



2. Brandon Cotton, Editor, FishRap  
E-mail dated October 19, 2005

(a) Supports the proposed regulatory action.

Department Response:

(a) Comment noted.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:  
California Fish and Game Commission  
1416 Ninth Street  
Sacramento, California 95814

VIII. Location of Department Files:

Department of Fish and Game  
1416 Ninth Street  
Sacramento, California 95814

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

The Department considered a variety of management measures (alone and in combination) that would provide for additional take of California scorpionfish in 2006. The management measures included modification of bag limits, size limits, season, and alternative depth restrictions.

(b) No Change Alternative:

The no-change alternative does not use the current best scientific information on the status of the health of the California scorpionfish stock, and would not provide additional fish to the recreational fishery.

(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.

X. 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.

Proposed modifications to the seasonal depth restrictions will likely provide a positive economic benefit by allowing increased fishing opportunities for recreational fishermen.

- (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:

The proposed regulations will have no impact on the creation of jobs or businesses in the State, however, they will likely result in expanded business activity and opportunity for existing small businesses that cater to ocean anglers. Direct benefits of business activity and increased revenues would primarily accrue to the 138 commercial passenger fishing vessels (CPFV) in Southern California that reported taking California scorpionfish in 2004 in the Southern Rockfish and Lingcod Management Area. Indirect benefits will be gained by merchants that provide goods and services to recreational anglers using fishing modes other than CPFV.

- (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.

## Updated Informative Digest/Policy Statement Overview

Existing regulations define sport fishing seasons and depths for California scorpionfish (*Scorpaena guttata*). The proposed regulatory change would expand sport fishing opportunities for California scorpionfish in state waters in the Southern Rockfish and Lingcod Management Area (Point Conception to the US/Mexico border). The increased fishing opportunity is supported by a recently completed stock assessment that shows the stock to be healthy.

Currently, take and possession of California scorpionfish in the Southern Rockfish and Lingcod Management Area is allowed October through December. The Department is proposing to allow California scorpionfish to be taken and possessed whenever recreational groundfish harvest is allowed in that area. All other management measures, such as bag limit and the minimum size will remain the same as current regulations.

The proposed change could lengthen the scorpionfish season by seven months. The result will be a scorpionfish season that is aligned with the season and depths currently established for other groundfish species in the Southern Rockfish and Lingcod Management Area.

**The Commission adopted the proposed regulatory changes which will align the California scorpionfish season and depths to those currently provided for other groundfish species.**

## Regulatory Language

Subsection (b)(5) of Section 27.82, Title 14, CCR, is amended to read:

(b) Seasons and depth constraints: The seasons and water depths (as described by lines connecting waypoints adopted in Federal regulations (50 CFR Part 660), or by general depth contour lines) where fishing is authorized for all species of federal groundfish (as defined in Section 1.91 including rockfish, cabezon, lingcod, and California scorpionfish), greenlings of the genus *Hexagrammos*, California sheephead, and ocean whitefish are listed below for each Rockfish and Lingcod Management Area. Seasons and depth constraints may be changed during the year or in-season by the department under the authority of subsection 27.82(e). The department will provide a news release notifying the public 10 days in advance of a change to seasons and/or depth constraints for these species made under the authority of subsection 27.82(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: [www.dfg.ca.gov/mrd/](http://www.dfg.ca.gov/mrd/), or by calling (831) 649-2801 for recorded information, or by contacting a department office. See subsection (c) for exceptions to these season and depth constraints. See also Section 27.83 for restrictions on fishing gear that apply when seasons or areas are closed to groundfish fishing.

(1) Northern Rockfish and Lingcod Management Area:

(A) January-June and November-December: closed in all water depths.

(B) July-October: open only in waters less than 40 fathoms in depth as described by lines connecting waypoints adopted in Federal regulations (50 CFR Part 660).

(2) The North-Central Rockfish and Lingcod Management Area:

(A) January-June, and December: closed in all water depths.

(B) July-November: open only in waters less than 20 fathoms in depth as described by general depth contour lines.

(C) Waters less than 10 fathoms in depth as described by general depth contour lines around the Farallon Islands (off San Francisco and San Mateo counties), including Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock are closed to fishing at all times for all species of federal groundfish (as defined in Section 1.91 including rockfish, cabezon, lingcod, and California scorpionfish), greenlings of the genus *Hexagrammos*, California sheephead, and ocean whitefish.

(D) Waters of the Cordell Bank (off Marin County) less than 100 fathoms in depth as described by waypoints adopted in Federal regulations (50 CFR Part 660) are closed to fishing at all times for all species of federal groundfish (as defined in Section 1.91 including rockfish, cabezon, lingcod, and California scorpionfish), greenlings of the genus *Hexagrammos*, California sheephead, and ocean whitefish.

(3) The Monterey South-Central Rockfish and Lingcod Management Area:

(A) January-June, and December: closed in all water depths.

(B) July-November: open only in waters less than 20 fathoms in depth as described by general depth contour lines.

(4) The Morro Bay South-Central Rockfish and Lingcod Management Area:

(A) January-April, and October-December: closed in all water depths.

(B) May-September: open only in waters between 20 fathoms in depth as described by general depth contour lines and 40 fathoms in depth as described by waypoints adopted in Federal regulations (50 CFR Part 660).

(5) Southern Rockfish and Lingcod Management Area:

(A) January-February: closed in all water depths.

(B) March-June: open only in waters between 30 fathoms in depth as described by waypoints adopted in Federal regulations (50 CFR Part 660) and 60 fathoms in depth as described by waypoints adopted in Federal regulations (50 CFR Part 660) ~~except that California scorpionfish may not be taken or possessed in these months at these depths and lingcod may not be taken or possessed in March at these depths.~~

(C) July-September: open only in waters less than 40 fathoms in depth as described by lines connecting waypoints adopted in Federal regulations (50 CFR Part 660) ~~except California scorpionfish may not be taken or possessed in these months at these depths.~~

(D) October-November: closed in all water depths ~~except that California scorpionfish may be taken in waters less than 40 fathoms in depth in as described by lines connecting waypoints adopted in Federal regulations (50 CFR Part 660).~~

(E) December: closed in all water depths ~~except that California scorpionfish may be taken in waters less than 20 fathoms in depth as described by general depth contour lines.~~

(F) See subsection (d) for special depth regulations in Cowcod Conservation Areas.

NOTE:

Authority cited: Sections 200, 202, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 7071 and 8586, Fish and Game Code; and 50 C.F.R. 660.