

Comment 2: James Bassler, written comment received via e-mail 1/29/12.

The commenter supports proposed increase to commercial bimonthly trip limits for greenlings. Commenter would like to see equal trip limits throughout the year, rather than lower trip limits at the beginning and end of each year and high trip limits during the remainder of the year (similar to the trip limit structure for cabezon).

Response: The Department developed the proposed season structure of trip limits for greenlings to mimic that of cabezon as the two species are often caught at the same time; this should help reduce regulatory discarding of greenlings. The Department also solicited input from the nearshore fishery participants in November 2011 regarding the development of increased trip limits to greenlings. At that time, no one expressed any concerns, or submitted any suggestions of alternative ways to structure the trip limits for greenlings throughout the year.

The Department polled nearshore fishery participants in 2010 when determining the 2011 and 2012 season structure for trip limits for cabezon. Based upon the most common responses to the survey, and the seasonal variability in anglers' access to the resource, the Department modeled the season structure with lower trip limits during the winter months, and higher trip limits in the summer months.

Comment 3: Josh Russo, oral comments at the February 2, 2012, Commission meeting.

The commenter expressed concern with raising the recreational sub-bag limit for greenling fish from two to ten and suggested using smaller incremental increases to the bag limit.

Response: Analyses have shown removing the two fish sub-bag limit for greenlings within the rockfish, cabezon, greenling (RCG) 10-fish bag limit will allow for increased harvests while staying within the recreational allocation and not placing the resource at risk.

VI. 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

VII. Location of Department files:

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

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

No alternatives were identified.

(b) No change Alternative:

The no-change alternative would continue management of the greenling resource much more conservatively than the federal greenling Annual Catch Limit (ACL) adopted for 2011 and 2012; in addition, access to a sustainable resource would be prevented. Not adopting a modified greenling Total Allowable Catch (TAC) would cause the current regulations, which provide for a TAC of approximately 17 metric tons, to stay in effect. In addition, managing greenling with the current TAC would conflict with Goals I through IV of the NFMP.

(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, would be as effective and less burdensome to the affected private persons than the proposed regulation, or would be most cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

IX. 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 significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed management actions would relax recreational fishing regulations for greenlings statewide, and may have positive impacts to some businesses in California. Sport fishing business owners, boat owners, tackle store owners, boat manufacturers, vendors of food, bait, fuel and lodging, and others that provide goods or services to those who recreationally pursue greenlings off California's coast may be positively affected to some degree from increases to business relative to previous management cycles. Likewise, commercial fishing industry businesses and coastal communities may realize positive benefits from increased bimonthly trip limits and catches, a decrease to regulatory discarding, and the possibility of a longer open season for greenlings (and thus a more consistent product for markets). However, anticipated impacts are speculative and would vary considerably by geographic location and by the nature and extent of the regulatory action taken.

- (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 regulatory action could produce some impact on the creation or elimination of jobs or businesses that rely on recreational or commercial fishing for greenlings. However, the degree of impact is highly speculative in nature and cannot be quantified. See response to IX(a) on previous page.

- (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, Government Code: None.
- (h) Effect on Housing Costs: None.
- (i) Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The proposed management actions would relax recreational fishing regulations for greenlings statewide, and may have positive impacts to some businesses in California. Sport fishing business owners, boat owners, tackle store owners, boat manufacturers, vendors of food, bait, fuel and lodging, and others that provide goods or services to those that recreationally pursue greenlings off California may be positively affected to some degree from increases to business relative to previous management cycles. Likewise, commercial fishing industry businesses and coastal communities may realize positive benefits from increased bimonthly trip limits and catches, a decrease to regulatory discarding, and the possibility of a longer open season for greenlings (and thus a more consistent product for markets).

Updated Informative Digest/Policy Statement Overview

Current state regulations provide for: a statewide total TAC for greenlings of the genus *Hexagrammos*, allocation of the TAC for greenlings between the recreational and commercial fisheries, and establishment of commercial trip limits and recreational sub-bag limits for greenlings.

The Marine Life Management Act of 1998 establishes the Legislature's concern for the status of nearshore fish stocks off California, particularly nearshore rockfish, California scorpionfish, cabezon, greenlings, and California sheephead which are targeted by recreational and commercial fisheries in the state. Sections 7071 and 8587.1 of the Fish and Game Code authorize the Commission to adopt regulations based on the advice and recommendations of the Department to regulate nearshore fish stocks and fisheries. However, regulatory authority is shared jointly between state and federal governments in the case of species which are also included in the Federal Groundfish Fishery Management Plan – including kelp greenling. As a result, the state's regulatory and management actions must not allow catches of these species to exceed these federally established levels, nor can they conflict with other federal regulations such as fishing seasons, trip limits and bag limits. The state may however, impose additional and/or more restrictive requirements as it sees fit. As a result, while kelp greenling is also managed at the federal level using ACLs, the state may regulate the resource more actively— setting TACs, sector allocations and commercial trip limits.

Past stock status determination methodologies, used on both the federal and state side, only used historical catch data in determining future harvest levels. At the federal level, a new methodology was approved for use in determining allowable harvest amounts for data poor stocks (which includes kelp greenling). The new methodology resulted in a higher, sustainable federal harvest level, and the Department is proposing to increase the state TAC in conformance with the new, higher federal ACL level. In conjunction with the higher TAC, modifications to the recreational sector allocation, the recreational sub-bag limits and commercial bi-monthly trip limits are also proposed.

Proposed Management Changes

The Department proposes the following modifications to Sections 28.29, 52.10, and 150.16, Title 14, CCR:

- Increase the recreational sub-bag limit for greenlings from two fish to ten fish.
- Increase the statewide TAC for greenlings from 37,600 pounds (approximately 17 metric tons) to 121,900 pounds (55.3 metric tons) consistent with the federally adopted kelp greenling ACL contribution to the federal "Other Fish" complex. This will provide an increase to the TAC that is more than three times the current TAC.
- Modify allocation to recreational sector to highest recent catch and manage the

commercial sector such that yearly harvest will not exceed the remainder of the TAC.

- Increase the commercial bimonthly trip limits from the current 25 pounds per two months, to a value between zero and 300 pounds per two months.

Commission Action

At its March 7, 2012 meeting in Riverside, CA, the Commission adopted the following modifications to Sections 28.29, 52.10, and 150.16, Title 14, CCR as proposed by the Department:

- **Remove two fish sub-bag limit for greenlings within the 10 fish rockfish, cabezon and greenling daily bag limit.**
- **Increase the statewide TAC for greenlings from 37,600 pounds (approximately 17 metric tons) to 121,900 pounds (55.3 metric tons) consistent with federal limits. This will provide an increase to the TAC that is more than three times the current TAC.**
- **Modify the allocation to the recreational sector to the highest recent catch and manage the commercial sector such that yearly harvest will not exceed the remainder of the TAC.**
- **Modify the commercial bimonthly trip limits as follows:**

	Bimonthly Limit
January/February	150 pounds
March/April	150 pounds (closed*)
May/June	200 pounds
July/August	200 pounds
September/October	200 pounds
November/December	150 pounds

*** Currently the fishery is closed in March/April per federal regulations.**

These management actions will relax recreational fishing regulations for greenlings statewide, and may have positive impacts to some businesses in California. Sport fishing business owners, boat owners, tackle store owners, boat manufacturers, vendors of food, bait, fuel and lodging, and others that provide goods or services to those that recreationally pursue greenlings off California may be positively affected to some degree from increases to business relative to previous management cycles. Likewise, commercial fishing industry businesses and coastal communities may realize positive benefits from increased bimonthly trip limits and catches, a decrease to regulatory discarding, and the possibility of a longer open season for greenlings (and thus a more consistent

product for markets).

The Commission does not anticipate non-monetary benefits to the protection of public health and safety, worker safety, the prevention of discrimination, the promotion of fairness or social equity and the increase in openness and transparency in business and government.

The proposed regulations are neither inconsistent nor incompatible with existing state regulations.