

State of California
Fish and Game Commission
Final Statement of Reasons for Regulatory Action

Amend Sections 27.30, 27.35, 27.45, 28.27, 28.28, 28.54, 28.55, 28.65, 150.16
Title 14, California Code of Regulations

Re: Recreational and Commercial Fishing Regulations for Federal Groundfish and Associated
Species for Consistency with Federal Rules in 2021 and 2022

I. Dates of Statements of Reasons

- (a) Initial Statement of Reasons: July 1, 2020
- (b) Final Statement of Reasons: November 4, 2020

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: June 24-25, 2020

Location: Webinar/Teleconference

(b) Discussion Hearing

Date: August 19-20, 2020

Location: Webinar/Teleconference

(c) Adoption Hearing

Date: October 14, 2020

Location: Webinar/Teleconference

III. Update

At its October 14, 2020 meeting, the California Fish and Game Commission (Commission) adopted the regulations as originally proposed. However, there was a formatting error in the text of the originally proposed regulation in subsection 150.16(e)(6)(A). The proposed November-December cabezon trip limit of "1,000" pounds was not underlined, as it should have been. That underlining is added in the regulatory text attached to this Final Statement of Reasons.

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.

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

No verbal or written comments were received by the Commission during the public notice period.

V. 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, CA 95814

VI. Location of Department Files

Department of Fish and Wildlife
20 Lower Ragsdale Dr., Suite 100
Monterey, CA 93940

VII. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No alternatives were identified by or brought to the attention of Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative

Under the No Change Alternative, state law would be inconsistent with federal law. Inconsistency in regulations will create confusion among the public and may result in laws that are difficult to enforce. Additional opportunity expected to come with the federal regulation changes effective in January 2021 would not be realized.

It is critical to have consistent state and federal regulations establishing harvest limits, season dates, depth constraints and other management measures, and also critical that the state and federal regulations be effective concurrently. Consistency with federal regulations is also necessary to maintain state authority over its recreational and nearshore commercial groundfish fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation and Management Act [16 USC §1856 (b)(1)].

(c) Consideration of Alternatives

In view of information currently possessed, no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

VIII. 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 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

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. No significant changes in fishing effort and fishing expenditures are expected as a direct result of the proposed regulation changes.

- (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. No significant changes in fishing effort and fishing expenditures to businesses are expected as a direct result of the proposed regulation changes.

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 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, Government Code

None

- (h) Effect on Housing Costs

None

Updated 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 (PCGFMP).

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 reviewed by the National Oceanic and Atmospheric Administration (NOAA) Fisheries for legal sufficiency and compliance with the standards of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and other federal laws, and if approved they are subsequently implemented as ocean fishing regulations by 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 PFMC-established federal annual catch limits (ACL).

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 and special gear restrictions for lingcod and groundfish species in the Rockfish/Cabazon/Greenling complex

Current state regulations also include trip limits for the commercial cabezon and greenling fisheries.

Summary of Proposed Amendments

The Department of Fish and Wildlife (Department) is proposing the following regulatory changes to be consistent with PFMC recommendations from its June 18, 2020 meeting for federal groundfish regulations in 2021 and 2022. 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 2021.

The proposed regulatory changes will implement the following changes:

1. Increase the allowable depth for the recreational groundfish fishery in the Mendocino Groundfish Management Area from 20 to 30 fathoms;
2. Increase the allowable depth for the recreational groundfish fishery in the San Francisco Groundfish Management Area from 40 to 50 fathoms;
3. Increase the allowable depth for the recreational groundfish fishery in the Southern Groundfish Management Area from 75 to 100 fathoms;
4. Increase the recreational bag limit for lingcod from one to two fish in the Mendocino, San Francisco, Central, and Southern Groundfish Management Areas;

5. Increase the recreational bag limit for cabezon from three to 10 fish within the RCG bag limit of 10 fish;
6. Increase the recreational bag limit for canary rockfish from two to 10 fish within the RCG bag limit of 10 fish;
7. Increase the recreational bag limit for black rockfish from three to 10 fish within the RCG bag limit of 10 fish;
8. Decrease the recreational bag limit for vermilion rockfish from 10 to five fish within the RCG bag limit of 10 fish;
9. Add method of take restriction for California scorpionfish;
10. Increase commercial trip limits for cabezon from 500 to 1,000 pounds, and greenling from 250 to 500 pounds every two months;
11. Update authority and reference citations.

Benefits of the Proposed Regulations

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.

Consistency and Compatibility with Existing Regulations

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 8587.1). 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, 4 and 6 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:

On October 14, 2020, the Commission adopted the amendments as described in the Notice of Proposed Action to amend sections 27.30, 27.35, 27.45, 28.27, 28.28, 28.54, 28.55, 28.65, and 150.16, Title 14, CCR for consistency with upcoming federal rules governing recreational and commercial groundfish fisheries.

There was a formatting error in the text of the originally proposed regulation in subsection 150.16(e)(6)(A). The proposed November-December cabezon trip limit of “1,000” pounds was not underlined, as it should have been. That underlining is added in the regulatory text attached to this Final Statement of Reasons. There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.