

C.7.b. Supplemental GMT Report, April 2001, 6 pp.” should read: “Pacific Fishery Management Council, Groundfish Management Team (GMT) Report on Status of Fisheries and Inseason Adjustments, Exhibit C.7.b. Supplemental GMT Report, April 2004, 6 pp.”; and “Pacific Fishery Management Council, Groundfish Management Team (GMT) Report on Inseason Adjustments, Exhibit C.7.b. Supplemental GMT Report 2, April 2001, 2 pp.” should read “Pacific Fishery Management Council, Groundfish Management Team (GMT) Report on Inseason Adjustments, Exhibit C.7.b. Supplemental GMT Report 2, April 2004, 1 pp.”

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting Those Considerations:

- (1) Neal Williams, June 25, 2004 Commission meeting.
 - (a) Recommends requiring all anglers to keep the first two lingcod they catch that are between 22 inches and 30 inches in length.
 - (b) Opposes the 30-inch size limit, because it targets reproductive-sized fish.

Department's response:

- (a) The Department and the Pacific Fishery Management Council's Groundfish Management Team considered various size limits, bag limits, and seasonal closures to achieve the required reduction in the recreational harvest of lingcod in California. A two-fish bag limit and a 22-30 inch slot limit would not achieve the required reduction in recreational catch.
 - (b) Most lingcod are sexually mature at 30 inches total length (100 percent of the males and over 90 percent of the females). However, to reduce the catch and still keep the fishery open, it was necessary to increase the size limit and reduce the bag limit. If the size limit remained at 24 inches, it would have been necessary to close the recreational fishery for a longer period of time than is proposed.
- (2) Peggy Townsend, June 25, 2004 Commission meeting.
 - (a) Opposes the 30-inch size limit, because it targets reproductive-sized fish.
 - (b) Stated that the commercial fishery doesn't have any limits (for example, size and bag limits). Questioned why action was being taken to limit the recreational fishery and not the commercial fishery.

Department's response:

- (a) See the Department's response (1)(b), above.
- (b) Size limits, trip limits, and closed periods are used to control the take of the commercial fishery. The lingcod stock off the coast of California, Oregon and Washington has been declared overfished and is managed under a rebuilding plan. A key element of the lingcod rebuilding plan is

to constrain catches to an established harvest limit (optimum yield or OY). Both the commercial and recreational fisheries have been allotted a portion of the OY. The state proposed changes to the recreational fishing regulation, because catch data indicates that the recreational fishery will exceed its allotment if the state doesn't change the existing recreational regulations. In 2002 and 2003 the recreational fishery exceeded its allotment. The commercial fishery did not exceed its allotment. In fact, the commercial fishery was closed in 2003, because the recreational fishery far exceeded its limit (recreational catches were estimated to be nearly five times the recreational allotment).

- (3) Ted Souza, June 25, 2004 Commission meeting.
Supports the 30-inch size limit, because it will help rebuild the stock faster.

Department's response:
The Department agrees.

- (4) Herb Townsend, June 25, 2004 Commission meeting.
Questioned whether the Commission was informed that the commercial fishing regulations were not being changed.

Department's response:
This rulemaking only concerned recreational fishing regulations. The intent of the proposed regulations is to reduce the likelihood that the recreational fishery will exceed its allotment, as it did in 2002 and 2003. The commercial fishery has not exceeded its allotment, and the commercial catch is closely monitored. The Pacific Fishery Management Council, which regulates the commercial fishery, will use its in-season authority to reduce trip limits or close the commercial fishery if it projects that the commercial fishery will exceed its allotment.

- (5) Janis Buikema, June 24 and 25, 2004 Commission meeting, and letter dated June 24, 2004.
- (a) Opposes the 30-inch size limit, because it targets reproductive-sized fish, and because the commercial size limit is 24 inches. States that the recreational and commercial size limits should be the same.
 - (b) Appears to oppose the one fish bag limit, because the commercial limit is higher.
 - (c) Opposes the requirement for fishing with a barbless hook when fishing for salmon.
 - (d) Recommends requiring recreational anglers to keep the first two salmon that they catch.
 - (e) States that black rockfish are not endangered.
 - (f) States that the fishing regulations are full of contradictions.

Department's response:

- (a) See Department responses (1)(b), (2)(b), and (4), above.
- (b) See Department response (2)(b), above.
- (c) Comment noted; comment not within the scope of this rulemaking.
- (d) Comment noted; comment not within the scope of this rulemaking.
- (e) Comment noted; comment not within the scope of this rulemaking.
- (f) Comment noted; comment not within the scope of this rulemaking.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VIII. Location of Department Files:

Department of Fish and Game
1416 Ninth Street
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

Various size limits and seasonal closures were considered by the Council's Groundfish Management Team to achieve the required reduction in the recreational harvest of lingcod in California.

(b) No Change Alternative:

If the Commission does not adopt the proposed regulations, it is likely that the harvest limit for lingcod will be exceeded. If the harvest limit is exceeded, then federal stock rebuilding goals will not be met, which could lead to further decline in the status of the lingcod population. The lingcod stock off the coast of California, Oregon and Washington has been formally designated as overfished by NMFS and is currently managed under a rebuilding plan to achieve recovery of the population. A key element of the lingcod rebuilding plan is to constrain catches to specified harvest limits. In addition, if the Commission does not adopt the proposed regulations, state and federal regulations would differ, creating confusion for the public and difficulty for Department enforcement staff.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

X. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

It is anticipated that the proposed regulations will reduce recreational take of lingcod in California. The proposed regulations are expected to have a coastwide economic impact affecting business, although they are not expected to significantly affect the ability of California businesses to compete with businesses in other states. The short term losses to businesses are expected to be offset, to some degree, in the long term by improvements in the status (abundance, size, and quality) of lingcod and nearshore fish stocks. Individual sport fishermen and small businesses that service California's ocean sportfishing activities will be primarily impacted. Commercial passenger fishing vessels (CPFVs) that rely in large part on taking passengers fishing for rockfish and lingcod comprise a small-business sector that will be directly impacted, in addition to other businesses which depend on private boat and shore-based recreational angling opportunities such as bait and tackle manufacturers.

California CPFV operators often target rockfish and lingcod during winter months when resident and migratory game fishes are not as active or are unavailable. Information from the National Marine Fisheries Service (NMFS) estimates that anglers aboard CPFVs take roughly 58.4 percent by number of all ocean rockfishes caught by all recreational fishermen in California. Based on an NMFS survey of year 2000 angler expenditures, total party boat charter fees paid annually by resident and nonresident passengers amounted to about \$64.1 million for California. However, few recreational trips are only targeting lingcod. Instead, lingcod are caught in association with rockfish, since recreational fishing usually entails catches of assorted bottom fish species in the aggregate. Consequently, it is difficult to estimate what portion of these expenditures is due exclusively

to availability of lingcod. Given that some recreational take of lingcod will still be allowed under the proposed regulations, and other bag limits for other species of bottom fish will not change, this is not expected to have a significant economic impact on recreational fisheries.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None

Updated Informative Digest/Policy Statement Overview

The Fish and Game Commission (Commission) at its teleconference meeting March 19, 2004 adopted emergency regulations that conformed California's sport fishing regulations for lingcod with the federal recreational groundfish rules adopted by the federal Pacific Fishery Management Council (Council) at its March 7-12, 2004 meeting (50 CFR Part 660). Both the state emergency regulations and the new federal regulations were in effect on April 1, 2004. The federal regulations will be in effect until December 31, 2004 unless modified by the Council. The state emergency regulations will expire on July 31, 2004 if not adopted as permanent. The Department of Fish and Game (Department) is proposing that the regulations adopted by the Commission as an emergency action be made permanent.

The emergency action increased the minimum size limit of lingcod from 24 to 30 inches, increased the fillet size from 16 to 21 inches in length, reduced the bag limit from two to one fish per person, and prohibited retention of lingcod in the months of November and December for California's recreational fishery.

Updated Regulatory Text

No substantive changes have been made in the originally proposed regulatory language. However, sections 27.60 and 27.82 of Title 14, CCR, have been amended since the Initial Statement of Reasons was submitted. The proposed changes to the regulatory language are shown using the regulations that are currently in effect. Thus, the proposed regulatory text for sections 27.60 and 27.82 has been modified, but the proposed regulatory text for sections 27.67 and 28.27 has not been changed.

Typographical errors were discovered in Section V of the Initial Statement of Reasons.

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The Commission adopted the regulations as proposed at the June 25, 2004 Commission meeting.