

adjust the TAC to that OY.

The proposed regulations will change the statewide cabezon TAC, change the pounds of cabezon provided to the recreational and commercial fisheries to match the TAC while maintaining the current recreational/commercial allocation ratio, and change commercial trip limits.

Proposed Management Changes

Amend Section 52.10, Title 14, CCR, to modify the statewide annual TAC for cabezon from 193,900 pounds (88 metric tons) to 152,100 pounds (69 metric tons) consistent with the NFMP and recent actions by the Council.

The Council at its June 2004 meeting chose an annual OY for cabezon of 69 metric tons (152,100 pounds) for 2005 and 2006. The Council relied on information from the recent stock assessment, management guidelines from the NFMP, and recommendations of the Commission to set the OY.

Current state regulation set the cabezon TAC at 193,900 pounds (approximately 88 metric tons). Thus, it is necessary to amend the regulations to reduce the cabezon TAC to 152,100 pounds (69 metric tons) to ensure that the state TAC is equivalent to the federal OY. This level of take will allow continued fishing opportunities for the recreational and commercial fisheries yet prevent overfishing and allow the stock size to increase.

Amend Section 52.10, Title 14, CCR, to adjust the allocated harvest amounts of cabezon for the recreational and commercial fisheries.

The recreational and commercial fisheries are each allocated a specified portion of the TAC in regulation. Thus, the allocated harvest amounts for the recreational and commercial fisheries would need to be adjusted so the sum of their catches does not exceed the proposed TAC. The current ratio is 61 percent to the recreational sector and 39 percent to the commercial sector. This existing ratio was applied to the proposed new TAC to generate the proposed amounts for each sector. The recreational fishery allocation is proposed to be changed from 118,300 pounds to 92,800 pounds and the commercial fishery allocation is proposed to be changed from 75,600 pounds to 59,300 pounds.

Amend existing Section 150.16, Title 14, CCR, to change the existing cumulative trip limits for cabezon.

Commercial harvest is regulated to provide seasonal take of cabezon with cumulative trip limits per individual. The trip limits would need to be adjusted to ensure the commercial fishery does not exceed its allocated portion of the TAC.

In August 2003, the Commission established cumulative trip limits for cabezon similar to the federal management approach for nearshore rockfish by limiting each permittee's take to a specified maximum level in a two-month period. This allows commercial take to be spread over a longer fishing season, prevents a derby-style fishery from developing, and ensures a more stable market supply.

The 2004 cabezon trip limits per individual, designed to keep catches to the allowable commercial catch of 75,600 pounds, are as follows:

January-February:	100 pounds
March-April:	200 pounds
May-June:	1,000 pounds
July-August:	1,000 pounds
September-October:	400 pounds
November-December:	100 pounds

The proposed values per two-month period range from 0 to 1,000 pounds. The Commission may select values from that range which will provide for commercial fishing yet ensure the commercial fishery does not exceed its annual limit and which will align the cabezon season with the minor nearshore rockfish season set by the Council.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 7071, 8587.1, and 8588, Fish and Game Code.

Reference: Sections 7056, 7071, 8585.5, 8587, and 8587.1, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:
None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

Cope, J.M, K. Piner, C.V. Minte-Vera, and A.E. Punt. September 5, 2003. Status and Future Prospects for the Cabezon (*Scorpaenichthys marmoratus*) as Assessed in 2003. STAT Team, Pacific Fishery Management Council.

Department of Fish and Game. Nearshore Fishery Management Plan Fishery Control Rules. Prepared for the Fish and Game Commission Meeting April 2, 2004.

Department of Fish and Game. Preliminary California Commercial Landings for 2003. Table 15.

Marine Recreational Fisheries Statistics Survey 2004. Pacific States Marine Recreational Fisheries Monitoring, RecFIN boat sample data by depth and latitude.

Nearshore Fishery Management Plan. Adopted October 25, 2002. Department of Fish and Game.

Pacific Council News, Spring 2004, Vol. 28, No. 1. Pacific Fishery Management Council, Table 2 (Groundfish). Council preferred alternatives for acceptable biological catches (ABCs) and total catch optimum yields (OYs) for 2005.
www.pcouncil.org/newsletters/2004/spring04.pdf

(e) Public Discussions of Proposed Regulations Prior to Notice publication:

The Department met with an ad-hoc stakeholder group (Groundfish Task Force) consisting of representatives from a variety of commercial and recreational groundfish interests throughout the state at four meetings (December 16, 2003, January 27, 2004, May 17, 2004 and June 7, 2004) to receive constituent input on the range of options for 2005 and 2006 groundfish management. At the April 2, 2004, Fish and Game Commission meeting in Sacramento, the Department provided an update on proposed options for groundfish management for 2005 and 2006; included in the update was a list of possible options for the cabezon optimum yield. The Department also requested guidance on a preferred cabezon optimum yield which would be presented to the Council. This regulatory package follows from the Commission's recommendation to the Council of a cabezon harvest level of 69 metric tons for 2005 and 2006.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

The Council also considered lower and higher OYs for 2005 and 2006. The lower level OYs (44 metric tons for 2005 and 63 metric tons for 2006) would provide for faster increase to the stock size but would be more disruptive to the fisheries. The upper level OYs (91 metric tons for 2005 and 107 metric tons for 2006) would have provided more resource to the fisheries in the immediate future but would increase the amount of time it would take for the cabezon stock to increase. In addition, the higher level OYs were based on federal guidelines for harvest rather than the NFMP's

more precautionary guidelines for harvest limits when a stock is below 60 percent of its unfished biomass. The Council chose 69 metric tons as the preferred harvest OY for cabezon based on recommendation by the Commission.

(b) No Change Alternative:

The no-change alternative would conflict with the federal cabezon OY adopted for 2005 and 2006. Not adopting a TAC based on the Council's OY of 69 metric tons would cause the current regulations, which provide for a TAC of approximately 88 metric tons, to stay in effect. In addition, managing cabezon with a less conservative TAC would jeopardize compliance with the goals and objectives of the NFMP because stock size is below the desired abundance level of at least 60 percent of unfished spawning biomass.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

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 initial 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 regulations will reduce recreational and commercial take of cabezon in California. This action may result in coastwide economic impacts which could impair the ability of California businesses to compete with businesses in other states. The proposed changes will mainly affect the business activities of commercial fishermen, all of which are small businesses as defined under California Government Code Section

11342.610, including: nearshore commercial cabezon businesses, and commercial passenger fishing vessel (CPFV) businesses. However, direct losses to small businesses may be offset, to some degree, by long-term improvements in the status (abundance, size, and quality) of the cabezon stock.

Commercial fishermen with nearshore permits who harvest cabezon will be directly impacted through reduced commercial catches in 2005, as compared with 2004 allowable catches. The proposed reduction from the current commercial allocation of 75,600 pounds to 59,300 pounds could mean projected ex-vessel revenue reductions of \$77,425 for California commercial fishermen. This is based on 2003 data for ex-vessel value of landings of commercial fish, which shows the average price of cabezon was \$4.75/pound. This \$77,425 reduction in ex-vessel landings translates into a \$155,702 reduction in overall economic output for the entire State (based on a California economic demand output multiplier of x 2.011). However, this assumes that the price per pound will not increase in response to reduced cabezon catches by California fishermen.

The demand for California cabezon is driven by the market for live-fish, which offers high dollar prices for live cabezon. Total California commercial cabezon landings for year 2003 were 87,407 pounds, valued at \$415,345 (ex-vessel, year 2003 dollars), of these landings approximately 90 percent were for the live-fish market (calculated as 78,546 pounds live cabezon out of a total 87,407 pounds landed = 89.7 percent). But the trend in cabezon landings for California fishermen shows a decline of, on average, about 25 percent per annum over the last six years. This is due to management measures aimed at protecting fish populations from overfishing and at maintaining populations above critical levels. By reducing commercial cabezon landings from year to year, two events in California's live-cabezon market have occurred: an increase in average price per pound of about 13 percent annually from 1998 to 2004, and an increasingly unmet market demand. Growth in this unmet market demand in California, coupled with attractive prices paid for live cabezon, has spurred out-of-state suppliers to develop market distribution channels into California. As a result, the amount of live cabezon from Oregon is increasing in California's markets.

Data from the Oregon Department of Fish and Wildlife shows that live-fish landings (in pounds) have accounted for a large portion of the live-fish market in California. In 2003, live cabezon from Oregon accounted for 39 percent of the total amount sold in California. Oregon's deliveries of live cabezon to California have, on average, increased over the last six years at an average annual rate of 14.8 percent. Given the trends in California's

and Oregon's live-fish landings, reducing the 2005 allowable commercial harvest for California fishermen to 59,300 pounds could increase Oregon's market-share to between 51 percent and 59 percent of California's live-cabezon market. Such an increase in market-share could make it more difficult for California fishermen to compete with Oregon fishermen. In addition, the live cabezon from Oregon are reportedly being offered at a lower price than California fishermen have received in the past for live cabezon. Thus, the projected direct impact to fishermen, a \$77,425 reduction in ex-vessel revenues for the 2005 season, could be greater in the long run.

Individual sport fishermen and small businesses that service California's ocean sportfishing activities also may be impacted. CPFVs that rely in large part on taking passengers fishing for nearshore species, including cabezon, comprise a small-business sector that may be directly impacted. In addition, other businesses that depend on private boat and shore-based recreational angling opportunities such as bait and tackle manufacturers may be indirectly impacted. Since ocean sport fishing usually includes catch of assorted bottom fish species in the aggregate, it is difficult to ascertain the direct angling value of the cabezon resource. However, data from ocean sportfishing observations suggest that the cabezon may be a desirable species and is often caught in association with rockfish, greenlings, and lingcod. We generally assumed that reduction in one recreational groundfish species limit (for example, cabezon) would be made up in substituting alternative groundfish species comprising the aggregate bag. In a worst case scenario, a 21 percent reduction in the recreational harvest limit could result in some reduction in fishing activity for fishermen who prefer cabezon. However, we assume that fishermen substituting other species for the absence of cabezon in their catches may offset this impact.

(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: None.

(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: None.
- (h) Effect on Housing Costs: None.

Informative Digest/Policy Statement Overview

Under current regulations (Section 52.10, Title 14, CCR), the total allowable catch (TAC) for cabezon is 193,900 pounds with 118,300 pounds of the TAC allocated to the recreational fishery and 75,600 pounds of the TAC allocated to the commercial fishery. In addition, the commercial harvest is regulated by two-month cumulative trip limits for each individual permittee. The allowable amount per two-month period currently ranges from 100 to 1,000 pounds (Section 150.16, Title 14, CCR).

State regulation specifies that the cabezon TAC is equivalent to an optimum yield (OY) adopted in state or federal regulations when a stock assessment has been completed. A stock assessment was recently completed for cabezon in waters off California, and the federal Pacific Fishery Management Council (Council) recently adopted an OY for cabezon based on information from the stock assessment. Since a federal OY has been adopted for cabezon, it is necessary to adjust the state TAC to equal the federal OY and to change those regulations that are dependent on the value of the TAC.

The proposed regulations would reduce the statewide cabezon TAC to 152,100 pounds, and would reduce the recreational allocation to 92,800 pounds and commercial allocation to 59,300 pounds. The changes to the amounts provided to the recreational and commercial fisheries are proposed so their sum would not exceed the TAC, and would maintain the recreational/commercial allocation ratio in the current regulations. Commercial trip limits are proposed to be changed so the commercial fishery will not exceed its allocation. The proposed values per two-month period range from 0 to 1,000 pounds. The Commission may select values from that range which will provide for commercial fishing, yet ensure the commercial fishery does not exceed its allocation and which will align the cabezon season with the minor nearshore rockfish season set by the Council.