

## **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, 270, 275, 702, 7071, 7710 and 8587.1, of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 265, 270, 275, 1802, 7071, 7710 and 8585.5, Fish and Game Code; Title 50, Code of Federal Regulations, Part 660, Subpart G; and Section 27.20, Title 14, CCR, proposes to amend sections 1.91, 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 27.51, 28.26, 28.27, 28.28, 28.29, 28.47, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58, 28.65 and 28.90, Title 14, California Code of Regulations, relating to recreational fishing regulations for federal groundfish and associated species for 2023 and 2024.

### **Informative Digest/Policy Statement Overview**

Unless otherwise specified, all section references in this document are to Title 14, California Code of Regulations (CCR).

The Pacific Fishery Management Council (PFMC) reviews the status of west coast groundfish populations biennially. As part of that process, it recommends groundfish 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 (three to 200 miles offshore) off Washington, Oregon, and California. These recommendations are subsequently reviewed for implementation as federal fishing regulations by National Oceanic and Atmospheric Administration Fisheries.

Under California law (California Fish and Game Code sections 200, 205, 7071, and 8587.1), the Commission adopts regulations in Title 14, CCR, for the recreational and nearshore commercial groundfish fisheries in state waters zero to three miles from shore. Management authority for most nearshore stocks is shared jointly between state and federal governments in conjunction with the PCGFMP and the Nearshore Fishery Management Plan.

Existing law authorizes the recreational take of groundfish subject to regulations set forth by federal and state authorities. Current regulations establish season lengths, depth constraints, methods of take, as well as size, bag, and possession limits within the five groundfish management areas for all federal groundfish and associated species.

The California Department of Fish and Wildlife is recommending the recreational regulatory changes for federal groundfish be consistent with PFMC recommendations in 2023 and 2024. Other changes are proposed to decouple the recreational regulations for California sheephead and ocean whitefish from those for federal groundfish. This approach will allow the Commission to adopt state groundfish regulations to timely conform to those taking effect in federal ocean waters in January 2023.

The PFMC approved season structures for 2023 and 2024 are a substantial departure from the status quo, in that each management area will incur a significant reduction in fishing time in nearshore waters. The severe reductions are necessary to incorporate the best scientific information available from the 2021 stock assessments for quillback and copper rockfishes off California and the rebuilding analysis for quillback rockfish off California. A new offshore-only fishery for shelf and slope rockfish and lingcod will be available in some areas of the state during certain months.

Proposed recreational seasons and depths for all species of rockfish, lingcod, cabezon, all greenlings of the genus *Hexagrammos* in 2023 and 2024 by management area:

- Northern Groundfish Management Area: Closed January 1 through May 14; Open May 15 through October 15 in all depths; Closed October 16 through December 31.
- Mendocino Groundfish Management Area: Closed January 1 through May 14; Open May 15 through July 15 in waters seaward of the 50 fathom boundary line; Open July 16 through December 31 in all depths.
- San Francisco Groundfish Management Area: Closed January 1 through May 14; Open May 15 through July 15 in waters seaward of the 50 fathom boundary line; Open July 16 through December 31 in all depths.
- Central Groundfish Management Area: Closed January 1 through April 30; Open May 1 through September 30 in all depths; Open October 1 through December 31 in waters seaward of the 50 fathom boundary line.
- Southern Groundfish Management Area: Closed January 1 through March 31; Open April 1 through September 15 in all depths; Open September 16 through December 31 in waters seaward of the 50 fathom boundary line.

The Cowcod Conservation Areas, which are within the Southern Groundfish Management Area but with a discrete depth limit of 40 fathoms, will be closed January 1 through March 31 in all depths, open April 1 through September 15 in waters shoreward of the 40-fathom depth contour, and closed September 16 through December 31 in all depths.

In all management areas, California scorpionfish, “other flatfish” as defined in Section 28.48, petrale sole, starry flounder, leopard shark, and the federal groundfish listed in Section 28.49 (soupfin shark, Dover sole, English sole, arrowtooth flounder, spiny dogfish, skates, rattfish, grenadiers, finescale codling, Pacific cod, Pacific whiting, sablefish and thornyheads) are proposed to be open year-round at all depths.

Restrictions on methods of take are added to Section 28.49 to provide for consistency with the method of take for rockfish, California scorpionfish, lingcod, cabezon and kelp and rock greenlings.

The sub-bag limits for quillback rockfish (1-fish), copper rockfish (1-fish), and vermilion rockfish (4-fish) that were implemented through emergency action effective January 6, 2022, will be maintained.

Additionally, there is a proposal to decouple California sheephead and ocean whitefish regulations from those for federal groundfish. The Department is recommending a reduction in the current recreational bag limit for California sheephead from 5 fish to 2 fish. Furthermore, the Department is recommending the current January-February boat-based seasonal closure stay in effect for California sheephead but not for ocean whitefish, while all other depth constraints and area restrictions that currently apply to these species to protect shelf rockfishes be removed. The current shore based angling and diving/spearfishing exceptions for California sheephead currently specified in Section 27.20 will be added to Section 28.26.

The definition of depth constraint is revised in subsection 27.20(a).

Subsection 27.20(b)(1) is revised to reflect the new definition of depth constraint, the decoupling of California sheephead and ocean whitefish from the regulations for federal groundfish, and the allowance of take year-round at all depths of some federal groundfish species.

Subsection 27.20(b)(1)(A) is revised to reflect the decoupling of California sheephead and ocean whitefish from the regulations for federal groundfish and the allowance of take year-round at all depths of some federal groundfish species.

In subsection 27.20(b)(1)(B), California scorpionfish, leopard shark and the species listed in Section 28.49 are added to the list of species exempt from depth constraints for consistency with the season changes described above.

Subsections 27.20(b)(1)(C) and 27.50(c)(1) are revised to provide clarity that transportation by vessel of species taken under the shore based fishing exemption is unlawful.

Several non-substantive changes are proposed to correct errors or outdated terminology, provide consistency, and reduce redundancy between Title 14 sections, and increase the clarity of the regulations.

- In all sections included in this rulemaking “take and possession” is updated to read “take and/or possession”; the term “federally-managed groundfish” is changed to “federal groundfish”; and “possession limit” is changed to “bag and possession limit”.
- The scientific names of fish are updated to current accepted nomenclature and to correct spelling errors in Section 1.91.
- In Section 27.20, an abbreviation for groundfish management area is introduced.
- Subsection 27.20(b)(1)(C) is amended for regulatory clean-up and will provide consistency with language in Section 632, Marine Protected Areas.
- The web address provided in subsection 27.20(f) is updated.
- The groundfish call hotline is removed from subsection 27.20(f)
- A copy and paste error is corrected in subsection 27.30(a).
- Clarifying language regarding the CCAs is added to Section 27.45.
- The formatting of a coordinate listed in subsection 27.50(a) is corrected.
- The organization of Section 27.50, and text is amended to enhance the clarity of the current regulations; no changes to the species that can or cannot be retained within the CCAs are proposed.
- Section 27.51 is amended to reduce redundancy with subsection 27.20(d).
- Currently established fillet size limits and other fillet regulations (as established in Section 27.65) are added to relevant species-specific sections beginning with Section 28.26.

### Benefits of the Proposed Regulations

Benefits of the proposed management actions include preserving fishing opportunity, along with the continuation of the reasonable and sustainable management of groundfish resources and the protection of listed and special status species.

This regulation would result in consistency with federal law. California’s recreational fishing regulations for federal groundfish species need to conform to, or be more restrictive than, federal

regulations to ensure that biological and fishery allocation goals are not exceeded and to avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act [United States Code, Title 16, subsection 1856 (b)(1)].

### 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 recreational fishing regulations (Fish and Game Code, sections 200 and 205). The proposed regulations are consistent with the Commission's regulations in Title 14, CCR. Commission staff has searched the California Code of Regulations and has found no other state regulations related to the recreational take of groundfish.

### Public Participation

**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 North Tahoe Event Center, 8318 North Lake Blvd., Kings Beach, California, which will commence at 8:30 a.m. on Wednesday, October 12, 2022, and may continue at 8:30 a.m. on Thursday, October 13, 2022. This meeting will also include the opportunity to participate via webinar/teleconference. Instructions for participation in the webinar/teleconference hearing will be posted at [www.fgc.ca.gov](http://www.fgc.ca.gov) in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a webinar/teleconference hearing which will commence at 11:00 a.m. on Tuesday, November 1, 2022. Instructions for participation in the webinar/teleconference hearing will be posted at [www.fgc.ca.gov](http://www.fgc.ca.gov) in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

It is requested, but not required, that written comments be submitted on or before October 19, 2022 at the address given below, or by email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Written comments mailed, or emailed to the Commission office, must be received before 12:00 noon on October 27, 2022. All comments must be received no later than November 1, 2022 during the teleconference hearing. If you would like copies of any modifications to this proposal, please include your name and mailing address. Mailed comments should be addressed to Fish and Game Commission, PO Box 944209, Sacramento, CA 94244-2090.

### Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikethrough format can be accessed through the Commission website at [www.fgc.ca.gov](http://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, Melissa Miller-Henson, Executive Director, Fish and Game Commission, 715 P 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 Melissa Miller-Henson or Sherrie Fonbuena at [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov) or at the preceding address or phone number. **Environmental**

**Scientist Melanie Parker, Department of Fish and Wildlife, ([Groundfish@wildlife.ca.gov](mailto:Groundfish@wildlife.ca.gov)), has been designated to respond to questions on the substance of the proposed regulations.**

### **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. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 265 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in sections 11343.4, 11346.4, 11346.8 and 11347.1 of the Government Code. 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 decreased opportunities for the recreational and commercial groundfish fishery in 2023-2024 compared to 2022. However, the impact on the entirety of marine sportfishing activity is not expected to be sufficient to significantly impact sportfishing expenditures to businesses within the state.

(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. However, some short-term job losses may occur as sportfish-related businesses adjust to changes in the composition of recreational fishing opportunities.

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 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

Melissa Miller-Henson  
Executive Director

Dated: September 13, 2022