

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 205, 265, 275, 702, 7071 and 8587.1 of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 240, 265, 275, 1802, 7071 and 8585.5 of said Code and Title 50, Code of Federal Regulations, Part 660, Subpart G, proposes to amend 27.30, 27.35, 27.40, 27.45, 27.50, 28.27, 28.55, 52.10 and 150.16, Title 14, California Code of Regulations, relating to Recreational and Commercial Fishing Regulations for Federal Groundfish and Associated Species for Consistency with Federal Rules for 2019 and 2020.

Informative Digest/Policy Statement Overview

Biennially, the Pacific Fishery Management Council (PFMC) reviews the status of west coast groundfish populations. As part of that process, it recommends groundfish fisheries harvest limits and regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Pacific Coast Groundfish Fishery Management Plan (FGFMP).

These recommendations coordinate west coast management of recreational and commercial groundfish fisheries in the Exclusive Economic Zone (EEZ) (three to 200 miles offshore) off Washington, Oregon and California. These recommendations are subsequently implemented as federal fishing regulations by the National Oceanic and Atmospheric Administration National Marine Fisheries Service NOAA Fisheries.

Regulatory authority for most nearshore stocks is shared jointly between State and federal governments. For consistency, the California Fish and Game Commission (Commission) routinely adopts regulations to bring State law into conformance with federal law for groundfish and other federally-managed species. Nearshore stocks are managed based on both PFMC-established federal annual catch limits (ACL), and Commission-established total allowable catch (TAC) values. ACLs and TACs serve the same purpose of setting a limit on catch.

Current regulations establish recreational season lengths, depth constraints, methods of take, and size, bag and possession limits within the five groundfish management areas for all federal groundfish and associated species.

Current State regulations also provide for a statewide TAC for cabezon and greenlings of the genus *Hexagrammos* along with allocation of these TACs between the recreational and commercial fishery sectors, and commercial trip limits for cabezon and greenling. Until recently, TACs specified in Title 14 have been lower than the ACLs established in federal regulations. Starting in 2019, the federal ACL for cabezon will be lower than the State TAC.

Modest increases to trip limits can be accommodated under federal ACLs since commercial cabezon and greenling landings have fallen below ACLs in recent years.

Summary of Proposed Amendments

The Department of Fish and Wildlife (Department) is proposing the following regulatory changes to be consistent with PFMC recommendations for federal groundfish regulations in 2019 and 2020. This approach will allow the Commission to adopt State recreational groundfish regulations to timely conform to those taking effect in federal ocean waters in January 2019.

The proposed regulatory changes will implement the following changes:

1. Increase the allowable depth for the recreational groundfish fishery from 60 to 75 fathoms in the Southern Management Area and from 20 to 40 fathoms in the Cowcod Conservation Area;
2. Increase the recreational season length for groundfish in the San Francisco Management Area by two weeks;
3. Increase the recreational season length for California scorpionfish by removing the September 1 to December 31 closure in the Mendocino, San Francisco, Central and Southern Management Areas;
4. Increase the recreational bag limit for canary rockfish from one to two fish statewide;
5. Decrease the recreational bag limit for lingcod from two to one fish in Mendocino, San Francisco, Central, and Southern Management Areas;
6. Replace language referencing numerical values for cabezon and greenling total allowable catch limits with references to federal annual catch limits in federal regulation;
7. Eliminate language referencing allocation limits for cabezon and greenling from Section 52.10; and
8. Increase commercial trip limits to 500 pounds for cabezon and 250 pounds for greenling.

The benefits of the proposed regulations are consistency with federal law, sustainable management of groundfish resources and promotion of businesses that rely on recreational and commercial groundfish fishing.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt fishing regulations (Fish and Game Code, sections 200, 205 and 265). The proposed regulations are consistent with regulations for fishing in marine protected areas (Section 632, Title 14, CCR), with Nearshore Fishery Management Plan regulations (Sections 52.00 through 52.10, Title 14, CCR) and with general fishing regulations in Chapters 1 and 4 of Subdivision 1 of Division 1, Title 14, CCR. Commission staff has searched the California Code of Regulations and has found no other State regulations related to the take of groundfish.

Update to Authority and Reference Citations Based on Recent Legislation

Senate Bill 1473 (Stats. 2016, Ch. 546) made organizational changes to the Fish and Game Code that became effective January 1, 2017. The changes included moving the Commission's exemptions from specified Administrative Procedure Act time frames from Section 202 to Section 265 of the Fish and Game Code, and moving the Commission's effective period procedures from Section 220 to Section 275 of the Fish and Game Code. In accordance with these changes to the Fish and Game Code, sections 202 and 220 are removed from, and sections 265 and 275 are added to, the authority and reference citations for this rulemaking.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Radisson Fresno Conference Center, 1055 Van Ness Avenue, Fresno, California, on Wednesday, October 17, 2018, at 8:00 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the QLN Conference Center, 1938 Avenida del Oro, Oceanside, California, on Wednesday, December 12, 2018, at 8:00 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before 5:00 p.m. on November 29, 2018, at the address given below, or by email to FGC@fgc.ca.gov.

Written comments mailed (to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090), or emailed to the Commission office, must be received before 12:00 noon on December 7, 2018. All comments must be received no later than December 12, 2018, at the hearing in Oceanside, California. If you would like copies of any modifications to this proposal, please include your name and mailing address.

Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Commission's website at www.fgc.ca.gov. The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Sheri Tiemann at the preceding address or phone number. **Laura Ryley, Environmental Scientist, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Ms. Ryley can be reached at (831) 649-7142 or by email at Laura.Ryley@wildlife.ca.gov.**

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action/Results of the Economic Impact Assessment

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 Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The Department anticipates increased opportunities for the recreational and commercial groundfish fishery in 2019-2020 compared to 2018.

- (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; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any significant impacts on the creation or elimination of jobs, the creation of new business, the elimination of existing businesses or the expansion of

businesses in California. The Department anticipates increased opportunities for the recreational and commercial groundfish fishery in 2019-2020 compared to 2018.

The Commission anticipates benefits to the health and welfare of California residents. Participation in sport fisheries opportunities fosters conservation through education and appreciation of California's wildlife.

The Commission does not anticipate any benefits to worker safety.

The Commission anticipates benefits to the environment by the sustainable management of California's sport and commercial fishing resources.

(c) Cost Impacts on a Representative Private Person or Business:

The Commission 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, Government Code: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: September 21, 2018

Valerie Termini
Executive Director