

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, 702, 7071 and 8587.1 of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 265, 1802 and 7071 of said Code, and 50 Code of Federal Regulations Part 660, Subpart G, Sections 660.350, 660.351, 660.352, and 660.360, proposes to amend sections 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 28.27, 28.28, 28.29, 28.47, 28.48, 28.49, 28.54, 28.55, and 28.56, Title 14, California Code of Regulations, relating to recreational fishing regulations for federal groundfish for 2024.

Informative Digest/Policy Statement Overview

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

Federal groundfish regulations are typically adopted on a biennial cycle. However, adjustments are made in-season when necessary to keep fisheries within established limits, or in other cases to increase harvest opportunities when catch and bycatch is tracking below projections. Regulations currently in place for the 2023-2024 biennium were not successful in constraining catches of quillback rockfish to the federally-established catch limits for this species off California in 2023, requiring in-season closures for sport and commercial fisheries for much of the state. Consequently, significant changes to the 2024 regulations are necessary to avoid exceeding these catch limits again.

The Pacific Fishery Management Council (PFMC) will recommend recreational fishing regulations for federally managed groundfish species for 2024 at its March 5-11, 2024 meeting. Based on these recommendations, federal regulations are expected to be published by early April 2024, requiring amendment of several state regulations to maintain consistency with and to complement the new federal regulations in state waters. The changes necessary to state recreational regulations include seasons, depth limit and Rockfish Conservation Area (RCA) boundaries, and bag limit amendments for all Groundfish Management Areas (GMAs). Species-specific regulation changes for many or all federal groundfish species are necessary as well.

The proposed changes are as follows:

Subsection 27.20(a), is proposed to be amended to modify how “depth” is defined, and to reference the new Title 14 Section 35.00 defining the 20-fathom boundary line. This amendment is necessary to allow for use of the new 20-fathom boundary line to restore fishing opportunities on healthy nearshore stocks in shallow waters while minimizing catch of quillback rockfish.

Subsection 27.20(b)(1)(A) is proposed to be amended to allow anchoring and drifting in addition to transiting in a closed area and add a provision to allow hoop nets, crab traps, and dip nets as specified within closed areas shoreward of an “offshore only” boundary line while groundfish legally taken in the “offshore only” fishery are aboard. The amendment provides exceptions to allow use of hoop nets, Dungeness crab traps, and dip nets for take of select non-groundfish invertebrate species while groundfish are onboard a vessel that is anchoring, drifting, or transiting through the nearshore closure.

Subsection 27.20(b)(2) is proposed to be amended to add language requiring a descending device be in possession and available for immediate use to assist in releasing rockfish to the depth of capture. Subsections 28.27(d), 28.28(d), 28.29(d), 28.47(c), 28.48(c), 28.49(c), 28.54(d), 28.55(d), and 28.56(d) are proposed to be amended to reference the descending device requirement as specified in subsection 27.20(b)(2).

Subsections 27.25(b), 27.30(b), 27.35(b) are proposed to be amended to modify the seasons, authorized species, and depth restrictions in for federal groundfish so that fisheries are specified as “nearshore only” or “offshore only” or closed for different dates through the year.

Subsections 27.40(a), 27.40(b) are amended and 27.40(c) is added to define a sub-management area boundary line at 36° N. lat. (near Point Lopez), and to authorize the seasons, species and depth restrictions for each area north and south of 36° N. lat. Fisheries in the area north of Point Lopez are specified as “nearshore only,” “offshore only,” or closed for different dates through the year. Fisheries in the area south of Point Lopez are specified as “nearshore only,” “offshore only,” “all depth,” or closed for different dates through the year.

Subsection 27.45(b) is proposed to be amended to modify the seasons, authorized species, and depth restrictions for federal groundfish so that fisheries are specified as “nearshore only,” “offshore only,” “all depth,” or closed for different dates through the year.

Section 27.50, and subsections 27.20(b)(1)(C) and (D), 27.45(a), 28.27(a)(7), 28.28(a)(7), 28.29(a)(7), 28.47(a), 28.48(a), 28.49(a), 28.54(a), 28.55(a)(7), 28.55(b)(5) and 28.56(a) are proposed to be modified to repeal the Cowcod Conservation Area regulations and to add language for consistency with new regulations establishing Groundfish Exclusion Areas closed to all groundfish fishing.

Subsections 28.55(b)(1) through (4) are proposed to be amended to add quillback rockfish to the list of prohibited species, repeal the 1-fish quillback rockfish sub-bag limit, and reduce the vermilion rockfish sub-bag limit.

Several non-substantive changes are proposed to provide consistency, and reduce redundancy between Title 14 sections, and increase the clarity of the regulations. Subsections 27.20(b)(1)(C) and (D), 27.25(b), 27.30(b), 27.35(b), 27.40(b), and 27.45(b) are proposed to be amended for increased clarity on species that are otherwise prohibited to take. In sections 27.20, 27.25, 27.30, 27.35, 27.40, 27.45, 28.27, 28.28, 28.29, and 28.55 “depth constraint” is updated to read “depth restriction” for enhanced clarity and consistent terminology usage. Subsections are renumbered as appropriate when other subsections are added or repealed. In all sections included in this rulemaking “take and/or possession” is updated to read “take or possession” for enhanced clarity and enforceability. In all sections, references are updated for increased clarity.

Benefit of the Regulations:

It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the state for the benefit of all the citizens of the state and to promote the development of local and distant water fisheries based in California. The objectives of this policy include, but are not limited to, the

maintenance of sufficient populations of all species of aquatic organisms to ensure their continued existence and the maintenance of a sufficient resource to support a reasonable sport use, taking into consideration the necessity of regulating individual sport fishery bag limits to the quantity that is sufficient to provide a satisfying sport. Adoption of scientifically-based groundfish seasons, depth constraints, size limits, and bag and possession limits provides for the maintenance of sufficient populations of groundfish species to ensure their continued existence.

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

Consistency and Compatibility with Existing Regulations:

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. Section 20, Article IV, of the state Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to adopt regulations governing recreational fishing (California Fish and Game Code sections 200 and 205). No other state agency has the authority to adopt regulations governing recreational fishing. The Commission has reviewed its own regulations and finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations. The Commission has searched the CCR for any regulations regarding the adoption of [topic] regulations; therefore, the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Public Participation

Comments Submitted by Mail or Email

It is requested, but not required, that written comments be submitted on or before March 13, 2024 at the address given below, or by email to FGC@fgc.ca.gov. Written comments mailed, or emailed to the Commission office, must be received no later than March 25, 2024. 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.

Meetings

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Natural Resources Headquarters Building, Second Floor, 715 P Street, Sacramento, California, which will commence at 9:00 a.m. on Wednesday, February 14, 2024, and may continue at 8:30 a.m., on Thursday, February 15, 2024. 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 in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to the 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 8:30 a.m. on

Tuesday, March 26, 2024. Instructions for participation in the webinar/teleconference hearing will be posted at www.fgc.ca.gov in advance of the meeting or may be obtained by calling 916-653-4899. Please refer to the Commission meeting agenda, which will be available at least 10 days prior to the meeting, for the most current information.

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. 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 or at the preceding address or phone number. **Dr. Craig Shuman, Marine Regional Manager, Department of Fish and Wildlife, (R7RegionalMgr@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 Commission anticipates decreased opportunities for the recreational and

commercial groundfish fishery in 2024-2025 compared to 2023. 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

Dated: January 30, 2024

Melissa Miller-Henson
Executive Director