

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Sections 1.91, 27.60, 27.65, 27.82, 27.83, 28.26,
28.27, 28.28, 28.29, 28.54, 28.55, 28.56, 28.58, and 28.90

Title 14, California Code of Regulations

Re: Recreational Groundfish Fishing Regulations for 2005 and 2006
for Consistency with Federal Rules

I. Date of Initial Statement of Reasons: July 30, 2004

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: June 24, 2004
Location: Crescent City

(b) Discussion Hearing: Date: August 27, 2004
Location: Morro Bay

(c) Adoption Hearing: Date: October 22, 2004
Location: Concord

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Changes in California's ocean sport fishing regulations for all federally-designated groundfish (including rockfish, lingcod, cabezon, kelp greenling, and California scorpionfish), and associated state-managed species (rock greenling, ocean whitefish and California sheephead) are proposed for consideration by the Fish and Game Commission (Commission) for 2005 and 2006. The proposals include: changes to management areas, changes to fishing seasons and fishing depths, and changes to size and bag limits. These regulatory changes are needed to help achieve groundfish management goals, including rebuilding of "overfished" stocks of rockfish and lingcod, and will help achieve consistency between state regulations and federal groundfish regulations for 2005 and 2006.

The Pacific Fishery Management Council (Council) adopted recommendations to change federal groundfish regulations on June 18, 2004. The new federal regulations, which will be implemented by NOAA Fisheries beginning January 1, 2005, affect both the recreational and commercial fisheries for groundfish off California. Regulations being considered by the Commission, as a part of this rulemaking, involve only changes to recreational fishing provisions.

The proposed changes to regulations are intended to keep the total fishing mortality for a stock within the harvest limit (optimum yield or OY, recreational harvest guideline, or recreational harvest target) established for that stock for the year. Many groundfish species are found in multi-species assemblages, and, thus, species with relatively low harvest limits may constrain fishing for other species. Combinations of closed seasons, closed areas, size limits, and bag limits are proposed to prevent exceeding all harvest limits.

PROPOSED REGULATORY CHANGES

1. Changes to the list of species included in the closures to protect rockfish and lingcod [modification of Sections 27.82, 27.83, and 28.56]

All federally-designated groundfish

To protect rockfish and lingcod, existing regulations establish seasons and depth closures for 56 species of federal groundfish ([Attachment 1](#)) and three state-managed species found in association with rockfish and lingcod (rock greenling, California sheephead, and ocean whitefish). The proposed regulations would expand the list of species covered by the season and depth closures to all species of federal groundfish ([Attachment 1](#)) as well as rock greenling, California sheephead, and ocean whitefish. The modification to restrict the take of all groundfish species would reduce the potential bycatch of rockfish and lingcod, and would conform state regulations to federal regulations which currently prohibit the take of all groundfish during closed periods and in closed depths. The proposed regulations provide three exemptions to the closures for all groundfish: exemption for some flatfish, caught with sanddab gear, exemption for leopard shark caught in certain enclosed bays, and exemption for divers and shore-based anglers.

Exemption for flatfish

Existing regulations allow recreational anglers to fish for sanddabs in areas closed to fishing for rockfish and lingcod if an angler uses small hooks (No. 2 size or smaller) and a weight of two pounds or less. The proposed regulations additionally would allow retention of eight species of flatfish that are federally-designated groundfish during groundfish closures and in areas closed to groundfish fishing if the flatfish are taken with exempted sanddab gear. The small hooks used to catch sanddabs are unlikely to result in bycatch of rockfish or lingcod. In addition, sanddabs and the other flatfish are not typically found in the same habitats as rockfish and lingcod, reducing the likelihood for incidental take of rockfish and lingcod while fishing for flatfish.

Exemption for leopard shark caught in specific enclosed bays

Leopard shark, a federally-designated groundfish species, is frequently found in enclosed bays in California. In most of these enclosed bays, anglers fishing for leopard shark would not encounter any of the overfished rockfish species or lingcod. The proposed regulations would allow anglers to take leopard shark in

the following enclosed bays during groundfish closures and in areas closed to fishing for groundfish: Humboldt Bay, Drakes Estero, Bolinas Bay, Tomales Bay, Bodega Harbor, San Francisco Bay, Elkhorn Slough, Newport Bay, Alamitos Bay, San Diego Bay, and Mission Bay.

Exemption for divers and shore-based anglers

Under existing regulations, the take of rockfish, lingcod and associated species is prohibited for all modes of recreational fishing (fishing from shore, fishing from boats, and diving) during the rockfish and lingcod closures. The proposed regulations would exempt divers using spearfishing gear and shore-based anglers from most of the groundfish closures. Divers and shore-based anglers would not be allowed to take lingcod during the months of January, February, March, and December. The proposed regulations would prohibit divers using vessels or non-motorized watercraft from having fishing gear other than spearfishing gear onboard the vessel or watercraft. Divers can visually identify their target species and avoid take of non-target species. In addition, divers and shore-based anglers take only a small amount of the rockfish species of concern. The exemption is not expected to significantly impact the resources.

2. Changes to the boundaries for management areas

[modification of Sections 27.82 and 28.55]

Subdivision of the Central Rockfish and Lingcod Management Area (RLMA)

The available species of groundfish, the weather, and fishing effort vary greatly in the northern, central, and southern parts of the state. Existing regulations establish three Rockfish and Lingcod Management Areas (Northern RLMA, Central RLMA, and Southern RLMA) so that regulations can be tailored to the conditions found in each part of the state. The proposed regulations would subdivide the existing Central RLMA into three areas (North-Central RLMA, Monterey South-Central RLMA, and Morro Bay South-Central RLMA) to further increase fishing opportunities while keeping the catch within the harvest limits. The boundaries for the proposed areas are:

- North-Central RLMA – 40°10' N. lat. (near Cape Mendocino, Humboldt County) to 37°11' N. lat. (at Pigeon Point, San Mateo County)
- Monterey South-Central RLMA – 37°11' N. lat. (at Pigeon Point, San Mateo County) to 36°00' N. lat. (near Lopez Point, Monterey County)
- Morro Bay South-Central RLMA – 36°00' N. lat. (near Lopez Point, Monterey County) to 34°27' N. lat. (at Point Conception, Santa Barbara County).

Existing regulations provide for a bag limit of one bocaccio in the Central RLMA. Since this rulemaking proposes the division of the Central RLMA into three regions, the proposed regulatory text clarifies that the one-fish bocaccio bag limit will continue to apply in the three newly-designated regions.

Description of the boundary of Cordell Bank

Cordell Bank (off Marin County) is an area in the North-Central RLMA where fishing for rockfish, lingcod and associated species is currently prohibited. The current regulations define the boundary of Cordell Bank as a five nautical mile radius around a point on Cordell Bank (38°02' N. lat., 123°25' W. long.). The proposed regulations would redefine the boundary as a 100-fathom depth contour encompassing Cordell Bank. Thus, fishing would be prohibited for all groundfish and associated state-managed species in waters less than 100 fathoms on Cordell Bank. The proposed change would increase protection of canary rockfish (an overfished species) which is more abundant on Cordell Bank than in the surrounding area and tends to be found in greater abundance in waters less than 100 fathoms. The proposed change is for consistency with the federal regulations and to improve clarity and enforceability of the prohibition.

3. Changes to seasons and fishing depths

[modification of Section 27.82]

The existing seasons and depth restrictions for each RLMA are shown in [Attachment 2](#). The proposed seasons and depth restrictions for each RLMA are shown in [Attachment 3](#). A fishing season of less than a full year is proposed for each RLMA to keep projected catch within the harvest limits. To maximize fishing opportunity within these constraints, different season dates and fishing depths were developed for each of the five proposed RLMAs. Both species-specific catch rates and regional preferences expressed by constituents were used to develop the proposed seasons and depth restrictions. The limiting factors for each RLMA are described below.

- *Northern RLMA* - Black rockfish constrained the duration of the fishing season, and canary rockfish constrained the fishing depths.
- *North-Central RLMA and Monterey South-Central RLMA* - Minor nearshore rockfish constrained the duration of the fishing season, and canary rockfish constrained the fishing depths.
- *Morro Bay South-Central RLMA and Southern RLMA* - Minor nearshore rockfish constrained the duration of the fishing season and the fishing depths.

4. Change to Fishing Provisions in the Cowcod Conservation Areas

[modification of Section 27.82]

Existing regulations allow fishing for all rockfish species, lingcod, cabezon, greenlings, California scorpionfish, California sheephead, ocean whitefish and sanddabs in waters less than 20 fathoms in the Cowcod Conservation Areas. The proposed regulations would change the provisions for rockfish from all species of rockfish to only nearshore species of rockfish (black, black and yellow, blue, brown, calico, China, copper, gopher, grass, kelp, olive, quillback, and treefish rockfishes). The proposed regulations would allow fishing for sanddabs

and some federally-designated flatfish with sanddab gear, and would continue to allow fishing for lingcod, cabezon, greenlings, California scorpionfish, California sheephead, and ocean whitefish in waters less than 20 fathoms in the Cowcod Conservation Areas. The proposed change is for consistency with the federal regulations. The intent of the regulation is to allow fishing for nearshore species while protecting cowcod, an overfished species that inhabits deeper waters.

5. Changes to the provisions for lingcod

[modification of Sections 27.60, 27.65, 27.82, and 28.27]

The current regulations for lingcod provide for a bag limit of one fish with a minimum total length of 30 inches and a minimum fillet length of 21 inches. Existing regulations also prohibit the retention of lingcod in November and December. The proposed regulations for lingcod would increase the bag limit to two fish, decrease the size limit to 24 inches, and decrease the minimum fillet size to 16 inches in length. The proposed regulations would establish a special closure during primary spawning and nesting season for lingcod. Thus, in addition to the proposed closures for all groundfish species, all recreational take of lingcod would be prohibited in the months of January, February, March, and December. Previous bag limit and size limit constraints were based on models of projected take based on a narrow historical timeframe (2002-2003). Unusually high estimates of take for some months in 2003 caused a re-examination of the historical timeframe used in the models. A new model was developed that uses a longer time period (1983-2003) to project estimates of take. The new model projects a lower annual catch than the previous model. Increasing the bag limit and decreasing the size limit is expected to adjust the annual catch to match the catch projections.

6. Changes to Department's authority to take in-season actions

[modification of subsections 27.82(e) and 27.82(f)]

Under existing regulations, the Commission has given the Department authority to close the recreational fishery for federal groundfish species and associated state-managed species in any area of the state for part or all of the year, when the Department determines that a specified annual harvest limit (limited to harvest limits for lingcod, cabezon, individual species of rockfish, subgroups of rockfish, and California scorpionfish) has been exceeded or is projected to be exceeded prior to the end of the year. The proposed regulations would modify the Department's authority and would allow the Department to change bag and size limits for federal groundfish species and associated state-managed species when the Department projects that one of the specified annual harvest limits will be exceeded prior to the end of the year. The proposed regulations would also give the Department the authority to open a fishing season, increase a bag limit, and/or decrease a size limit for federal groundfish species and associated state-managed species if catches earlier in the year were less than predicted. The proposed regulations would allow the seasons, fishing depths, bag limits, and

size limits to differ by geographic locations, time of year, mode of fishing (private boats, commercial passenger fishing vessel, shore-based anglers, and divers), and gear used.

In practice, it is difficult to accurately project recreational catches prior to the season, because recreational fishing effort for groundfish varies from year to year depending on availability of other species, weather, and other intangible factors. As a result, it is necessary for the state and the Council to be able to respond quickly to in-season catch estimates to prevent the recreational fishery from taking more than its annual harvest limit. Currently, closure of a fishery is the only tool that the Department has available if in-season recreational catch estimates indicate that a harvest limit will be exceeded. Under the proposed regulations, closure would not be the only tool available for keeping the recreational fishery within its harvest limits when catch rates are higher than predicted. The Department would have the ability to slow catch rates by decreasing bag and/or increasing size limits, and, thus, potentially prevent the need to close a fishery. In addition, the proposed regulations would allow the Department to provide increased fishing opportunities (i.e., increase bag limits, decrease size limits, and increase the fishing season or fishing area) when catches are less than predicted.

Several changes were made in subsections 27.82(e) and 27.82(f) for clarity. The proposed regulations clarify that the harvest limits established in federal regulations may be optimum yield (OY), recreational harvest guidelines, or recreational harvest targets. Information on where the public may obtain the latest fishing rules was added for clarity.

7. Notice of potential changes and how to obtain latest rules

[modification of Sections 27.60, 27.65, 27.82, 28.26, 28.27, 28.28, 28.29, 28.54, 28.55, 28.56, and 28.58]

A number of in-season changes to recreational groundfish regulations have occurred in recent years. These changes were the result of emergency and non-emergency actions by the Commission, in-season actions by the Council, and closures by the Department under the authority of sections 27.82 and 52.10. The actions were taken because the recreational fishery had exceeded a harvest limit or was projected to exceed a harvest limit. It may be necessary to take in-season actions in 2005 and/or 2006 to prevent the recreational fishery from exceeding a harvest limit. To improve public awareness that the regulations may change during the year, the proposed regulations state that fishing rules may change during the year or season, and provide information on how to obtain the latest fishing rules. The latest fishing rules will be available on the Department's website (www.dfg.ca.gov/mrd/), on an automated phone line (831-649-2801), and at Department offices. The information on the potential for change and where to get the latest fishing rules is listed in every section of the regulations that may be changed.

8. Options for changing bag limits for cabezon and greenlings

[modification of Sections 27.60, 28.28, and 28.29]

Existing state regulations and the proposed federal regulations set the bag limit for cabezon at three fish, and the combined bag limit for rock and kelp greenlings at two fish. However, the Commission may want to consider modifying the bag limits for cabezon and greenlings to keep the recreational catch below the annual harvest limits for these species. Two factors may result in the recreational catches exceeding harvest limits: (1) the OY for cabezon in California that was adopted by the Council for 2005 is 22 percent lower than the OY for 2004 and (2) a high proportion of the recreational harvest of cabezon and greenlings is by divers and shore-based anglers, and the proposed season and area closures for cabezon and greenlings do not apply to divers and shore-based anglers.

The proposed state regulations provide the Commission with the following options for modifying the existing bag limits:

(1) Cabezon - reduce the cabezon bag limit from three fish to (1-2) fish; and/or establish a different bag limit (1-2 fish) for divers and shore-based anglers, recognizing that divers and shore-based anglers will be authorized to fish year-round for these species.

(2) Greenlings - reduce the bag limits for greenlings of the genus *Hexagrammos* (kelp and rock greenlings) from two fish to one fish; and/or establish a different bag limit (one fish) for divers and shore-based anglers, recognizing that that divers and shore-based anglers will be authorized to fish year-round for these species.

9. Changes for clarity and consistency

List of federal groundfish species by category

[modification of Section 1.91]

For clarity, the proposed regulations list all the federal groundfish species by category (categories include groups such as sharks, flatfish, and rockfish).

Scuba provision

[modification of Section 28.90]

For clarity, Section 28.90 on diving and spearfishing was modified to include the provision that prohibits all types of fishing gear except spearfishing gear aboard any vessel or non-motorized watercraft when fishing for groundfish and associated species in an area under a groundfish season or depth closure.

Section 27.60 on special bag limits

For clarity, subsection 27.60(b) was divided into two subsections: subsection 27.60(b)(1) lists special limits for groundfish and associated state-managed

species, and subsection 27.60(b)(2) lists the special limits for all other species. The federal groundfish species were noted in Section 27.60(d) for clarity.

Subsection 27.82(d) on Cowcod Conservation Areas

Subsection 27.82(d) was divided into subsections to improve clarity: one describing the boundaries, and the other describing fishing restrictions.

Section 27.83 on the California Rockfish Conservation Area

Section 27.83 was revised for clarity. Exemptions for shore-based anglers and divers were added in subsection 27.83(b) for consistency with Section 27.82.

Sections on California sheephead (28.26), lingcod (28.27), cabezon (28.28), kelp and rock greenlings (28.29), California scorpionfish (28.54), rockfish (28.55), and ocean whitefish (28.58)

The subsections on open seasons and areas in Sections 28.26, 28.27, 28.28, 28.29, 28.54, 28.55, and 28.58 were modified to simply refer to Section 27.82 which contains the season and fishing depth for all these species.

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

Authority: Sections 200, 202, 205, 215, 220, 5508, 7071 and 8587.1, Fish and Game Code.

Reference: Sections 200, 202, 205, 210, 215, 220, 5508, 7071, 7120, 8585.5, 8586 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:

Groundfish Advisory Subpanel Statement on Tentative Adoption of Groundfish Management Measures for 2005/2006 Fisheries, Exhibit C.6.c., Supplemental GAP Report, June 2004. Pacific Fishery Management Council, 2004. 5 p.

Groundfish Advisory Subpanel Statement on Final Adoption of 2005/2006 Management Measures, Exhibit C.10.c., Supplemental GAP Report, June 2004. Pacific Fishery Management Council, 2004. 2pp.

Groundfish Management Team (GMT) Report on 2005-06 Management Measures, Exhibit C.8.b., Supplemental GMT Report, June 2004. Pacific Fishery Management Council, 2004. 7pp.

Groundfish Management Team (GMT) Report on Final Adoption of 2005-06 Groundfish Management Measures, Exhibit C.10.b., Supplemental GMT Report, June 2004. Pacific Fishery Management Council, 2004. 23 pp.

Pacific Council News, Spring 2004. Pacific Fishery Management Council, 2004. 28(1):4, 18, and 19.

Pacific Council News, Summer 2004. Pacific Fishery Management Council, 2004. 28(2):1, 16, 17, and 21.

Proposed Acceptable Biological Catch and Optimum Yield Specifications and Management Measures for the 2005-2006 Pacific Coast Groundfish Fishery, [Preliminary Draft] Draft Environmental Impact Statement. Pacific Fishery Management Council, May 2004. 322pp.

Marine Recreational Fisheries Data Access. 1999 MRFSS. Query results from this database available online at: <http://www.psmfc.org/recfin/forms/est.html>

Marine Angler Expenditures in the Pacific Coast Region. NOAA Technical Memorandum NMFS-F/SPO-49 October 2001. 2001 NMFS.

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

(1) California Fish and Game Commission Meetings:

- May 4-6, 2004, San Diego, California
- June 24-25, 2004, Crescent City, California

(2) Pacific Fishery Management Council Meetings:

- April 4-9, 2004, Sacramento, California
- June 13-18, 2004, Foster City, California

(3) California Department of Fish and Game Groundfish Task Force (for summary of meetings and conference calls see [Attachment 4](#)):

- December 16, 2003, Los Alamitos, California
- January 27, 2004 Oakland, California
- May 17, 2004, conference call
- June 7, 2004, conference call

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

The Department and Council considered a variety of management measures (alone and in combination) that would constrain total fishing mortality by keeping catches within harvest limits that were established to maintain groundfish stocks at, or restore them to, healthy levels. The management measures considered include:

- Modifications of bag and sub-bag limits
- Modifications to size limits
- Various combinations of season and fishing depth closures for each RLMA
- Various subdivisions of each RLMA
- Prohibit groundfish fishing in “hot spots” (areas with relatively high abundance of overfished species)
- Modifications to the number of fishing hooks allowed
- Establishment of bait restrictions
- Establishment of separate harvest limits for each RLMA
- Establishment of separate restrictions for each fishing mode

(b) No Change Alternative:

The no-change alternative would conflict with the federal regulations that will be effective for 2005 and 2006. In addition, catch projections for the no-change alternative show that it won't constrain the fishery to the established harvest limits for 2005 and 2006. If the harvest limits are exceeded, federal rebuilding goals for overfished groundfish stocks may not be met and the health of stocks could be jeopardized. If the no-change alternative is chosen and the recreational fishery exceeds the established harvest limits, the Council would take action to close the recreational fishery in federal waters, and would ask the state to do the same in state waters. The Council might also close the commercial fishery if the overage was large enough to result in the OY being reached.

(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 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 additions to the list of species included in the closures to protect rockfish and lingcod are not expected to have an economic impact since few of the additional species are typically caught by recreational anglers. Flatfishes and leopard shark are caught by recreational anglers, and provisions have been made to allow for the take of these species under certain circumstances.

Proposed alterations to the boundaries are not expected to have a direct economic impact. Rather, the increased resolution in management areas allows the regulations to be tailored to each area's biological and socio-economic needs. This way the State can help minimize the impacts and disruption to recreational fishing activities, while maintaining healthy fish stocks and a satisfying recreational experience.

Businesses providing services to divers and shore-based anglers are likely to have a positive economic benefit, because the proposed regulations allow these groups to fish year round.

The proposed changes to the provisions for lingcod and California scorpionfish are not expected to have an economic impact. Also, the proposed changes to the Department's authority to take in-season action are not expected to have any direct economic impact. Impacts would only occur if the advertised harvest limits were reached before the end of the year and the Department closed the fishery. The proposed changes

include provisions that would allow the Department to reduce effort by modifying bag and size limits in-season if the catch is higher than projected. This would lessen the likelihood that the fishery would need to be closed before the end of the year and lessen the potential economic impact of a closure. In addition, the proposed regulations would allow the Department to increase the duration of a season or modify bag and size limits if the catch was lower than projected. A positive economic impact would be expected if the regulations were relaxed in-season.

The proposed changes to the fishing seasons and fishing depths may have economic impact on small businesses in California, primarily Commercial Passenger Fishing Vessels (CPFV). The greatest impact may be in Del Norte and Humboldt counties (Northern RLMA) where the fishing season was reduced from twelve to four months (July through October). July through October is typically the period of greatest activity for CPFV's in the Northern RLMA, though the CPFV operations contribute only about 10 percent of total recreational catches for this area. This time period coincides with weather trends when the winds and seas generally do not prohibit fishing. In the area from Cape Mendocino to Lopez Point (North-Central RLMA and Monterey South-Central RLMA), the duration of the fishing season proposed for 2005 and 2006 is the same as for 2004, and, thus, no economic impact is expected. In the area from Lopez Point to Point Conception (Morro Bay South-Central RLMA), the proposed season is four months shorter than in 2004. This is not expected to represent a significant economic impact, since the time period January through April amounts to only about 5.2 percent of the annual groundfish fishing activity in this area. South of Point Conception (Southern RLMA), the proposed season will be three months shorter than the 2004 season. The closure October through December does represent a period typically active for the CPFV operations in this area, based on recent catch history. In 2003, about 31 percent of total annual recreational groundfish catches in the Southern and Morro Bay South-Central RLMA's (combined) were from CPFV operations. Of those catches, 29 percent and 17 percent of annual CPFV catches occur in the period September-October and November-December, respectively (based on MRFSS RecFIN data from 1999 when fishing was less regulated and indicative of less constrained fishing activities. 1999 MRFSS). Earlier studies on marine recreational fishing expenditures, for all species, show that as much as \$51 million is spent on CPFV fees (2001 NMFS). Thus, in a worst case situation, the proposed regulations for the Southern and Morro Bay South-Central RLMA's could represent combined revenue losses of several millions of dollars to CPFV operations. For example, if groundfish represent 50 percent of the target species for all fishing trips on Southern California CPFV's, this could amount to \$8 million in lost revenues (\$51 million x 50

percent x (29 percent/2) = \$3.7 million for October only, and \$51 million x 50 percent x 17 percent = \$4.3 million for November and December). However, overall economic impacts in the Southern RLMA may be reduced by the number of alternative marine sportfishing opportunities available to recreational anglers and divers in this area.

- (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. There are no new fees or reporting requirements associated with the proposed regulations.

- (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

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The proposed management measures (regulations) are intended to keep the total fishing mortality for a stock within the harvest limit (optimum yield or OY, recreational harvest guideline, or recreational harvest target) established for that stock for the year. Many groundfish species are found in multi-species assemblages, and, thus, species with relatively low harvest limits may constrain fishing for other species. Combinations of closed seasons, closed areas, size limits, and bag limits are proposed to prevent exceeding all harvest limits.

PROPOSED CHANGES

1. To protect rockfish and lingcod, existing regulations establish seasons and depth closures for 56 species of federal groundfish and three state-managed species found in association with rockfish and lingcod (rock greenling, California sheephead, and ocean whitefish). The proposed regulations would expand the list of species covered by the season and depth closures to all species of federal groundfish as well as rock greenling, California sheephead, and ocean whitefish. The following exemptions to this provision are proposed:
 - a. Allow retention of 8 species of flatfish that are federally-designated groundfish during groundfish closures and in areas closed to groundfish fishing if the flatfish are taken with sanddab gear (No. 2 size or smaller hooks and a weight of two pounds or less).
 - b. Allow anglers to take leopard shark (a federal groundfish) in the following enclosed bays during groundfish closures and in areas closed to fishing for groundfish: Humboldt Bay, Drakes Estero, Bolinas Bay, Tomales Bay, Bodega Harbor, San Francisco Bay, Elkhorn Slough, Newport Bay, Alamitos Bay, San Diego Bay, and Mission Bay.
 - c. Exempt divers using spearfishing gear and shore-based anglers from most of the groundfish closures. Divers and shore-based anglers would not be allowed to take lingcod during the months of January, February, March, and December. Fishing gear other than spearfishing gear would be prohibited onboard the vessel or watercraft used while diving under this exemption.

2. The proposed regulations would subdivide the existing Central Rockfish and Lingcod Management Area (RLMA) into three areas (North-Central RLMA, Monterey South-Central RLMA, and Morro Bay South-Central RLMA) to further increase fishing opportunities while keeping the catch within the harvest limits. The boundaries for the proposed areas are:
 - a. North-Central RLMA – 40°10' N. lat. (near Cape Mendocino, Humboldt County) to 37°11' N. lat. (at Pigeon Point, San Mateo County)
 - b. Monterey South-Central RLMA – 37°11' N. lat. (at Pigeon Point, San Mateo County) to 36°00' N. lat. (near Lopez Point, Monterey County)
 - c. Morro Bay South-Central RLMA – 36°00' N. lat. (near Lopez Point, Monterey County) to 34°27' N. lat. (at Point Conception, Santa Barbara County).
3. The proposed limits on bocaccio reflect that the proposed division of the Central RLMA into three regions.
4. The proposed regulations would redefine the boundary for Cordell Bank as a 100-fathom depth contour encompassing Cordell Bank.
5. Different season dates and fishing depths are proposed for each of the five proposed RLMAs:
 - a. Northern RLMA (Oregon/California border - near Cape Mendocino): A four-month season (July – October) with fishing permitted in waters less than 40 fathoms. For exemptions, see #1 above.
 - b. North-Central RLMA (near Cape Mendocino - Pigeon Point): A five-month season (July – November) with fishing permitted in waters less than 20 fathoms. For exemptions, see #1 above.
 - c. Monterey South-Central RLMA (Pigeon Point - near Lopez Point): A five-month season (July – November) with fishing permitted in waters less than 20 fathoms. For exemptions, see #1 above.
 - d. Morro Bay South-Central RLMA (near Lopez Point - Point Conception): A five-month season (May - September) with fishing permitted in waters from 20 to 40 fathoms. For exemptions, see #1 above.
 - e. Southern RLMA (Point Conception – California/Mexico border): A seven-month season for all groundfish and associated state-managed species, except California scorpionfish, with fishing permitted in waters from 30 to 60 fathoms from March through June and in waters less than 40 fathoms from July through September. A three-month season for California scorpionfish with fishing permitted in waters less than 40 fathoms in October and November and in waters less than 20 fathoms in December. For exemptions, see #1 above.
6. The proposed regulations would limit the species of rockfish that may be taken in waters less than 20 fathoms in the Cowcod Conservation Areas; only fishing for nearshore species of rockfish (black, black and yellow, blue, brown, calico, China, copper, gopher, grass, kelp, olive, quillback, and treefish rockfishes) would be allowed. The proposed regulations would allow fishing for sanddabs and some federally-designated flatfish with sanddab gear, and would continue to allow fishing

for lingcod, cabezon, greenlings, California scorpionfish, California sheephead, and ocean whitefish in waters less than 20 fathoms in the Cowcod Conservation Areas.

7. The proposed regulations for lingcod would increase the bag limit to two fish, decrease the size limit to 24 inches, and decrease the minimum fillet size to 16 inches in length. The proposed regulations would establish a special closure during primary spawning and nesting season for lingcod. Thus, in addition to the proposed closures for all groundfish species, all recreational take of lingcod would be prohibited in the months of January, February, March, and December.
8. The proposed regulations would allow the Department to change bag and size limits for federal groundfish species and associated state-managed species in-season when the Department projects that one of the specified annual harvest limits will be exceeded prior to the end of the year. The proposed regulations would also give the Department the authority to open a fishing season, increase a bag limit, and/or decrease a size limit for federal groundfish species and associated state-managed species if catches earlier in the year were less than predicted. The proposed regulations would allow the seasons, fishing depths, bag limits, and size limits to differ by geographic locations, time of year, mode of fishing (private boats, commercial passenger fishing vessel, shore-based anglers, and divers), and gear used. The proposed regulations clarify that the harvest limits established in federal regulations may be optimum yield (OY), recreational harvest guidelines, or recreational harvest targets.
9. In every section of the regulations that may be changed in-season, the proposed regulations state that fishing rules may change during the year or season, and provide information on how to obtain the latest fishing rules. The latest fishing rules will be available on the Department's website, on an automated phone line, and at Department offices.
10. The proposed state regulations provide the Commission with the following options for modifying existing bag limits for cabezon and greenlings:
 - (1) Cabezon - reduce the cabezon bag limit from three fish to (1-2) fish; and/or establish a different bag limit (1-2 fish) for divers and shore-based anglers, recognizing that divers and shore-based anglers will be authorized to fish year-round for these species.
 - (2) Greenlings - reduce the bag limits for greenlings of the genus *Hexagrammos* (kelp and rock greenlings) from two fish to one fish; and/or establish a different bag limit (one fish) for divers and shore-based anglers, recognizing that that divers and shore-based anglers will be authorized to fish year-round for these species.
11. The following changes are proposed for clarity or consistency:
 - a. Add a list of all the federal groundfish species by category (categories include groups such as sharks, flatfish, and rockfish) to the regulations.
 - b. Modify the section on diving and spearfishing to explain that all types of fishing gear except spearfishing gear are prohibited aboard any vessel or non-motorized watercraft when spearfishing for groundfish and associated species in an area under a groundfish season or depth closure.

- c. Divide the subsection on special bag limits into two subsections: a subsection that lists special limits for groundfish and associated state-managed species, and a subsection that lists the special limits for all other species. In the subsection that lists the species that do not have bag limits, note which species are the federally-designated groundfish.
- d. Divide the subsection on Cowcod Conservation Areas into two subsections: one describing the boundaries, and the other describing fishing restrictions.
- e. Modify the language of the section on the California Rockfish Conservation Areas for clarity, and add exemptions for divers and shore-based anglers.
- f. Modify the subsections on open seasons and areas in the sections on California sheephead, lingcod, cabezon, kelp and rock greenlings, California scorpionfish, rockfish, and ocean whitefish to simply refer to Section 27.82, Title 14, CCR, which contains the season and fishing depth for all these species.
- g. Make minor non-substantial changes to various sections for consistency in presentation of size limit information.