

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 660****[I.D. 081103A]****RIN 0648-AR36****Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 16-1**

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 (Council) has submitted Amendment 16-1 to the Pacific Coast Groundfish Fishery Management Plan (FMP) for Secretarial review. Amendment 16-1 would set a process and standards by which the Council will specify rebuilding plans for groundfish stocks declared overfished by the Secretary of Commerce. Amendment 16-1 is intended to ensure that Pacific coast groundfish overfished species rebuilding plans meet the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) in particular National Standard 1 on overfishing and § 304(e), which addresses rebuilding overfished fisheries. Amendment 16-1 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 16-1 must be received on or before October 17, 2003.

ADDRESSES: Comments on Amendment 16-1 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; or to Rodney McInnis, Acting Administrator, Southwest Region, National Marine Fisheries Service, 7700 NE Ambassador Place, Portland, OR 97220, phone: 503-820-2280.

Copies of Amendment 16-1 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) are available from Donald McIsaac, Executive Director, Pacific Fishery

Management Council, 2130 SW Fifth Ave., Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT:

Yvonne deReynier (Northwest Region, NMFS), phone: 206-526-6150; fax: 206-526-6736 and; e-mail: yvonne.dereynier@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's** website at: http://www/access/gpo.gov/su_docs/aces140.html.

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.

Amendment 16-1 would set a process and standards by which the Council will specify rebuilding plans for groundfish stocks declared overfished by the Secretary of Commerce. Amendment 16-1 is intended to ensure that Pacific Coast groundfish overfished species rebuilding plans meet the requirements of the Magnuson-Stevens Act in particular National Standard 1 on overfishing and § 304(e), which addresses rebuilding overfished fisheries. Amendment 16-1 is also intended to partially respond to a Court order in *Natural Resources Defense Council, Inc. v. Evans*, 168 F. Supp. 2d 1149 (N.D. Cal 2001,) in which NMFS was ordered to provide Pacific Coast groundfish rebuilding plans as FMPs, FMP amendments, or regulations, per the Magnuson-Stevens Act. Amendment 16-1 will be followed by Amendment 16-2, which was adopted by the Council at its June 2003 meeting. If approved, Amendment 16-2 would implement rebuilding plans for canary rockfish, darkblotched rockfish, lingcod, and Pacific ocean perch.

Under Amendment 16-1, initial rebuilding plans for overfished species would be incorporated into the FMP via FMP amendments and implemented through Federal regulations. The two

rebuilding parameters that control the establishment of the annual or biennial optimum yield of each overfished species would be codified in the Code of Federal Regulations. If, after a new stock assessment, the Council and NMFS conclude that these should be revised, the revision will be done through a notice and comment rulemaking, and the updated values codified in the Code of Federal Regulations. Amendment 16-1 would also set standards for the frequency of Council review of rebuilding plans such that whenever the species in question has a new stock assessment, the plan will be reviewed for whether it is expected to achieve the population size and structure to support maximum sustainable yield within the plan's rebuilding period. Rebuilding plans would be reviewed at least every 2 years for their effects on fishing communities, for their distribution of conservation burdens, for the need to protect habitat, and for public awareness of rebuilding programs. Individual species rebuilding plans would also identify plan-specific standards for determining whether and when the progress of rebuilding for that particular species has been adequate. Finally, Amendment 16-1 requires that, if a species managed under a rebuilding plan is listed under the Endangered Species Act (ESA), jeopardy standards or a recovery plan under the ESA would take precedence over the rebuilding plan if they were to establish higher rebuilding and/or recovery standards than those in the rebuilding plans. Beyond these substantive revisions to the FMP, Amendment 16-1 also includes a series of lesser, primarily editorial, changes to the FMP. These minor technical additions, corrections, and changes update FMP definitions, update references to management parameters, re-arrange portions of different FMP chapters so that they read more logically, and update different sections of the FMP to require in the FMP, rather than just in Federal regulations, the existing federal observer program for groundfish fisheries.

Public comments on Amendment 16-1 must be received by October 17, 2003, to be considered by NMFS in the decision whether to approve, disapprove, or partially approve Amendment 16-1. A proposed rule to implement Amendment 16-1 has been submitted for Secretarial review and approval. NMFS expects to publish and request public comments on proposed regulations to implement Amendment 16-1 in the near future.

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