit for lingcod, rockfish or a subgroup of rockfish, cabezon, and/or California scorpionfish has been exceeded or is projected to be exceeded prior to the end of the year. The new regulation includes all federally-managed groundfish species to enable CDFG to take conforming emergency action following federal inseason action. Also allows the Department of Fish and Game to close the fisheries for either the remainder or part of the remainder of the year.
2. Modify bag limits north of 40°10' N. lat. to match bag limits south of 40°10'.
 - a. The bag limit was formerly 10 rockfish, 10 cabezon, 10 kelp greenling, and 10 rock greenling
 - b. The regulation change establishes a bag for cabezon, greenlings, and all rockfish, and a sub-bag limit of 3 cabezon and 2 greenling.
3. Eliminate the 2-fish sub-bag limit for shallow nearshore rockfish within the bag limit for the rockfish-cabezon-greenlings (RCG) complex. This action was taken because the nearshore sub-bag limit adopted for 2003 did not function as anticipated and instead resulted in a substantial increase in discard rates of nearshore rockfish, notably gopher rockfish, which are attributable to the regulation.

4. Establish recreational boat limits coastwide (with individual bag limits for CPFV crew).

Attachment 1 provides a summary of these actions. California requests that the Council recommend to NMFS to change the federal rule inseason to reflect the bag limit and sub-limit changes, to have consistency between state and federal regulations.

State and Federal Actions in Response to Lingcod Overages in the CA Recreational Fishery taken from November 2003 to March 5, 2004

No changes to state lingcod regulations were proposed initially as part of the bag limit/sublimit change package already described. When the state actions listed above were taken following the November 2003 Council meeting, only Wave 4 data was available, and it was not apparent at that time what changes might be necessary to ensure that catches of lingcod in California remain at or within the coastwide allowable harvest levels set by the Council.

Because of the overfishing of lingcod in these two years, and because regulations are less restrictive in 2004 relative to 2003, NMFS and others expressed concern that the ABC would be exceeded again in 2004 if new restrictions were not imposed on California's recreational fishery. Because NMFS viewed this as a resource emergency, they indicated to the CDFG that additional restrictions for lingcod would have to be added to the final 2004 rule.

Discussions between NMFS and CDFG staff resulted in a proposal from CDFG to NMFS between to restrict take by increasing the recreational minimum size limit to 30" (fillet size 21") and reducing the bag limit to one lingcod. The commercial size limit remains at 24 inches. A copy of the letter summarizing data analysis for this action is contained in Attachment 2.

- NMFS added these restrictions to the 2004 final rule published on March 1, 2004, with an expected effective date of April 1, 2004.
- At its March 4-5 meeting, the Fish and Game Commission postponed emergency action for conformance until Council action was taken at the March 2004 Council meeting concerning lingcod and new stock assessment results.
- The CDFG and Commission decided to notify the public of potential changes to recreational lingcod regulations for 2004. A copy of the News Release is attached (Attachment 3).

Re-calculation of data analysis used to determine a 30-inch size limit:

Since the time analysis was submitted to NMFS on February 18, 2004, the CDFG has identified an error in the base catch data used in the projections. A recalculation of the projections are provided in this report, which projects that a recreational 30-inch minimum size and 1-fish limit, while still remaining within the California recreational catch target of 346.8 mt, would come closer to the target than previously known, reducing the precautionary buffer between projected catch and target.

An alternative to the lingcod regulations published in the final rule has been analyzed by the CDFG in response to biological considerations and constituent input. The alternative proposes a closed spawning season be added to the bag limit of 1 fish, beginning November 1 (to continue to April 15, 2005 if approved under 05-06 management options); and allows for a minimum size limit less than 30 inches, based on catch savings achieved from a November-December closure.

Analysis contained in Attachment 4 reflects projected catches relative to different minimum size limits in combination with the 1-fish bag and a closed spawning season. The table compares projected catch to the recreational target for California, which results in buffers between the target and catch at 26 inches and above. Increasing buffers reflect more risk-averse options relative to the risk of premature closure for lingcod and other associated fisheries if catches exceed projections.

This alternative provides biological protection to lingcod during spawning and nest-guarding in the southern stock area, which has a lower rate of recovery than the northern part of the stock, and reduces the fishing pressure on larger more fecund females compared to a 30" min size. The change in recreational size limit would increase the retention rate of lingcod during open months and may decrease time on the water relative to 30 inches.

Attachment 4 provides analysis for both options. California requests that the Council consider the two lingcod options for inseason action, and consider which size limit to apply within the second option, if selected.

Finally, complete RecFIN recreational catch data for all species of concern are now available for 2003, and are attached for your information (Attachment 5). California continues to work with RecFIN concerning the 2003 estimates contained in RecFIN but at this point no revisions to the numbers have been made.

