

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

Amend Sections 27.60, 27.67, 27.82, 28.28, 28.29, and 28.55  
Title 14, California Code of Regulations  
Re: Bag Limits for Rockfishes, Cabezon and Greenlings, and  
Fishery Closure Process

I. Date of Initial Statement of Reasons: December 10, 2003

II. Dates and Locations of Scheduled Hearings:

- |     |                     |           |                        |
|-----|---------------------|-----------|------------------------|
| (a) | Notice Hearing:     | Date:     | December 5, 2003       |
|     |                     | Location: | Sacramento, California |
|     |                     |           |                        |
| (b) | Discussion Hearing: | Date:     | February 6, 2004       |
|     |                     | Location: | Long Beach, California |
|     |                     |           |                        |
| (b) | Adoption Hearing:   | Date:     | March 5, 2004          |
|     |                     | Location: | Redding, California    |

III. Description of Regulatory Action:

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

Existing regulations establish recreational bag and sub-bag limits for rockfish, cabezon and greenlings, and establish provisions for closing the recreational fisheries for lingcod, rockfish, a subgroup of rockfish, and/or California scorpionfish. The proposed regulations will: (1) eliminate the sub-bag limit for shallow nearshore rockfish within the bag limit for the Rockfish, Cabezon and Greenlings Complex (RCG complex); (2) establish statewide bag limits for rockfish, cabezon and greenlings; and (3) add a number of fisheries to the list of recreational fisheries that the Department of Fish and Game (Department) may close if an annual harvest limit (optimum yield) for lingcod, rockfish, a subgroup of rockfish, and/or California scorpionfish has been exceeded or is projected to be exceeded.

In September 2003, the Department submitted proposed regulations to conform state regulations with the federal rules adopted by the Pacific Fishery Management Council (Council) for the 2004 recreational

groundfish fishery, and on December 4, 2003, the Fish and Game Commission (Commission) adopted those proposed regulations (Office of Administrative Law's ID #03-1007-12). Since submitting the proposed regulations for the 2004 recreational groundfish fishery, the recreational harvest estimates (catch and discarded dead fish) for July and August of 2003 have become available from the Marine Recreational Fisheries Statistics Survey (MRFSS). The estimated harvest was considerably higher than anticipated, which resulted in the annual coastwide optimum yields (OYs) for 2003 being exceeded for minor nearshore rockfish, canary rockfish, and lingcod. An OY represents an agreed upon harvest limit within which the catches for commercial and recreational fisheries are kept. Because the OYs were exceeded the following actions were taken in early November: (1) the Council closed many nearshore and shelf commercial and recreational fisheries for the remainder of 2003; (2) the Department closed the recreational fisheries for rockfish, lingcod and California scorpionfish under the authority of Section 27.82(g) of Title 14, CCR; and (3) the Commission took emergency action to close the recreational fisheries for ocean whitefish and the federally designated groundfish species that were not covered by the Department's closure.

In addition, higher than expected recreational take (catch and discarded dead fish) of cabezon, greenlings and California sheephead caused those fisheries to reach their annual harvest limits in 2003 earlier than expected. The Department closed those recreational fisheries in early October under the provisions of Section 52.10, Title 14, CCR.

The higher than expected catches and discards, and the resulting closures, prompted the Department to consider in-season modifications of the 2004 recreational groundfish fishery regulations. All in-season changes must fall within the constraints of the management strategy established by the Council for 2004. The proposed bag limit modifications fall within the constraints of 2004 management strategy and will reduce the likelihood that OYs will be exceeded in 2004. The proposed modifications to the recreational fishery closure provisions will broaden the Department's authority to quickly close specified fisheries if OYs are exceeded.

As part of the process for developing regulations for 2005 and 2006, the Department and Council will review all the current regulations and investigate other strategies for keeping catches and discards within established OYs. The Department and Council will not be under the same constraints when developing the 2005-2006 regulations as when proposing in-season changes to the 2004 regulations

If the Commission adopts the proposed bag limit regulations, the state's representatives to the Council will ask the Council to adopt in-season regulations consistent with those adopted by the state. The Department anticipates that the request would be made at the Council's meeting in March 2004.

***Modifications to sections 27.60, 28.28, 28.29, and 28.55 regarding bag limits for rockfish, cabezon, and greenlings***

Elimination of sub-bag limit for shallow nearshore rockfish

Existing regulations establish a 10-fish bag limit for the Rockfish, Cabezon and Greenlings Complex (RCG complex) in the Central and Southern Rockfish and Lingcod Management Areas (RLMA). Within the 10-fish RCG complex bag limit, there is a sub-bag limit of two for shallow nearshore rockfish (black-and-yellow, China, gopher, grass, and kelp rockfishes).

The proposed regulations would eliminate the sub-bag limit for shallow nearshore rockfish. Preseason analyses used to help determine the management strategies for 2003 indicated that the shallow nearshore rockfish OY was likely to be exceeded by the recreational fishery before other recreational rockfish OYs were reached. In an attempt to slow the expected take of shallow nearshore rockfish, a sub-bag limit of two fish was established to discourage the targeting of that rockfish group, and divert some fishing effort toward other rockfish fishing opportunities. This management approach was projected to allow for a six-month fishing season south of 40° 10' North Latitude (the area covered by the Central and Southern RLMAs).

Late in October 2003, analyses of recreational catch estimates for July and August 2003 indicated that the shallow nearshore rockfish sub-bag limit did not function as anticipated, and instead of diverting effort away from productive fishing grounds for shallow nearshore rockfish, it resulted in an increase in the discard rate of those fish. After reaching their shallow nearshore rockfish sub-bag limit, anglers tended to continue fishing for other rockfish in the same areas that are productive for shallow nearshore rockfish, resulting in the discard of shallow nearshore rockfish (particularly gopher rockfish). This unintended regulatory effect not only resulted in the discard of dead shallow nearshore rockfish, but it also may have led to increased overall rockfish mortality. The discarded rockfish did not count towards the 10-fish total bag limit for the RCG complex. Had the discarded fish been retained, some anglers would have reached their

10-fish limit sooner, and therefore ceased fishing with lower total rockfish mortality for the fishing day.

Rockfish are particularly difficult to identify, and many anglers may have inadvertently exceeded their limits due to their inability to identify rockfish species. The result was an increase in bag-limit violations, but not a decrease in the take of shallow nearshore rockfish.

In addition, there was confusion on the part of anglers regarding the two-fish shallow nearshore rockfish sub-bag limit. Some thought the shallow nearshore rockfish limit was in addition to the ten-fish RCG complex bag limit rather than part of the RCG complex bag limit. This also led to increased harvest of shallow nearshore rockfish.

Cabezon and greenlings have higher survival rates than rockfishes when they are caught and released. The Department does not believe the discards of cabezon and greenlings, due to recreational anglers reaching the sub-bag limits for those species, will significantly increase the recreational take (catch and discarded dead fish) of cabezon and greenlings. Thus, the Department proposes retaining the sub-bag limits for cabezon and greenlings.

Consequently, to correct these unintended negative effects, improve conservation of rockfish stocks, simplify regulations, and reduce the overall take of rockfish during 2004, the Department recommends that the shallow nearshore rockfish two-fish sub-bag limit be eliminated.

#### Establish statewide bag and sub-bag limits for rockfish, cabezon, and greenlings

Existing regulations establish different bag limits for rockfish, cabezon, and greenlings in the Northern RLMA than in the Central and Southern RLMAs. The proposed regulations would establish either the same bag and sub-bag limits for cabezon, greenlings, and all rockfish statewide, or the same bag and sub-bag limits for cabezon, greenlings, and all rockfish except bocaccio statewide. The proposed regulations provide the option of keeping the sub-bag limit for bocaccio at two fish in the Northern RLMA. The proposed bag and sub-bag limits for rockfish, cabezon and greenlings in the Northern RLMA are listed below.

- RCG Complex (including all species of rockfish, cabezon and greenlings) – 10 fish in combination with the following sub-bag limits:
  - Bocaccio – either 1 or 2 fish included in the 10-fish aggregate RCG Complex bag limit
  - Canary, cowcod, and yelloweye rockfishes – No retention

- Cabezon – 3 fish included in the 10-fish aggregate RCG Complex bag limit
- Kelp and rock greenlings – 2 fish in combination; included in the 10-fish aggregate RCG Complex bag limit

The Department believes the regulations in the Northern RLMA need to be modified to reduce the take of rockfish and lingcod in the Northern RLMA during 2004. In November 2003, the Council, Department and the Commission took in-season actions that closed recreational fishing in California for 81 of the 82 federally designated groundfish species (the sanddab fishery remained open) and most commercial groundfish fishing. These actions were taken because the estimated harvest of lingcod and a number of rockfish species and species groups were over the total coastwide OYs (total OY for recreational and commercial fisheries in California, Oregon and Washington) for those species and species groups. In the Northern RLMA, where currently a higher overall bag limit is allowed for rockfish, cabezon and greenlings than in the Central and Southern RLMAs, the estimated recreational harvest (from MRFSS) for minor nearshore rockfish, canary rockfish, and lingcod far exceeded the annual recreational allowances (see Table 1, below). In the Northern RLMA for the period from January 1 through October 31, 2003, the estimated recreational harvest for minor nearshore rockfish was more than 10 times the annual recreational allowance, the estimated recreational harvest for canary rockfish was more than 16 times the annual recreational allowance, and the estimated recreational harvest for lingcod was more than 1.5 times the annual recreational allowance.

Table 1. 2003 Recreational allowances and estimated harvest (from MRFSS) in the Northern Rockfish and Lingcod Management Area (RLMA)

Species or species group	Annual recreational allowance for the Northern RLMA in 2003 (metric tons)	Estimated recreational harvest (from MRFSS) Jan. 1 – Oct. 31, 2003 in the Northern RLMA (metric tons)
Minor nearshore rockfish <sup>1</sup>	40	434
Canary rockfish	0.5	8.2
Lingcod	195	293

1. North of 40°10' North Latitude minor nearshore rockfish include: black, black-and-yellow, blue, brown, calico, China, copper, gopher, grass, kelp, olive, quillback and treefish rockfishes.

The proposed reduction in the overall bag limit for rockfish, cabezon and greenlings should reduce the recreational fishing effort in nearshore waters in the Northern RLMA. The Department believes that the reduced fishing effort will result in decreased harvest of minor nearshore rockfish and lingcod. In addition, it is anticipated that the aggregate RCG complex bag limit will reduce the overall harvest of rockfish.

In addition, the recreational allocations for cabezon and greenlings, established under the California's Nearshore Fishery Management Plan, were exceeded in 2003, and the recreational fisheries for those species were closed in early October. Cabezon and greenlings are under statewide OYs, not regional OYs. Yet, the bag limits for cabezon and greenlings in the Northern RLMA are significantly higher than those in the Central and Southern RLMAs. The existing bag limit for cabezon is 10 fish in the Northern RLMA and three in the Central and Southern RLMAs. The existing bag limit for rock and kelp greenlings is 10 fish of each species in the Northern RLMA and a total of two greenlings (of the genus *Hexagrammos*) in the Central and Southern RLMAs. Reducing the bag limits for cabezon and greenlings in the Northern RLMA should reduce the chance that the state recreational allocation for those species will be exceeded in 2004, and provide more equal recreational fishing opportunity in all three RLMAs.

Establishing a statewide bag limit for the RCG complex will help to simplify the regulations. This will reduce the public's confusion about the regulations and increase the public's compliance with the regulations.

In summary, the Department proposes establishing a 10-fish RCG complex bag limit in the Northern RLMA as in the Central and Southern RLMAs to reduce the likelihood that the recreational fishery will exceed established annual harvest limits in 2004, and, thus, improve conservation of rockfish, lingcod, cabezon, and greenling stocks.

#### ***Modifications to subsection 27.82(g) regarding fishery closures***

Current regulations authorize the Department to close recreational fisheries for lingcod, rockfish, a subgroup of rockfish, and/or California scorpionfish in all or part of the Northern, Central, or Southern RLMA when the Department determines that the annual harvest limit established in regulations by the National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries, formerly National Marine Fisheries Service) for lingcod, rockfish, a subgroup of rockfish, and/or California scorpionfish has been exceeded or is projected to be exceeded prior to the end of the year. Under the proposed regulations, recreational fisheries for greenlings of the genus *Hexagrammos*, California sheephead, ocean whitefish, and any of the 82 federal groundfish species (including lingcod, rockfish, a subgroup of rockfish, California scorpionfish, and cabezon) could also be closed for a specified time (the entire remainder of the year or part of the remainder of the year) by the Department when an annual harvest limit for lingcod, rockfish or a subgroup of rockfish, cabezon\* and/or California

scorpionfish has been exceeded or is projected to be exceeded prior to the end of the year.

The provisions of subsection 27.82(g) currently allow the Department to act quickly when an established annual harvest limit is exceeded or projected to be exceeded. The Council sets annual harvest limits for rockfish, lingcod and other groundfish to promote sustainable harvests and to rebuild overfished stocks. Season, area, bag, gear and size limits for rockfish, lingcod and other groundfish are employed to keep the take of these species or species groups within authorized annual harvest limits while attempting to minimize impacts on the fisheries. However, sometimes the regulations do not limit the take to the level projected by pre-season estimates, and sometimes recreational fishing effort shifts unexpectedly from non-groundfish species to groundfish species resulting in increased take of groundfish.

The ability to take in-season action to keep the harvest levels close to the established annual harvest limits is important to prevent overharvest of groundfish. The in-season action may include the closure of the directed fishery for the species whose harvest limit has been reached, and the closure of fisheries for species found in association with the species whose harvest limit has been reached to prevent bycatch of that species. If no action is taken and harvest is allowed to continue, excessive take beyond allowable levels of overfished groundfish could result in failure to meet federal stock rebuilding goals, which in turn could lead to further declines in the status of these resources. Even for species that are not considered overfished, allowing harvest above the annual limit, places those species at greater risk of overharvest since allowable catches have already been exceeded.

In addition to allowing the Department to act quickly to protect groundfish stocks, subsection 27.82(g) reduces the need for emergency regulatory action by the Commission each time the Council takes in-season action to close groundfish fisheries off California due to attainment of annual harvest limits for specific species.

Under existing law, the Council manages and regulates 82 species of groundfish ([see Attachment 1](#)) including rockfish, lingcod, California scorpionfish, some flatfish, and some sharks in waters off the states of California, Oregon, and Washington (Magnuson-Stevens Fishery Conservation and Management Act, Public Law 94-265). Under California law, the Commission regulates sport fishing in waters off California for all species, including those managed under federally adopted fisheries management plans (FMPs). Since both the Council and the Commission establish regulations for these 82 groundfish species, the Commission

routinely acts to bring its sport fishing regulations for state waters into conformance with federal regulations in response to changes in federal groundfish rules. These conformance actions by the Commission ensure that state and federal rules for these species are consistent and enforceable.

If the State does not take in-season action in concert with the Council (either under the provisions of subsection 27.82(g) or by Commission adoption of emergency regulations), then differing state and federal regulations would apply to recreational fishing for groundfish. This would create confusion for the public and difficulty for Department and NOAA Fisheries enforcement staff, and could lead to the overharvest of groundfish species.

The Department is proposing to include the following fisheries to the list of fisheries that may be closed if the annual harvest limits for lingcod, rockfish, a subgroup of rockfish, cabezon, and/or California scorpionfish are exceeded or projected to be exceeded:

- All 82 federally-designated groundfish species (including lingcod, rockfish, cabezon and California scorpionfish)
- Greenlings of the genus *Hexagrammos*, California sheephead, and ocean whitefish

At times, it may be necessary to close these fisheries because continued fishing for these species would result in bycatch of a species or species group that has already exceeded its annual harvest limit.

The current regulations only allow for closing a fishery for the entire remainder of the year. The proposed regulations would provide the option of closing a fishery for just part of the year. This would provide the flexibility to open a fishery for an associated species during time periods when it is expected that there would be no bycatch of the species/species groups for which the annual harvest limits had been exceeded.

The name of the federal agency that regulates fisheries has recently changed from National Marine Fisheries Service to NOAA Fisheries. The proposed regulations change the name of the agency; this is a technical non-substantive change for clarity and consistency.

***Technical non-substantive changes to Section 27.60, 27.67, 28.28, 28.29, and 28.55***

Reference sections were added, where applicable, to the table in subsection 27.60(b)(2), Title 14, CCR. The addition of these references is to help the angler or diver learn of any additional regulations that may

apply to the species listed in the table (such as seasons, fishing areas, and size limits).

Section 27.67, Title 14, CCR, currently states that the RLMAs are defined in subsection (b) of 27.82. The regulations adopted by the Commission on December 4, 2003 moved the definitions of the RLMAs to subsection (a) of 27.82. The proposed change corrects this reference.

The wording of subsections 28.28(a), 28.29(a), and 28.55(a) were modified for consistency.

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

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

Reference: Sections 200, 202, 205, 206, 210, 215, 220, 5517, 7071, 7923, 8585.5 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 Management Team Report on Status of Groundfish Fisheries and Inseason Adjustments. Exhibit D.5.b., Supplemental GMT Report, November 2003. 6pp.

NMFS 2003, Sampled Catches (A) by Marine Anglers, by Fishing Mode in All Marine Areas in California for January 2002 through December 2002 for Rockfish, Cabezon, Greenling, and Lingcod. Marine Recreational Fisheries Statistics Survey (MRFSS) Pacific Coast, H. Van Buskirk <[wade@psmfc.org](mailto:wade@psmfc.org)>, <http://www.psmfc.org/recfin/forms/boatdepth.html>. November 2003.

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

No public meetings are being held prior to the notice publication.

Prior to the notice for the proposed regulations for the 2004 recreational groundfish fishery (Office of Administrative Law's ID #03-1007-12), six public meetings were held. A wide range of options were discussed at those meetings including some of the options proposed here. Since those meetings, the recreational harvest estimates for July and August 2003

have become available, and the estimates were far higher than the pre-season projections. The high recreational catches resulted in the OYs being exceeded for minor nearshore rockfish, canary rockfish and lingcod, and in the closure for the remainder of 2003 of many commercial and recreational nearshore and shelf fisheries in Washington, Oregon and California. The unexpectedly high recreational catches in California in 2003 caused the Department to look for ways to reduce the likelihood that in-season closures will be required in 2004. The proposed regulations are an attempt to do that. The fishery is set to begin on January 1, 2004, so there is a need to act as quickly as possible and to solicit comments during the regulatory process rather than prior to the beginning of the process.

#### IV. Description of Reasonable Alternatives to Regulatory Action:

##### (a) Alternatives to Regulation Change:

All in-season changes to the recreational groundfish fishery regulations must fall within the constraints of the management strategy established by the Council for 2004. This limited the Department's flexibility in considering in-season changes to the regulations. The Department and Council will not be under the same constraints when considering regulations for 2005 and 2006. The following alternatives were considered for in-season changes to the 2004 recreational groundfish fishery regulations:

- Eliminating 3-fish sub-limit for cabezon within the 10 fish aggregate for rockfish, cabezon and greenlings in the Central and Southern RLMA.
- Eliminate the 2-fish sub-limit for greenlings within the 10 fish aggregate for rockfish, cabezon and greenlings in the Central and Southern RLMA.
- Include ocean whitefish in the 10 fish aggregate for rockfish, cabezon and greenlings in the Central and Southern RLMA.
- Include California scorpionfish in the 10 fish aggregate for rockfish, cabezon and greenlings in the Central and Southern RLMA.
- Shorten the season.

##### (b) No Change Alternative:

If the proposed modifications to bag limits are not made, it is likely that the annual harvest limits for shallow nearshore rockfish will be quickly exceeded in 2004, and it is possible that the annual harvest limits for other species will be exceeded. If the proposed modifications to the closure provisions are not made, then, should an OY be exceeded, emergency

action would be needed to close a recreational fishery for a species not currently listed in Section 27.82(g). This would delay protection of overfished stocks.

- (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:

While the scope of the proposed action is coastwide, we do not expect significant economic impacts to California small businesses, nor to the ability of California businesses to compete with businesses in other states. Individual sport fishermen who target rockfish, cabezon, lingcod, and greenlings will still be able to fish for these species and harvest an individual ocean bag of 20 finfishes (total in combination). However, the legal combination of species under the proposed regulations will change; with the greatest changes being the number of cabezon and greenling that can be retained in waters north of 40°10' North Latitude.

The National Marine Fisheries Service's (now NOAA Fisheries) 2002 data on cabezon and greenling show that, for ocean sport fishermen on commercial passenger fishing vessels and on private boats, these species only comprised about 4.9 percent and 6.7 percent, respectively, of all the rockfish, cabezon, lingcod, and greenlings retained. Consequently, we consider it unlikely that preferences and attitudes for these ocean sportfishing activities will change significantly due to the new sub-bag

limits and reductions in numbers of cabezon and greenling retained in the 20 ocean finfish bag limit.

Shore-based anglers and divers account for a significant proportion of the recreational take of cabezon and greenlings. We do not have information on whether the proposed decreased in bag limits for cabezon and greenlings north of 40°10' North Latitude will change the preference and attitudes of shore-based anglers and divers. We expect a negative, but unquantifiable, economic impact on sportfishing shops and tackle manufacturers due to the reductions in the bag limits for cabezon and greenling if shore-based anglers and divers do not shift to fishing for other species.

- (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.
- (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

Existing regulations establish recreational bag and sub-bag limits for rockfish, cabezon and greenlings, and establish provisions for closing the recreational fisheries for lingcod, rockfish, a subgroup of rockfish, and/or California scorpionfish. The proposed regulations will: (1) eliminate the sub-bag limit for shallow nearshore rockfish within the bag limit for the Rockfish, Cabezon and Greenlings Complex (RCG complex); (2) establish statewide bag limits for rockfish, cabezon and greenlings; and (3) add a number of fisheries to the list of recreational fisheries that the Department of Fish and Game (Department) may close if an annual harvest limit (optimum yield) for lingcod, rockfish, a subgroup of rockfish, and/or California scorpionfish has been exceeded or is projected to be exceeded. In addition, some technical, non-substantive changes are proposed for clarity or consistency.

### (1) Eliminate the sub-bag limit for shallow nearshore rockfish (Sections 27.60 and 28.55, Title 14, CCR)

Existing regulations establish a 10-fish bag limit for the RCG complex in the Central and Southern Rockfish and Lingcod Management Areas (RLMA). Within the 10-fish RCG complex bag limit, there is a sub-bag limit of two for shallow nearshore rockfish (black-and-yellow, China, gopher, grass, and kelp rockfishes). The proposed regulations would eliminate the sub-bag limit for shallow nearshore rockfish.

### (2) Establish statewide bag and sub-bag limits for rockfish, cabezon, and greenlings (Sections 27.60, 28.28, 28.29, and 28.55, Title 14, CCR)

Existing regulations establish different bag limits for rockfish, cabezon, and greenlings in the Northern RLMA than in the Central and Southern RLMAs. The proposed regulations would establish either the same bag and sub-bag limits for cabezon, greenlings, and all rockfish statewide, or the same bag and sub-bag limits for cabezon, greenlings, and all rockfish except bocaccio statewide. The proposed regulations provide the option of keeping the sub-bag limit for bocaccio at two fish in the Northern RLMA. The bag and sub-bag limits would remain the same in the Central and Southern RLMAs. The proposed regulations would establish a RCG Complex (including all species of rockfish, cabezon and greenlings) bag limit in the Northern RLMA of 10 fish in combination with the following sub-bag limits: bocaccio - either 1 or 2 fish; canary, cowcod, and yelloweye rockfishes – no retention; cabezon – 3 fish; and kelp and rock greenlings – 2 fish in combination.

### (3) Modify subsection 27.82(g), Title 14, CCR regarding fishery closures

Current regulations authorize the Department to close recreational fisheries for lingcod, rockfish, a subgroup of rockfish, and/or California scorpionfish in all or part of the Northern, Central, or Southern RLMA when the Department determines that the annual harvest limit established in regulations by the National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries, formerly National Marine Fisheries Service) for lingcod, rockfish, a subgroup of rockfish, and/or California scorpionfish has been exceeded or is projected to be exceeded prior to the end of the year. Under the proposed regulations, recreational fisheries for greenlings of the genus *Hexagrammos*, California sheephead, ocean whitefish, and any of the 82 federal groundfish species

(including lingcod, rockfish, a subgroup of rockfish, California scorpionfish, and cabezon) could also be closed by the Department when an annual harvest limit for lingcod, rockfish or a subgroup of rockfish, cabezon\* and/or California scorpionfish has been exceeded or is projected to be exceeded prior to the end of the year.

The current regulations only allow for closing a fishery for the entire remainder of the year. The proposed regulations would provide the option of closing a fishery for just part of the year. This would provide the flexibility to open a fishery for an associated species during time periods when it is expected that there would be no bycatch of the species/species groups for which the annual harvest limits had been exceeded.

(4) Technical non-substantive changes for clarity or consistency

Reference sections were added, where applicable, to the table in subsection 27.60(b)(2), Title 14, CCR, to help the angler or diver learn of any additional regulations that may apply to the species listed in the table.

Section 27.67, Title 14, CCR, currently states that the RLMAs are defined in subsection (b) of 27.82. The regulations adopted by the Commission on December 4, 2003 moved the definitions of the RLMAs to subsection (a) of 27.82. The proposed change corrects this reference.

The name of the federal agency that regulates fisheries has recently changed from National Marine Fisheries Service to NOAA Fisheries. The proposed regulations change the name of the agency in subsection 27.82(g).

The wording of subsections 28.28(a), 28.29(a), and 28.55(a) were modified for consistency.

\* On December 4, 2003, the Commission adopted regulations that add cabezon to the list of species for which the recreational fishery may be closed by the Department in-season when the Department determines that the federal annual harvest limit has been exceeded or is projected to be exceeded. (See OAL Notice ID#03-1007-12)

## **Attachment 1**

### **Initial Statement of Reasons for Regulatory Action**

**Amend Sections 27.60, 27.67, 27.82, 28.28, 28.29, and 28.55, Title 14, CCR**

**Re: Bag Limits for Rockfishes, Cabezon and Greenlings, and Fishery Closure Process**

### **List of Federally Managed Groundfish Species**

#### **SHARKS:**

leopard shark, *Triakis semifasciata*  
soupin shark, *Galeorhinus zyopterus*  
spiny dogfish, *Squalus acanthias*

#### **SKATES:**

big skate, *Raja binoculata*  
California skate, *R. inornata*  
longnose skate, *R. rhina*

#### **RATFISH:**

ratfish, *Hydrolagus colliei*

#### **MORIDS:**

finescale codling, *Antimora microlepis*

#### **GRENADIERS:**

Pacific rattail, *Coryphaenoides acrolepis*

#### **ROUNDFISH:**

cabezon, *Scorpaenichthys marmoratus*  
kelp greenling, *Hexagrammos decagrammus*  
lingcod, *Ophiodon elongatus*  
Pacific cod, *Gadus macrocephalus*  
Pacific whiting, *Merluccius productus*  
sablefish, *Anoplopoma fimbria*

#### **ROCKFISH COMPLEX:**

All genera and species of the family Scorpaenidae that occur off Washington, Oregon, and California are included, even if not listed below. The Scorpaenidae genera are *Sebastes* (the rockfish), *Scorpaena*, *Scorpaenodes* (the scorpionfish), and *Sebastolobus* (the thornyheads).

#### **Rockfish:**

aurora rockfish, *Sebastes aurora*  
bank rockfish, *S. rufus*  
black rockfish, *S. melanops*

black and yellow rockfish, *S. chrysomelas*  
blackgill rockfish, *S. melanostomus*  
blue rockfish, *S. mystinus*  
bocaccio, *S. paucispinis*  
bronzespotted rockfish, *S. gilli*  
brown rockfish, *S. auriculatus*  
calico rockfish, *S. dalli*  
canary rockfish, *S. pinniger*  
chilipepper, *S. goodei*  
China rockfish, *S. nebulosus*  
copper rockfish, *S. caurinus*  
cowcod, *S. levis*  
darkblotched rockfish, *S. crameri*  
dusky rockfish, *S. ciliatus*  
flag rockfish, *S. rubrivinctus*  
gopher rockfish, *S. carnatus*  
grass rockfish, *S. rastrelliger*  
greenblotched rockfish, *S. rosenblatti*  
greenspotted rockfish, *S. chlorostictus*  
greenstriped rockfish, *S. elongatus*  
harlequin rockfish, *S. variegatus*  
honeycomb rockfish, *S. umbrosus*  
kelp rockfish, *S. atrovirens*  
Mexican rockfish, *S. macdonaldi*  
olive rockfish, *S. serranoides*  
Pacific ocean perch, *S. alutus*  
pink rockfish, *S. eos*  
quillback rockfish, *S. maliger*  
redbanded rockfish, *S. babcocki*  
redstripe rockfish, *S. proriger*  
rosethorn rockfish, *S. helvomaculatus*  
rosy rockfish, *S. rosaceus*  
rougheye rockfish, *S. aleutianus*  
sharpchin rockfish, *S. zacentrus*  
shortbelly rockfish, *S. jordani*  
shortraker rockfish, *S. borealis*  
silvergray rockfish, *S. brevispinis*  
speckled rockfish, *S. ovalis*  
splitnose rockfish, *S. diploproa*  
squarespot rockfish, *S. hopkinsi*  
starry rockfish, *S. constellatus*  
stripetail rockfish, *S. saxicola*  
tiger rockfish, *S. nigrocinctus*  
treefish, *S. serriceps*  
vermillion rockfish, *S. miniatus*  
widow rockfish, *S. entomelas*

yelloweye rockfish, *S. ruberrimus*  
yellowmouth rockfish, *S. reedi*  
yellowtail rockfish, *S. flavidus*

**Scorpionfish:**

California scorpionfish, *Scorpaena guttata*

**Thornyheads:**

longspine thornyhead, *Sebastolobus altivelis*  
shortspine thornyhead, *Sebastolobus alascanus*

FLATFISH:

arrowtooth flounder (arrowtooth turbot), *Atheresthes stomias*  
butter sole, *Isopsetta isolepis*  
curlfin sole, *Pleuronichthys decurrens*  
Dover sole, *Microstomus pacificus*  
English sole, *Parophrys vetulus*  
flathead sole, *Hippoglossoides elassodon*  
Pacific sanddab, *Citharichthys sordidus*  
petrale sole, *Eopsetta jordani*  
rex sole, *Glyptocephalus zachirus*  
rock sole, *Lepidopsetta bilineata*  
sand sole, *Psettichthys melanostictus*  
starry flounder, *Platichthys stellatus*

Pacific halibut (*Hippoglossus stenolepis*) is managed by the International Pacific Halibut Commission (IPHC). The Department support all rules and regulations adopted by the IPHC.