

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:

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

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

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. Additional fishing opportunity expected to come with the federal regulation changes effective in January 2017 would not be realized.

It is critical to have consistent State and federal regulations establishing season dates, depth constraints and other management measures, and also critical that the State and federal regulations be effective concurrently. Consistency with federal regulations is also necessary to maintain State authority over its recreational groundfish fishery and avoid federal preemption under the Magnuson-Stevens Fishery Conservation Act [16 USC §1856 (b)(1)].

(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 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.

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 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 increased opportunities for the recreational groundfish fishery in 2017-2018 compared to 2016.

- (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.

The Commission anticipates benefits to the health and welfare of California residents.

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 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

Updated Informative Digest/Policy Statement Overview

Biennially, the Pacific Fishery Management Council (PFMC) reviews the status of west coast groundfish populations. As part of that process, it recommends groundfish fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Pacific Coast Groundfish Fishery Management Plan (FMP).

These recommendations coordinate west coast management of recreational and commercial groundfish fisheries in the Exclusive Economic Zone (EEZ) (three to 200 miles offshore) off Washington, Oregon and California. These recommendations are subsequently implemented as federal fishing regulations by the National Marine Fisheries Service (NMFS).

For consistency, the California Fish and Game Commission (Commission) routinely adopts sportfishing regulations to bring State law into conformance with federal law for groundfish and other federally-managed species.

Current regulations establish season lengths, depth constraints, methods of take, and size, bag and possession limits within the five groundfish management areas for all federal groundfish and associated species.

Summary of Proposed Amendments

The Department of Fish and Wildlife (Department) is proposing the following regulatory changes to be consistent with PFMC recommendations for federal groundfish regulations in 2017 and 2018. This approach will allow the Commission to adopt State recreational groundfish regulations to timely conform to those taking effect in federal ocean waters in January 2017.

The proposed regulatory changes will implement the following changes:

1. Seasons and Depths
 - A. Extend the season length in the Northern and Mendocino Management Areas;
 - B. Increase the allowable depth in the Northern, San Francisco and Central Management Areas;
 - C. Allow for the take of all species with no depth restrictions November 1 through December 31 in the Northern and Mendocino Management Areas;
2. Bag Limits
 - A. Increase the bag limit for canary rockfish from zero to one fish;
 - B. Decrease the bag limit for black rockfish from five to three fish;
 - C. Eliminate the three fish sub-bag limit for bocaccio;
 - D. Decrease the bag limit for lingcod from three to two fish;
3. Allow petrale sole and starry flounder to be retained year round at all depths;
4. Clarifications
 - A. Clarify language pertaining to Rockfish Conservation Areas; and
 - B. Clarify and make consistent other provisions of the regulations.

The benefits of the proposed regulation changes are consistency with federal law, sustainable management of groundfish resources and promotion of businesses that rely on recreational groundfish fishing.

The proposed regulations are neither inconsistent nor incompatible with existing State regulations. The Legislature has delegated authority to the Commission to adopt sport fishing regulations (Fish and Game Code, sections 200, 202 and 205). The proposed regulations are consistent with regulations for sport fishing in marine protected areas (Section 632, Title 14, CCR), with Nearshore Fishery Management Plan regulations (sections 52.00 through 52.10, Title 14, CCR) and with sport fishing regulations in Chapters 1 and 4 of Subdivision 1 of Division 1, and Section 195, Title 14, CCR. Commission staff has searched the California Code of Regulations and has found no other State regulations related to the recreational take of groundfish.

Update:

At its December 7, 2016, meeting in San Diego, CA, the Commission adopted the regulatory amendments as described in the Notice of Proposed Action.

Senate Bill 1473 (Stats. 2016, ch. 546) made organizational changes to the Fish and Game Code that became effective January 1, 2017. One of these changes moved the Commission's exemptions from specified Administrative Procedure Act time frames from Section 202 to Section 265 of the Fish and Game Code. This was an organizational change only. In accordance with this change to the Fish and Game Code, Section 202 is removed from, and Section 265 is added to, the authority and reference citations for all Title 14 sections in this rulemaking. Senate Bill 1473 also repealed subdivision (b) of Section 220 of the Fish and Game Code; therefore Section 220 is removed from the list of authority citations in sections 28.27 and 28.55 and from the list of reference citations in Section 28.55.

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.