

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, 202, 205, 220, 702, 7071 and 8587.1, of the Fish and Game Code and to implement, interpret or make specific Sections 200, 202, 205, 220, 1802, 7071 and 8585.5, Fish and Game Code; Title 50, Code of Federal Regulations, Part 660, Subpart G; and Section 27.20, Title 14, California Code of Regulations (CCR), proposes to amend subsections (a) and (b) of Section 27.20, Sections 27.25, 27.30, 27.35, 27.40, 27.45, 27.50, 28.27, 28.49, and 28.55; and add Section 28.47, Title 14, CCR, relating to recreational fishing regulations for federal groundfish and associated species for consistency with federal rules for 2017 and 2018.

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 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.

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 Red Lion Hotel, 1929 4th Street Eureka, California, on Wednesday, October 19, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard.

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 Hilton Garden Inn San Diego Mission Valley/Stadium, 3805 Murphy Canyon Road, San Diego, California, on Wednesday, December 7, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard. **Written comments mailed to the address given below or emailed to FGC@fgc.ca.gov must be received before 12:00 noon on December 2, 2016. All comments must be received no later than December 7, 2016, at the hearing in San Diego, California.** If you would like copies of any modifications to this proposal, please include your name and mailing address.

Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout format can be accessed through our 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, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth 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 Valerie Termini or Sherrie Fonbuena at the preceding address or phone number. **Senior Environmental Scientist, Joanna Grebel, Department of Fish and Wildlife, has been designated to respond to questions on the substance of the proposed regulations. Ms. Grebel may be reached at (831) 601-2279 or Joanna.Grebel@wildlife.ca.gov.**

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 202 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 and 11346.8 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 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. Providing increased fishing opportunities for groundfish encourages recreation, which can have a positive impact on the health and welfare of California residents. Groundfish taken in the sport fishery and later consumed may have positive human health benefits.

The Commission does not anticipate any benefits to worker safety.

The Commission anticipates benefits to the environment. The proposed management actions include increased fishing opportunity, along with the continuation of the reasonable and sustainable management of recreational groundfish resources and the protection of listed and special status species. Adoption of scientifically-based seasons, depth restrictions, and recreational bag limits provide for the maintenance of sufficient populations of groundfish to ensure their continued existence.

(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

Valerie Termini
Executive Director

Dated: September 2, 2016