

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, 313, 702, 5508, 5509, 7071, 7110 and 8587.1 of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 265, 270, 275, 313, 399, 1802, 5508, 5509, 7071, 7110, and 8585.5 of said Code; and 50 CFR Part 660, Subpart G, Sections 660.350, 660.351, 660.352 and 660.360, proposes to amend sections 27.20, 27.40, 27.45, 27.50, 27.65, 28.27, 28.28, 28.29, 28.54, and 28.65, Title 14, California Code of Regulations, relating to recreational fishing regulations for federal groundfish for 2025 and 2026, and fillet requirements at sea.

Informative Digest/Policy Statement Overview

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

Present regulations allow anchoring and drifting in addition to transiting in a closed area and offer a provision 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 a nearshore closure area while groundfish legally taken in the “offshore only” fishery are aboard.

In addition, current regulations specify groundfish exclusion areas (GEAs) which are special closure areas within the Southern GMA, where take or possession of all federal groundfish is prohibited year-round, and requirements regarding filleting fish at sea.

The Pacific Fishery Management Council (PFMC) recommended recreational fishing regulations for federally managed groundfish species for the 2025-2026 management cycle at its June 8-12, 2024 meeting. Based on these recommendations, federal groundfish fishery regulations for 2025-2026 are expected to publish by January 1, 2025, requiring amendment of several state regulations for consistency with and to complement the new federal regulations in state waters.

The changes needed to state recreational regulations include repeal of minimum size limits for cabezon, greenlings of the genus *Hexagrammos*, and California scorpionfish; modification of fillet requirements for the aforementioned groundfish; clarifying rules governing possession of groundfish aboard vessels when traveling through areas that are closed or have differential limits. Minor regulatory language amendments to multiple sections are also proposed.

The proposed changes as are as follows:

Subsection 27.20(b)(1)(A) is proposed to be amended to add a new subsection (27.20(b)(1)(A)1.) to clarify it is unlawful to possess a groundfish species or species group within a GMA where the take and possession of those species are prohibited in all waters of that GMA or in excess of the bag limit of that GMA, regardless of if the groundfish species or species group were taken in a different GMA where the take or possession is authorized.

Subsection 27.50(b) is proposed to be amended to remove “notwithstanding subsection 27.20(b)(1)(A)” at the beginning of the sentence and to add “except for the purpose of transit as provided in subsection 27.20(b)(1)(A)” at the end of the sentence. Federal regulations allow for continuous transit across GEAs, while the current state regulations do not allow for this. This revision would make state regulations regarding transit across GEAs consistent with the federal regulations.

Subsection 27.65(b)(3) is proposed to be amended to remove the requirement that lingcod fillets bear a one-inch patch of skin and replace it with a requirement that lingcod fillets must have the entire skin attached.

Subsection 27.65(b)(8) is proposed to be amended to add cabezon and greenlings of the genus *Hexagrammos* to the list of species that may be filleted at sea and fillets of these species must have the entire skin attached.

Subsection 27.65(b)(9) is proposed to be amended to remove the minimum fillet size requirement for California scorpionfish, remove the requirement that each fillet bear a one-inch patch of skin, and replace it with a requirement that fillets must have the entire skin attached.

Subsection 28.28(c) is proposed to be amended to remove the minimum size limit for cabezon and to update the reference to fillet regulations.

Subsection 28.29(c) is proposed to be amended to remove the minimum size limit for greenlings of the genus *Hexagrammos*.

Subsection 28.54(c) is proposed to be amended to remove the minimum size limit for California scorpionfish and replace the reference to “fillet size limit” with “fillet regulations”.

Several non-substantive changes are proposed to correct errors or outdated terminology, provide consistency, and reduce redundancy between Title 14 sections, increase clarity, and enhance enforcement of the regulations. In sections 27.20, 27.40, and 27.45, “depth constraint” is proposed to be amended to read “depth restriction” for consistency with language used in these and other sections. In subsections 27.40(b)(2)(A) and 27.45(b)(4)(A), the duplicate word “the” is repealed. Subsection 28.27(c) (Lingcod) is proposed to be amended to add “and other fillet regulations” for clarity and consistency with other sections. Subsection 28.65(c) is proposed to be amended to replace “kelp or rock greenlings (*Hexagrammos decagrammus* and *Hexagrammos lagocephalus*)” with “greenlings of the genus *Hexagrammos*”.

Benefits 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 recreational groundfish fishing 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 September 26, 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 before 12:00 noon on October 4, 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 River Lodge Conference Center, 1800 Riverwalk Drive, Fortuna, California, which will commence at 8:30 a.m. on Wednesday August 14, 2024, and may continue at 8:30 a.m., on Thursday, August 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 hearing to be held in the Natural Resources Headquarters Building Auditorium, 715 P Street, Sacramento, California, which will commence at 8:30 a.m. on Wednesday,

October 9, 2024, and may continue at 8:30 a.m., on Thursday, October 10, 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.

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 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. **Senior Environmental Scientist Specialist, Melanie Parker, Department of Fish and Wildlife, 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 Commission anticipates similar opportunities for the recreational and commercial groundfish fishery in 2025-2026 compared to 2024. The impact on the entirety of marine sportfishing activity is not expected 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 adverse 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 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: July 23, 2024

Melissa Miller-Henson
Executive Director