

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

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

Re: Recreational Fishing Regulations for Federal Groundfish for 2024

I. Dates of Statements of Reasons

- (a) Initial Statement of Reasons Date: January 29, 2024
- (b) Pre-Adoption Statement of Reasons Date: March 20, 2024
- (c) Final Statement of Reasons: Date: March 26, 2024

II. Dates and Locations of Scheduled Hearings

(a) Notice Hearing

Date: December 14, 2023 Location: San Diego, CA

(b) Discussion Hearing

Date: February 14, 2024 Location: Sacramento, CA

(c) Adoption Hearing

Date: March 26, 2024 Location: Teleconference

III. Update

On March 10, 2024, the Pacific Fishery Management Council (PFMC) recommended recreational groundfish regulations for 2024. Following the action by the PFMC, the final suite of 2024 recreational regulations for federal groundfish have been determined. The following modifications to regulations from those described in the ISOR were made for consistency between state and federal regulations:

In subsections 27.25(b)(1) through 27.25(b)(3) [Northern Groundfish Management Area (GMA)], 27.30(b)(1) through 27.30(b)(3) [Mendocino GMA], 27.35(b)(1) through 27.35(b)(3) [San Francisco GMA], and 27.40(b)(1) through 27.40(b)(3) [Central GMA – North of 36°], the range of season structures considered in the ISOR has been replaced with season dates and depth limits consistent with PFMC action and pending federal regulations which are expected to be effective in early April. The adopted regulatory language provides a season structure for areas north of 36° north latitude that is closed January 1 through March 31, open seaward of the 50-fathom boundary line (as defined in federal regulations) for shelf rockfish, slope rockfish, and lingcod from April 1 through April 30, October 1 through October 31, and December 1 through December 31, and open shoreward of the 20-fathom boundary line (as defined in CCR Title 14, Section 35.00) from May 1 through September 30, and November 1 through November 30.

In subsections 27.40(c)(1) through 27.40(c)(3) [Central GMA – South of 36°], and 27.45(b)(1) through 27.45(b)(3) [Southern GMA], the range of season structures considered in the ISOR has been replaced with season dates and depth limits consistent with PFMC action and pending federal regulations which are expected to be effective in early April. The adopted regulatory language provides a season structure for areas south of 36° north latitude that is closed January 1 through March 31, open in all depths from April 1 through June 30, open shoreward of the 50-fathom boundary line (as defined in federal regulations) from July 1 through September 30, and open seaward of the 50-fathom boundary line (as defined in federal regulations) for shelf rockfish, slope rockfish, and lingcod from October 1 through December 31.

In subsection 28.55(b)(2), Rockfish, the range of “one to four” fish for the vermilion rockfish limit considered in the ISOR has been replaced with regulatory vermilion rockfish limits consistent with PFMC action and pending federal regulations which are expected to be effective in early April. The adopted regulatory language provides a limit of four fish in waters of the Northern GMA, and two fish in waters of the Mendocino GMA, San Francisco GMA, Central GMA, and Southern GMA, regardless which GMA the fish were taken in.

Subsection 27.40(b) is modified to add the word “of”.

Subsection 27.50(a)(2) is modified to add the word “Island” to clarify the location of the specified groundfish exclusion area.

Subsections 28.28(b) and 28.29(b) are modified to strike the word “bag” in the phrase “a Rockfish, Cabezon, and Greenling complex (RCG complex, as defined in Section 1.91) bag limit of 10 fish” to correct terminology.

On March 26, 2024, the Commission adopted the regulations as described in the Pre-Adoption Statement of Reasons (PSOR). Minor edits have been made to correct strikeout/underline formatting errors and to correct unamended regulatory language to match official regulatory language. There have been no other changes in applicable laws for 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

Comments received through March 7, 2024 were summarized and responded to in Attachment 1 of the PSOR. The Commission concurs with the Department responses.

Responses to comments received from March 8, 2024 through March 26, 2024 are included in Attachment 1.

V. 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. Additionally, state regulations cannot be less restrictive than federal regulations, and the federal regulation changes to be effective in April 2024 are expected to be more restrictive than current regulations. Federal regulations will also be silent on allowed/prohibited activities within state waters; if state regulations are not amended to **specify** what is allowed/prohibited in state waters, additional recreational opportunities 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 it's 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 MSA.

(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.

VI. 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. 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 proposed regulatory amendment (Section 27.20) includes the specification that anyone taking federal groundfish have a descending device in possession and available for immediate use to assist in releasing rockfish to the depth of capture. Exact materials or design for the descending device are not specified. Many fishers fashion handmade descending devices with common items (hooks, weights, crates, clamp and fishing line, etc.) valued at about \$4.00 and others may purchase devices at a wide range of market prices, starting at \$8.00 to \$60 each. Thus, individual fishers and/or commercial passenger fishing vessel operators would need to possess a descending device at a cost of \$4.00 to \$60 per device.

(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

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 inseason 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 **added** 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 **federal groundfish recreational fishing** regulations; therefore, the Commission has concluded that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

On March 10, 2024, the PFMC recommended recreational groundfish regulations for 2024. Several edits to the originally proposed regulations were made for consistency between state and federal regulations.

- **In the Northern, Mendocino, San Francisco, and Central – North of 36° N lat. GMAs, amended regulations describe a season structure that is closed January 1 through March 31, open seaward of the 50-fathom boundary line (as defined in federal regulations) for shelf rockfish, slope rockfish, and lingcod from April 1 through April 30, October 1 through October 31, and December 1 through December 31, and open shoreward of the 20-fathom boundary line (as defined in CCR Title 14, Section 35.00) from May 1 through September 30, and November 1 through November 30.**
- **In the Central – South of 36° N lat. and Southern GMAs, amended regulations describe a season structure that is closed January 1 through March 31, open in all depths from April 1 through June 30, open shoreward of the 50-fathom boundary line (as defined in federal regulations) from July 1 through September 30, and open seaward of the 50-fathom boundary line (as defined in federal regulations) for shelf rockfish, slope rockfish, and lingcod from October 1 through December 31.**
- **The sub-bag limit for vermilion rockfish will remain four-fish in the Northern GMA and is reduced to two-fish in the Mendocino, San Francisco, Central – North of 36° N lat., Central – South of 36° N lat., and Southern GMAs.**
- **Subsection 27.40(b) is modified to add the word “of”.**
- **Subsection 27.50(a)(2) is modified to add the word “Island” to clarify the location of the specified groundfish exclusion area.**
- **Subsections 28.28(b) and 28.29(b) are modified to strike the word “bag” in the phrase “a Rockfish, Cabezon, and Greenling complex (RCG complex, as defined in Section 1.91) bag limit of 10 fish” to correct terminology.**

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