Amend Sections 27.20, 27.25, 27.30, 27.32, 27.35, 27.45, 27.50, 27.65, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.54, 28.55, 28.56, 28.58, 28.65, 52.10 and 150.16
Repeal Sections 27.40, 28.51, 28.52, 28.53, 28.57

Title 14, California Code of Regulations
Re: Recreational and Commercial Fishing Regulations For Federal Groundfish and Associated Species For Consistency with Federal Rules

I. Date of Initial Statement of Reasons: July 8, 2010

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: August 18, 2010
   Location: Teleconference

(b) Discussion Hearing: Date: September 16, 2010
    Location: McClellan, CA

(c) Adoption Hearing: Date: October 21, 2010
    Location: San Diego, CA

III. Description of Regulatory Action:

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

Background
Under California law, the California Fish and Game Commission (Commission) adopts regulations for recreational groundfish fishing in state waters zero to three miles from shore. The Commission has authority over commercial nearshore fishing, whereas the legislature has authority over other commercial fishing in state waters. The Pacific Fishery Management Council (Council), consisting of representatives from West Coast states, a tribal representative, and the National Oceanographic and Atmospheric Administration (NOAA) Fisheries, recommends management measures for jointly managed fisheries operating in federal waters three to 200 miles from shore. These management measures are established as federal regulations by the Secretary of Commerce. For consistency, ease of enforcement, and to avoid confusion on the part of recreational and commercial fishermen, the Commission routinely adopts regulations to bring state law into conformance with federal rules for groundfish and other federally-managed
species. The proposed changes described in this action would make the requisite changes to make state regulations consistent with new federal regulations that are expected to be effective in January, 2011.

**Groundfish and Associated Species**

There are 90 species of federal groundfish that occur in state and federal waters off the coast of California, including lingcod, several rockfishes, cabezon, kelp greenling, California scorpionfish, some flatfishes, and some sharks. These 90 species are managed primarily by the Council under the Pacific Coast Federal Groundfish Fishery Management Plan (Magnuson-Stevens Fisheries and Conservation Act 16 U.S.C Section 1851 et seq. or "Magnuson") and are defined in Section 1.91, Title 14, CCR. Harvest of California scorpionfish, cabezon, nearshore rockfishes, and greenlings, all of which are federal groundfish, occurs primarily in state waters. Management guidelines for these species are also included in the state’s Nearshore Fishery Management Plan (NFMP). California develops regulations for state waters that conform to, or are more conservative than, federal regulations.

California sheephead, ocean whitefish and all greenlings of the genus *Hexagrammos* are species that occur almost exclusively within state waters in California and are managed by the Department of Fish and Game (Department). These state-managed species, otherwise identified as “associated species” are known to be caught with federal groundfish, and thus are regulated in conjunction with federal groundfish by the state. The same regulations that apply to the 90 species of federal groundfish also apply to these associated species pursuant to regulations in Title 14 of the California Code of Regulations (CCR).

**Managing to Annual Catch Limits**

Past and current management of federal groundfish and associated species include annual limits on take known as optimum yields (OYs); in the NFMP these limits are called Total Allowable Catch (TAC). In response to the recent reauthorization of the Magnuson Act, the Council revised the annual limits to specifically account for scientific and management uncertainty. These new harvest limits replace the OYs and are called Annual Catch Limits (ACLs), a federal take limit that accounts for all sources of fishing related mortality and is set at a level that is expected to prevent overfishing. Recreational and commercial sector-specific allocation limits are called harvest guidelines (HGs).

The Council develops groundfish regulations on a biennial basis. At its June 2010 meeting, the Council adopted new ACLs for some federal groundfish species along with HGs for the different fishery sectors for the 2011 and 2012 cycle. Management measures (e.g., seasons, depth constraints, bag limits) were also decided by the Council to keep within the new limits for each state and sector. Analysis of past years’ catch is used to determine which management measures are expected to keep each fishery sector within its respective HG.
Stock Assessment Outcomes
ACLs set by the Council are determined from stock assessments (analyses of current population size) and based on whether the stock is considered to be “healthy”, precautionary” or “overfished”. If a stock assessment is not available, average recent catches are used as a proxy. Federal catch limits are adopted by the Council and established in regulation by the Secretary of Commerce. For state-managed nearshore species (Section 1.90, Title 14, CCR), more restrictive limits may apply in California depending on application of the fishery control rules of the NFMP, and set at appropriate levels to maintain healthy stocks using the state’s standards for sustainability.

A constraining species is one whose harvest level is restricted such that fishing for other co-occurring healthy species is also restricted. It is virtually impossible to target an individual rockfish species; thus any and all rockfish fishing must be restricted to keep within the ACL for a constraining species. Yelloweye rockfish, cowcod, blue rockfish, and the Minor Nearshore Rockfish complexes are the most constraining species or species groups for California’s recreational fishery, because their stock status is designated as either “overfished” or “precautionary”. These species were the primary “drivers” leading to the determination of season lengths and depth constraints for fishing for all groundfish and associated species for 2011–2012.

Overfished Stocks
If a stock assessment reveals that the current population size is at or below 25 percent of the unfished biomass (the historic population size), it is considered “overfished”. Federal law requires that steps be taken to rebuild overfished stocks under strict guidelines that place an emphasis on a reasonable likelihood of achieving success within specified time periods. Currently there are six groundfish species in California that are considered overfished: bocaccio, canary rockfish, cowcod, darkblotched rockfish, widow rockfish, and yelloweye rockfish. Rebuilding plans for each of these species require that limits on take are set at extremely low levels; as a result, management must be tailored to ensure that fishery impacts are minimized. In most cases, these take limits are so restrictive that retention of the species cannot be allowed—they are enough only to account for a small amount of bycatch that is taken incidentally with other target species.

Of these overfished species, yelloweye rockfish is the most constraining to the California recreational fishery. Retention of yelloweye rockfish is not allowed in either sector in California because of the stock’s overfished status. Bycatch of this species is still the primary driver for determining area-based fishing seasons and depth constraints. The modest increase in the yelloweye rockfish recreational HG from 2.8 metric tons in 2009–2010 to 3.1 metric tons in 2011–2012 allows for a slight relaxation of management measures in some areas.

Yelloweye rockfish are primarily caught with a mix of other shelf rockfish species north of Point Arena (Mendocino County) in waters deeper than 20 fathoms (fm).
For areas where yelloweye rockfish are most often encountered, proposed fishing seasons and depth constraints are similar to status quo. The depth constraint remains at 20 fm north of Point Arena and was not relaxed in areas further south to avoid yelloweye rockfish encounters. Status quo restrictions to fishing activities in the North-Central North of Point Arena Management Area (Cape Mendocino to Point Arena) will be maintained because this area accounts for up to 50 percent of the annual yelloweye rockfish take. The Northern Management Area fishing season will only be extended by one and a half months. These management measures are expected to keep bycatch of yelloweye rockfish within the new 3.1 metric ton HG.

Cowcod remains in an overfished status and continues to constrain the season length and allowable fishing depth to 60 fm in the Southern Management Area (Santa Barbara, Ventura, Los Angeles, Orange and San Diego Counties). The Cowcod Conservation Area (CCA) management area already protects a large portion of offshore southern California waters, where cowcod are most likely to occur. The CCA now has a proposed depth constraint of 30 fm.

**Precautionary Stocks**

Stock status of some federal groundfish species is considered to be “precautionary”, and as a result, annual harvests are set more conservatively than if the stock were considered “healthy” but not as low as would be necessary if the stock was “overfished”. Two precautionary stocks that are important to California fisheries are cabezon and blue rockfish. The 2009 cabezon stock assessment represented a positive change in the perception of stock status in California. Results from 2009 were more optimistic than previous assessments and indicated that the stock in California is now above the Council’s 40 percent of unfished biomass cutoff for “healthy” stocks. As a result, the Council adopted new cabezon ACL values of 179 metric tons (394,600 pounds) for 2011 and 168 metric tons (370,400 pounds) for 2012 based on the new stock assessment information.

However, according to the NFMP, California is required to manage more conservatively for stocks whose depletion level is “precautionary,” meaning the stock is below the NFMP’s “healthy” target of 60 percent of unfished levels. The new cabezon assessment suggests the current population level is only 48 to 57 percent of unfished biomass in northern and southern California respectively. Following the NFMP’s more restrictive control rules that apply when stocks are above 40 percent and below 60 percent of unfished levels, the Department is proposing that the Commission set the annual cabezon TAC at 148 metric tons (326,200 pounds).

The proposed TAC would be significantly higher than the current TAC established in Section 52.10, Title 14, CCR (152,100 pounds or approximately 69 metric tons). Because the TAC is allocated 39 percent to the commercial sector and 61 percent to the recreational sector, the allocations to each sector that presently are established in Section 52.10 would be adjusted proportionally so
that the recreational fishery would be allowed 199,000 pounds, and the commercial fishery 127,200 pounds.

Based on the increased ACL, for the recreational sector of the fishery the Council increased the statewide cabezon bag limit from two to three fish within the ten fish rockfish, cabezon, greenling (RCG) bag limit. Under a 3-fish bag limit, projected catches are still anticipated to fall below the recreational allocation of 199,000 pounds.

Commercial harvest is regulated to provide seasonal take of cabezon with cumulative trip limits per individual permittee. In August 2003, the Commission established cumulative trip limits for cabezon similar to the federal management approach for nearshore rockfish by limiting each permittee’s take to a specified maximum level in a two-month period. This allows commercial take to be spread over a longer fishing season, prevents a derby-style fishery from developing, and ensures a more stable market supply. The trip limits need to be adjusted upward to accommodate the proposed increase to the commercial allocation. The Department has proposed a range of trip limit options that would accommodate this increase. The range would allow the Commission to select any value between zero and 1000 pounds for each of five two-month cumulative limit periods.

Blue rockfish is another “precautionary” species and its status constrains central California. Although blue rockfish is not as constraining as it was in 2009–2010, blue rockfish still limits the 2011–2012 season length in Management Areas from Point Arena to Point Conception. To stay within the new HG of 241 metric tons for this species, the Council could only allow a moderate increase in the season length in Central California.

**Healthy Stocks**

Lingcod has fully rebuilt from its previous overfished status in the Southern portion of its range (South of the California/Oregon Border) and is now considered a healthy stock in California. According to the most recent assessment, the stock has rebuilt to 70 percent of unfished biomass, well above the 40 percent target set by the Council. The annual lingcod take in the California recreational fishery has been close to half of the HG since 2004, mainly due to constraints from overfished species. In June, the Council greatly increased the California recreational HG from 422 metric tons in 2010 to 1151 metric tons in 2011 and 2012. In order to maximize opportunity for lingcod while continuing to avoid overfished species, the Council chose to remove the lingcod spawning closure for all modes of recreational fishing in California. Allowing lingcod take and possession during the open season for other groundfish species will also reduce regulatory complexity. To allow for additional retention of lingcod, the Council adopted a new recreational size limit for lingcod of 22 inches (down from 24 inches) in an effort to maximize fishing opportunity and make
regulations consistent among California, Oregon, and Washington. The new proposed fillet length is 14 inches.

The California scorpionfish stock was assessed as healthy in 2005, and is still considered healthy given the low harvest levels in recent years. The Council chose to increase the scorpionfish depth constraint from 40 to 60 fm in the Southern Management Area during January and February, making the depth constraint 60 fm year-round—consistent with the rest of the year. The action will reduce regulatory complexity without appreciably increasing impacts on California scorpionfish or the bycatch of overfished species.

**Increased Fishing Opportunity**

Based on the outcomes of recent stock assessments, and resulting increases to ACLs, the Council increased recreational fishing opportunities where appropriate. The resulting 2011 and 2012 season structure and depth constraints adopted by the Council are provided in Table 1. The proposed regulatory changes in Table 1 will affect boat-based anglers targeting groundfish and associated species; shore-based fishing and spearfishing continue to be allowed year-round for these species.

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<tr>
<th>Management Area</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
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<tr>
<td>Northern</td>
<td>CLOSED</td>
<td>May 14 (2011) or May 12 (2012)–Oct 31 &lt; 20 fm</td>
<td>CLOSED</td>
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<td>Mendocino</td>
<td>CLOSED</td>
<td>May 14 (2011) or May 12 (2012)–Aug 15 &lt; 20 fm</td>
<td>CLOSED</td>
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<td>San Francisco</td>
<td>CLOSED</td>
<td>Open Jun 1–Dec 31 &lt; 30 fm</td>
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<td>Central</td>
<td>CLOSED</td>
<td>Open May 1–Dec 31 &lt; 40 fm</td>
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<tr>
<td>Southern*</td>
<td>CLOSED</td>
<td>Open Mar 1–Dec 31 &lt; 60 fm</td>
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<td>CCA*</td>
<td>CLOSED</td>
<td>Open Mar 1–Dec 31 &lt; 30 fm**</td>
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* California scorpionfish is open year-round
** Only nearshore and shelf rockfish, lingcod, cabezon, California scorpionfish, greenlings, California sheephead, and ocean whitefish are allowed in the CCA.

The Council adopted a 30 fm depth constraint for the Cowcod Conservation Area (CCA), rather than the current 20 fm, meaning all areas within the CCA that are deeper than 30 fm will continue to be closed to fishing for groundfish and associated species. While the CCA has successfully reduced cowcod impacts in the recreational fishery, additional fishing opportunity will be available by relaxing the depth constraint to 30 fm. The current 20 fm depth constraint is defined using general depth contours, while the 30 fm depth constraint will be defined by Federal waypoints. Waypoints are preferable for angler compliance and enforceability.

Only four areas within the CCA currently open to groundfish fishing will be affected by increasing the allowable fishing depth to 30 fm: Santa Barbara and San Nicolas Islands, and Tanner and Cortes Banks. Areas such as Osbourne Bank, which are currently open to 20 fm but drop off into deeper depths too
quickly to allow compliance, will be closed to fishing. The improved fishing opportunity in the CCA is not expected to increase the take of cowcod because significant cowcod encounters do not begin until deeper depths (50 fms).

The Council decided to expand the list of rockfish species that may be retained within the CCA to increase fishing opportunity south of Point Conception. Currently, only nearshore species are allowed and all shelf rockfish encountered within the CCA must be discarded. A percentage of these discarded fish die due to barotrauma and hooking and handling injuries. These discarded fish are wasted as bycatch while recreational anglers continue pursuing their 10 fish RCG complex bag limit. Based on requests from recreational anglers to minimize this discard, the Council adopted new regulations to allow for the take and possession of shelf rockfish, as defined in Section 1.91, Title 14, CCR, in the CCA.

**Regulation Simplification and Consistency**

In addition to changes that are expected to provide increased fishing opportunity, other changes to California recreational fishing regulations were adopted to simplify regulations. The Council removed the 10 fm depth closure around the Farallon Islands and Noonday Rock in order to simplify regulations. Of the habitat currently closed to fishing under this regulation, the vast majority is now part of the North Farallon Islands State Marine Reserve and Southeast Farallon Islands State Marine Reserve. The reserves were established May 1, 2010, and prohibit fishing for groundfish and associated species. The limited area outside the reserves in less than 10 fm is not a concern for fishery management or conservation and would remain open to groundfish fishing under the specified depth constraint and season length in that Management Area.

The Department, Commission and the Council strive to maintain concise recreational fishing regulations that are understandable to the general public. To simplify the names used to describe the recreational Management Areas, the longer, less intuitive status quo names will be replaced with single word names that relate to the geographic location of the area. In addition, the Council chose to combine the Monterey (from Pigeon Point to Point Lopez) and Morro Bay (Point Lopez to Point Conception) South-Central Groundfish Management Areas into one area. The original justification for two management areas was to allow for finer-scale management in Central California where the main species of concern was canary rockfish. However, differing regulations in these two areas have not been needed since the line was put in place in 2006; and the 2011–2012 canary rockfish recreational HG increased, rendering the management line between these areas unnecessary.

The Department proposes to combine regulations concerning minor federal groundfish into one section of Title 14, CCR for simplification. These species are rarely targeted on recreational fishing trips, and have many of the same general regulations. These species include: Petrale sole, starry flounder, soupfin shark,
Dover sole, English sole, arrowtooth flounder, spiny dogfish, big skate, California skate, longnose skate, ratfish, Pacific rattail, finescale codling, Pacific Cod, Pacific whiting, sablefish, longspine thornyhead and shortspine thornyhead.

For added consistency, the Council adopted gear restrictions such that no more than one line and two hooks may be used to recreationally take cabezon and greenlings. This action will make angling gear restrictions consistent among cabezon, greenlings, rockfish and lingcod, which are commonly caught and managed together as the RCG complex.

The specific proposed Title 14 regulation changes identified in this regulatory package (outlined below) are necessary in order to make the State’s recreational groundfish regulations consistent with the new federal rules that will be established by NMFS following the Council’s actions. The proposed changes are necessary to provide the best fishing opportunities possible while staying within federal and state harvest limits. Finally, the proposed changes provide simple and concise regulatory language which will benefit all who read, follow, and interpret the recreational groundfish regulations.

- **Modifications to Section 27.20, Groundfish Management Areas, Seasons, Depth, Exceptions, and Fishery Closure/Rule Change Process Described.**
  Existing regulations in subsection 27.20(e) describe the fishery closure and/or rule change process. A harvest limit includes optimum yield, recreational harvest guideline, and recreational harvest target. Proposed changes would include “annual catch limit” and “annual catch target” as valid types of harvest limits. This change is necessary to incorporate new definitions accepted by the Council.

- **Modifications to Section 27.25, Northern Groundfish Management Area.**
  Existing seasons, depth constraints, and special closure areas regulations (subsection 27.25(b)) establish a May 15 through September 15 season with a maximum depth constraint of 20 fm (120 feet) for groundfish and associated species for the waters between the Oregon border and the 40° 10’ North Latitude management line near Cape Mendocino (Humboldt County). Proposed regulations would expand the fishing season for all groundfish and associated species by changing the season duration to May 14, 2011 (May 12, 2012) through October 31, and maintain the maximum depth constraint of 20 fm (120 feet). The increase in the 2011–2012 yelloweye recreational HG to 3.1 metric tons is expected to allow for this increased fishing opportunity in the Northern Management Area.

- **Modifications to Section 27.30, North-Central North of Point Arena Groundfish Management Area.**
  The name of the North-Central North of Point Arena Groundfish Management Area, defined in subsection 27.30(a), would be changed to the “Mendocino Groundfish Management Area” for brevity and ease of use.
Existing seasons, depth constraints, and special closure areas regulations (subsection 27.30(b)) establish a May 15 through August 15 season for groundfish and associated species with a maximum depth constraint of 20 fm (120 feet) for the waters between the 40° 10’ North Latitude management line near Cape Mendocino (Humboldt County) and Point Arena (Mendocino County). Proposed regulations would keep the fishing season for all groundfish and associated species near status quo, only changing the opening date to May 14, 2011 (May 12, 2012) rather than May 15, while maintaining the maximum depth constraint of 20 fm (120 feet). The date change was authorized by the Council to accommodate a Saturday opening date. No additional increase in the season length for this management area was possible, despite the increase to the yelloweye HG, because impacts on yelloweye are more significant in this area than any other part of the state. Adding another two weeks to the season would result in projected impacts that would amount to an additional 0.5 metric tons, which would result in exceeding the state’s 3.1 mt HG. The 3-month season is all that can be afforded in this area while remaining within the state's HG.

- **Modifications to Section 27.32, North-Central South of Point Arena Groundfish Management Area.**

Section 27.32 would be renumbered as Section 27.35 to keep numbering consistent.

The name of the North-Central South of Point Arena Groundfish Management Area, defined in subsection 27.32(a) would be changed to the “San Francisco Groundfish Management Area” in subsection 27.35(a) for brevity and ease of use.

Existing seasons, depth constraints, and special closure areas regulations in subsection 27.32(b) establish a June 13 through October 31 season for groundfish and associated species with a maximum depth constraint of 30 fm (180 feet) for the waters between Point Arena (Mendocino County) and Pigeon Point (San Mateo County). Regulations proposed for subsection 27.35(b) would expand the fishing season for all groundfish and associated species by changing the season length to June 1 through December 31, and maintain the maximum depth constraint of 30 fm (180 feet). The increase in the 2011–2012 yelloweye recreational HG to 3.1 metric tons will allow this change in the San Francisco Management Area.

Regulations in Subsection 27.32(b)(4) establish a 10 fm or less fishing closure around the Farallon Islands and Noonday Rock. The proposed regulations would eliminate the 10 fm depth closure. Areas shallower than 10 fm within the Northern Farallon Islands or the Southeast Farallon Islands State Marine Reserves would continue to be closed; areas shallower than 10 fm outside the reserves would allow for groundfish fishing.
• **Modifications to Section 27.35, Monterey South-Central Groundfish Management Area and Section 27.40, Morro Bay South-Central Groundfish Management Area.**

Section 27.35 would be renumbered as Section 27.40 to keep numbering consistent.

Proposed regulations would combine the Monterey South-Central Groundfish Management Area, defined in subsection 27.35(a), and the Morro Bay South-Central Groundfish Management Area, defined in Section 27.40(a) into one management area. The new management area would be named the “Central Groundfish Management Area” and defined in 27.40(a) as ocean waters between Pigeon Point (San Mateo County) and Point Conception (Santa Barbara County).

Existing seasons, depth constraints, and special closure areas regulations (subsections 27.35(b) and 27.40(b)) establish a May 1 through November 15 season for groundfish and associated species, with a maximum depth constraint of 40 fm (240 feet), in both the Monterey and the Morro Bay South-Central Groundfish Management Areas. Regulations proposed for the new Central Groundfish Management Area in subsection 27.40(b) would expand the fishing season for all groundfish and associated species by changing the season length to May 1 through December 31. The maximum depth constraint would be maintained at the status quo of 40 fm (240 feet). This proposed Groundfish Management Area season structure is expected to keep catches within the statewide HG for blue rockfish and the Minor Nearshore Rockfish South complex ACL.

• **Modifications to Section 27.45, Southern Groundfish Management Area.**

Existing seasons, depth constraints, and special closure areas regulations (Section 27.45(b)) establish a March 1 through December 31 season for groundfish and associated species with a maximum depth constraint of 60 fm (360 feet) for the waters between Point Conception (Santa Barbara County) and the U.S.-Mexico border, except that California scorpionfish may be taken in January and February with a maximum depth constraint of 40 fm (240 feet). Proposed regulations would keep the open fishing season at status quo, but increase the 40 fm California scorpionfish depth constraint to 60 fm. This action would make the Southern California scorpionfish depth constraint (60 fm) consistent with the Southern groundfish depth constraint (60 fm), and California scorpionfish would continue to be open year-round.

• **Modifications to Section 27.50, Cowcod Conservation Areas**

Existing seasons and depth constraint regulations (subsection 27.50(b)) establish a March 1 through December 31 season for specific groundfish and associated species with a maximum depth constraint of 20 fm (120 feet) for the waters inside the CCA as defined by general depth contour lines, except California scorpionfish may be taken year-round. Proposed regulations would increase the depth constraint inside the CCA from 20 fm to 30 fm year-round, as defined by Federal
waypoints. Proposed regulations would add shelf rockfish, as defined in subsection 1.91(b), to the list of allowable species or species groups to be taken or possessed March 1 through December 31.

- **Modifications Concerning Lingcod to Sections 27.25, Northern Groundfish Management Area; 27.30, North-Central North of Point Arena Groundfish Management Area; 27.32, North-Central South of Point Arena Groundfish Management Area; 27.35, Monterey South-Central Groundfish Management Area; 27.40, Morro Bay South-Central Groundfish Management Area; and 27.50, Cowcod Conservation Areas.**

Existing lingcod season regulations in subsections 27.25(c)(3), 27.30(c)(2), 27.32(c)(3), 27.35(c)(3), 27.40(c)(3), 27.45(c)(3), and 27.50(c)(2) establish a lingcod spawning closure during January through March, and December for shore-based anglers. Proposed regulations would allow for take and possession of recreationally caught lingcod during these months from beaches, banks, piers, jetties, breakwaters, docks, and other man-made structures connected to the shore.

Existing lingcod season regulations described in subsections 27.25(c)(4), 27.30(c)(3), 27.32(c)(4), 27.35(c)(4), 27.40(c)(4), 27.45(c)(4), and 27.50(c)(3) establish a lingcod closure during January through March, and December for divers and spearfishers. Proposed regulations would remove the diving/spearfishing provision so that recreational divers and spearfishers would be allowed to take and possess lingcod during these months.

Existing lingcod season regulations in subsections 27.45(b)(1) through 27.45(b)(2), and 27.50(b)(1) through 27.50(b)(4) establish a lingcod spawning closure during January through March, and December for boat-based anglers in the Southern Groundfish Management Area and the CCA. Proposed regulations would allow for the statewide take and possession of recreationally caught lingcod during these months from any vessel when the season for groundfish and associated species is open by management area.

- **Modifications to Section 27.65, Filleting Fish on Vessels**

Existing regulations in subsection 27.65(b)(3) establish a 16 inch minimum fillet length for lingcod filleted on a vessel. Proposed regulations would lower the minimum lingcod fillet length to 14 inches when filleted on a vessel. This action is necessary to accommodate the decrease in the statewide lingcod minimum size limit from 24 inches to 22 inches total length. Each fillet would still need to bear intact a one-inch square patch of skin for identification.

- **Modifications to Section 28.26 California Sheephead; Section 28.27 Lingcod; Section 28.28 Cabezon; Section 28.29 Kelp Greenling, Rock Greenling; Section 28.49 Dover Sole, English Sole, Petrale Sole, Arrowtooth Flounder, and Starry Flounder; Section 28.51 Spiny Dogfish, Soupfin Shark; Section 28.52 Big Skates,**
California Skates, and Longnose Skates; Section 28.53 Ratfish, Rattails and Codlings; Section 28.54 California Scorpionfish (Sculpin); Section 28.55 Rockfish (Sebastes); Section 28.56 Leopard Shark; Section 28.57 Pacific Cod, Pacific Whiting, Sablefish, and Thornyheads; and, Section 28.58 Ocean Whitefish.

The proposed regulations would combine Sections 28.49 Dover Sole, English Sole, Petrale Sole, Arrowtooth Flounder, and Starry Flounder; Section 28.51 Spiny Dogfish, Soupfin Shark; Section 28.52 Big Skates, California Skates, and Longnose Skates; Section 28.53 Ratfish, Rattails and Codlings; and Section 28.57 Pacific Cod, Pacific Whiting, Sablefish, and Thornyheads into one section, Section 28.49, for simplicity.

Existing regulations establish seasons and depth constraints for these species or species groups. Additionally, some species or species groups have size, bag limits, exceptions, and/or gear restrictions. The proposed regulations would change season dates and/or depth constraints to match the proposed regulations for the different Groundfish Management Areas discussed above.

- **Modifications to Section 28.27, Lingcod.**
  Subsections 28.27(a)(1) through 28.27(a)(7) define the open season for lingcod in each Management Area. Existing regulations in these subsections would be modified to make the lingcod season consistent with the general groundfish season as described above.

Existing regulations in subsection 28.27(c) establish a minimum size limit of 24 inches for lingcod statewide. The proposed regulations would modify the lingcod minimum size limit from 24 inches to 22 inches.

Existing regulations in subsection 28.27(d) establish a method of take for targeting lingcod. The allowable gear used to take lingcod is defined as not more than two hooks and one line. The proposed regulations would clarify these gear restrictions apply only when recreational angling for lingcod. Lingcod take by hand or while diving or spearfishing would continue to be allowed.

- **Modifications to Section 28.28, Cabezon.**
  Existing regulations in subsection 28.28(b) provide for a two fish bag limit within the ten fish aggregate bag limit for rockfish, cabezon and greenling (the RCG complex). Proposed regulations would increase the cabezon bag limit from two fish to three fish, within the RCG complex bag limit. The Department analyzed potential impacts of an increase in the recreational cabezon bag limit from two to three fish within the RCG bag limit and results show that an increase in the bag limit is not projected to result in exceeding the increased recreational cabezon allocation (refer to Modifications to Section 52.10 below).

Modifications to subsection 28.28(d) would define an allowable method of take for cabezon while angling. This action would restrict the cabezon method of take to not more than two hooks and one line, consistent with the lingcod and rockfish
regulations.

- **Modifications to Section 28.29, Kelp and Rock Greenling.**
  Modifications to subsection 28.29(d) would define an allowable method of take for kelp and rock greenling while angling. This action would restrict the kelp and rock greenling method of take to not more than two hooks and one line, consistent with the lingcod and rockfish regulations.

- **Modifications to Section 28.54, California Scorpionfish (Sculpin).**
  Existing open areas, seasons, and depth constraints regulations (subsection 28.54(a)(6)) establish a January 1 through December 31 season for scorpionfish for the Southern Groundfish Management Area with a maximum depth constraint of 60 fm (360 feet) during March through December and a maximum depth constraint of 40 fm (240 feet) during January and February. Proposed regulations would change the January and February depth constraint for California scorpionfish to 60 fm (360 feet).

- **Modification to Section 28.55 Rockfish (Sebastes).**
  Existing regulations in subsection 28.55(d) establish a method of take for targeting rockfish. The allowable gear used to take rockfish is defined as not more than two hooks and one line. The proposed regulations would clarify these gear restrictions apply only when recreational angling for rockfish. Rockfish take by hand or while diving or spearfishing would continue to be allowed.

- **Modification to Section 28.65, General Fin Fish Gear Restrictions.**
  Regulations in subsection 28.65(c) define the angling gear restriction when rockfish or lingcod are aboard or in possession as only one line and not more than two hooks. Proposed regulations would extend this gear restriction to cabezon and kelp and rock greenlings.

- **Modifications to Section 52.10, Take of Sheephead, Cabezon and Greenling.**
  Current regulations in subsection 52.10(a)(2) set the annual TAC for cabezon at 152,100 pounds (69 metric tons). Proposed changes would increase the statewide TAC to 326,200 pounds (148 metric tons); consistent with the NFMP guidelines and the higher ACL adopted by the Council.

The commercial and recreational fisheries are each allocated a specified portion of the TAC in current regulation—subsections 52.10(a)(2)(A and B). Thus, the allocated harvest amounts for the commercial and recreational fisheries would need to be adjusted proportionally upward to account for the increase to the TAC. The current allocation ratio is 39 percent to the commercial sector and 61 percent to the recreational sector. This existing ratio was applied to the proposed new TAC to generate proposed sector allocations:

- The commercial fishery allocation would increase from 59,300 to 127,200 pounds.
- The recreational fishery allocation would increase from 92,800 pounds
to 199,000 pounds.

• Modifications to Section 150.16, Commercial Take of Nearshore Fishes.
The current cabezon two month cumulative trip limits per individual, established in subsection 150.16(e)(6)(a), are designed to keep catches to the allowable commercial catch of 59,300 pounds and are as follows:

- January-February: 300 pounds
- March-April: 100 pounds
- May-June: 250 pounds
- July-August: 150 pounds
- September-October: 900 pounds
- November-December: 100 pounds

The Department has proposed a range of trip limit options to accommodate the proposed increase to the commercial allocation in Section 52.10. The proposed values per each two-month period range from 0 to 1,000 pounds. The Commission may select values from that range which will provide for commercial fishing yet ensure the commercial fishery does not exceed its new higher annual allocation (see above under Modifications to Section 52.10) and which will continue to align the cabezon season with the minor nearshore rockfish season set by the Council.

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

Authority: Sections 200, 202, 205, 215, 220, 240, 702, 7071, 8587.1 and 8588, Fish and Game Code.


(c) Specific Technology or Equipment Required by Regulatory Change:

None

(d) Identification of Reports or Documents Supporting Regulation Change:


Preliminary Draft Environmental Assessment for Amendment 23 — Considerations for a New Harvest Specification Framework That Incorporates Revised National Standard 1 Guidelines to Prevent Overfishing. (PFMC, June 2010, Agenda Item B.2.a, Attachment 1)


Description of Harvest Specifications Alternatives, Rebuilding Alternatives, and 2011–2012 Management Measures (PFMC, June 2010, Agenda Item B.3.a, Attachment 2)

California Department of Fish and Game Proposed Management Measures for the Recreational Groundfish Fishery in 2011 and 2012. (PFMC, June 2010, Agenda Item B.3.b, Supplemental CDFG Report 2)


Revised Charts and Tables for the Analysis of the Proposed 30 and 40 fm Recreational Depth Restrictions within the Cowcod Conservation Area (PFMC, June 2010, Agenda Item B.7.b, Supplemental CDFG Report)

Nearshore Fishery Management Plan, Section 1, Chapter 3. Adopted October 25, 2002. California Department of Fish and Game.

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

Department of Fish and Game Groundfish Central webpage engaged the public in the process, and announced on February 1, 2010 an email address for accepting public input regarding proposed regulations for the 2011 and 2012 recreational groundfish and associated species fishery:

- [askmarine@dfg.ca.gov](mailto:askmarine@dfg.ca.gov)
Department of Fish and Game public meeting regarding proposed regulations for the 2011 and 2012 recreational groundfish and associated species fishery:

- March 9, 2010, 6:00 to 8:00 pm, Sacramento, CA

Pacific Fishery Management Council meetings where the proposed regulations for the 2011 and 2012 recreational groundfish and associated species fishery were discussed:

- March 6–12, 2010, Sacramento, CA
- April 10–15, 2010, Seattle, WA
- June 12–17, 2010, Foster City, CA

The Department met with the public in May 2008 and at the March 2010 Council meeting in Sacramento to receive constituent input on the range of options for groundfish management. At the May 2008 meetings (May 1, 2008 and May 5, 2008) constituents expressed interest in commercial cabezon bimonthly trip limits that are the same throughout the year. At the March 2010 meeting the same sentiments were voiced. These meetings included members of an ad-hoc stakeholder group (Groundfish Task Force) consisting of representatives from a variety of commercial and recreational groundfish interests throughout the state.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No alternatives were identified.

(b) No Change Alternative:

Season for All Groundfish and Associated Species:

The No Change Alternative would keep in place unnecessarily short recreational fishery seasons in all areas of the state, especially in the Northern and North-Central South of Point Arena Management Areas, and Central California. Additional opportunity expected under federal regulation changes would not be realized.

Depth Constraints:

The No Change Alternative would keep the CCA depth constraint at 20 fm, and would not allow for increased fishing opportunities for Nearshore and Shelf Rockfish, cabezon, California scorpionfish, greenlings, California sheephead, and ocean whitefish between 20 and 30 fm in depth. The No Change Alternative would continue to rely on general depth contour lines to define a depth of 20 fm, instead of new 30 fm Federal waypoints to define a depth of 30 fm.
The No Change Alternative would also keep the California scorpionfish depth constraint at 40 fm in the Southern Management Area in January and February, and would not allow increased fishing opportunities between 40 and 60 fm in depth. The status quo 40 fm depth constraint during these months would continue to add unnecessary regulatory complexity.

Shelf Retention in the Cowcod Conservation Area:
The No Change Alternative would require unnecessary restrictions on Shelf rockfish species, as defined in Section 1.91, Title 14 CCR, in the CCA.

Combining Minor Federal Groundfish
The No Change Alternative would leave minor federal groundfish (Petrale sole, starry flounder, soupfin shark, Dover sole, English sole, arrowtooth flounder, spiny dogfish, big skate, California skate, longnose skate, ratfish, Pacific rattail, finescale codling, Pacific cod, Pacific whiting, sablefish, and thornyheads) in their separate respective Sections and would not allow for simpler, more concise regulations.

Lingcod Spawning Closure:
The No Change Alternative would require unnecessary restrictions on lingcod January through March, and December statewide. The no change alternative would not reduce the complexity of the regulations.

Lingcod Size Limit:
The No Change Alternative would keep in place the statewide recreational lingcod size limit at 24 inches total length, and 16 inches fillet length. The status quo regulations would not allow for coastwide consistency in the recreational lingcod size limit.

Bag Limits for Cabezon:
The No Change Alternative does not provide for additional fishing opportunities for cabezon statewide.

Farallon Islands and Noonday Rock:
The No Change Alternative would keep in place the 10 fm depth closure around the Farallon Islands and Noonday Rock, resulting in redundant closures and unnecessary restrictions on available fishing grounds.

Renaming Management Areas:
The No Change Alternative would not allow for a shorter and more-intuitive management area naming system in California.

Combining Management Areas:
The No Change Alternative does not allow for broader-scale regional management that comes with combining Management Areas with the same regulations.

**Gear Restrictions for Cabezon and Greenlings:**
The No Change Alternative does not specify a method of take (i.e. gear restriction) for cabezon and kelp and rock greenlings. The No Change Alternative would perpetuate the existing discrepancy in methods of take between species caught in a multi-species complex.

**Increasing the Cabezon TAC, Allocations and Trip Limits**
The No Change Alternative would cause the current TAC and allocations to remain in effect and no additional opportunities provided by the increased federal ACL for cabezon would be realized. In addition, this action would be inconsistent with the mandates of the Marine Life Management Act, (Sections 7055 and 7056, Fish and Game Code).

(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, nor 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 would 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. The proposed management actions would relax recreational groundfish fishing regulations in all of the Groundfish Management Areas for one or more fish species and may have positive impacts to some businesses in California. Sport fishing business owners, boat owners, tackle store
owners, boat manufacturers, vendors of food, bait, fuel and lodging, and others that provide goods or services to those that recreationally pursue groundfish off California may be positively affected to some degree from increases to business if the 2011 and 2012 seasons are adopted, relative to previous management cycles. Likewise, commercial fishing industry businesses may realize positive benefits from increased catches of cabezon. However, anticipated impacts are speculative and would vary considerably by geographic location and by the nature and extent of the regulatory action taken.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

The proposed regulatory action could produce some impact on the creation or elimination of jobs or businesses that rely on recreational or commercial fishing for groundfish and associated species. However, the degree of impact is highly speculative in nature and cannot be quantified. See response to VI(a) above.

(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
Informative Digest/Policy Statement Overview

Under California law, the California Fish and Game Commission (Commission) adopts regulations for recreational groundfish fishing in state waters zero to three miles from shore. The Commission has authority over commercial nearshore fishing, whereas the legislature has authority over other commercial fishing in state waters. The Pacific Fishery Management Council (Council), consisting of representatives from West Coast states, a tribal representative, and the National Oceanographic and Atmospheric Administration (NOAA) Fisheries, recommends management measures for jointly managed fisheries operating in federal waters three to 200 miles from shore. These management measures are established as federal regulations by the Secretary of Commerce. For consistency, ease of enforcement, and to avoid confusion on the part of recreational and commercial fishermen, the Commission routinely adopts regulations to bring state law into conformance with federal rules for groundfish and other federally-managed species. The proposed changes described in this action would make the requisite changes to make state regulations consistent with new federal regulations that are expected to be effective in January, 2011.

Groundfish and Associated Species

There are 90 species of federal groundfish that occur in state and federal waters off the coast of California, including lingcod, several rockfishes, cabezon, kelp greenling, California scorpionfish, some flatfishes, and some sharks. These 90 species are managed primarily by the Council under the Pacific Coast Federal Groundfish Fishery Management Plan (Magnuson-Stevens Fisheries and Conservation Act 16 U.S.C Section 1851 et seq. or “Magnuson”) and are defined in Section 1.91, Title 14, CCR. Harvest of California scorpionfish, cabezon, nearshore rockfishes, and greenlings, all of which are federal groundfish, occurs primarily in state waters. Management guidelines for these species are also included in the state’s Nearshore Fishery Management Plan (NFMP). California develops regulations for state waters that conform to, or are more conservative than, federal regulations.

California sheephead, ocean whitefish and all greenlings of the genus *Hexagrammos* are species that occur almost exclusively within state waters in California and are managed by the Department of Fish and Game (Department). These state-managed species, otherwise identified as “associated species” are known to be caught with federal groundfish, and thus are regulated in conjunction with federal groundfish by the state. The same regulations that apply to the 90 species of federal groundfish also apply to these associated species pursuant to regulations in Title 14 of the California Code of Regulations (CCR).
Managing to Annual Catch Limits
Past and current management of federal groundfish and associated species include annual limits on take known as optimum yields (OYs); in the NFMP these limits are called Total Allowable Catch (TAC). In response to the recent reauthorization of the Magnuson Act, the Council revised the annual limits to specifically account for scientific and management uncertainty. These new harvest limits replace the OYs and are called Annual Catch Limits (ACLs), a federal take limit that accounts for all sources of fishing related mortality and is set at a level that is expected to prevent overfishing. Recreational and commercial sector-specific allocation limits are called harvest guidelines (HGs).

The Council develops groundfish regulations on a biennial basis. At its June 2010 meeting, the Council adopted new ACLs for some federal groundfish species along with HGs for the different fishery sectors for the 2011 and 2012 cycle. Management measures (e.g., seasons, depth constraints, bag limits) were also decided by the Council to keep within the new limits for each state and sector.

Stock Assessment Outcomes
Federal catch limits are adopted by the Council and established in regulation by the Secretary of Commerce. For state-managed nearshore species (Section 1.90, Title 14, CCR), more restrictive limits may apply in California depending on application of the fishery control rules of the NFMP, and set at appropriate levels to maintain healthy stocks using the state’s standards for sustainability.

Overfished Stocks
If a stock assessment reveals that the current population size is at or below 25 percent of the unfished biomass (the historic population size), it is considered “overfished”.

Of the six groundfish species in California that are considered overfished species, yelloweye rockfish is the most constraining to the California recreational fishery.

For areas where yelloweye rockfish are most often encountered, proposed fishing seasons and depth constraints are similar to status quo. The depth constraint remains at 20 fm north of Point Arena and was not relaxed in areas further south to avoid yelloweye rockfish encounters. The Northern Management Area fishing season will only be extended by one and a half months.

Cowcod remains in an overfished status and continues to constrain the season length and allowable fishing depth to 60 fm in the Southern Management Area (Santa Barbara, Ventura, Los Angeles, Orange and San Diego Counties). The Cowcod Conservation Area (CCA) management area already protects a large portion of offshore southern California waters, where cowcod are most likely to occur. The CCA now has a proposed depth constraint of 30 fm.
Precautionary Stocks
The Council adopted new cabezon ACL values of 179 metric tons (394,600 pounds) for 2011 and 168 metric tons (370,400 pounds) for 2012 based on the new stock assessment information.

However, according to the NFMP, California is required to manage more conservatively for stocks whose depletion level is “precautionary,” meaning the stock is below the NFMP’s “healthy” target of 60 percent of unfished levels. The new cabezon assessment suggests the current population level is only 48 to 57 percent of unfished biomass in northern and southern California respectively. Following the NFMP’s more restrictive control rules that apply when stocks are above 40 percent and below 60 percent of unfished levels, the Department is proposing that the Commission set the annual cabezon TAC at 148 metric tons (326,200 pounds).

The proposed TAC would be significantly higher than the current TAC established in Section 52.10, Title 14, CCR (152,100 pounds or approximately 69 metric tons). Because the TAC is allocated 39 percent to the commercial sector and 61 percent to the recreational sector, the allocations to each sector that presently are established in Section 52.10 would be adjusted proportionally so that the recreational fishery would be allowed 199,000 pounds, and the commercial fishery 127,200 pounds.

Based on the increased ACL, for the recreational sector of the fishery the Council increased the statewide cabezon bag limit from two to three fish within the ten fish rockfish, cabezon, greenling (RCG) bag limit. Under a 3-fish bag limit, projected catches are still anticipated to fall below the recreational allocation of 199,000 pounds.

Commercial harvest is regulated to provide seasonal take of cabezon with cumulative trip limits per individual permittee. In August 2003, the Commission established cumulative trip limits for cabezon similar to the federal management approach for nearshore rockfish by limiting each permittee’s take to a specified maximum level in a two-month period. The trip limits need to be adjusted upward to accommodate the proposed increase to the commercial allocation. The Department has proposed a range of trip limit options that would accommodate this increase. The range would allow the Commission to select any value between zero and 1000 pounds for each of five two-month cumulative limit periods.

Blue rockfish is another “precautionary” species and its status constrains central California. Although blue rockfish is not as constraining as it was in 2009–2010, blue rockfish still limits the 2011–2012 season length in Management Areas from Point Arena to Point Conception. The Council approved a moderate increase in the season length in Central California (Point Arena to Point Conception) in order to stay within the new HG of 241 metric tons for blue rockfish.
Healthy Stocks
In June, the Council greatly increased the California recreational HG for lingcod from 422 metric tons in 2010 to 1151 metric tons in 2011 and 2012. In order to maximize opportunity for lingcod while continuing to avoid overfished species, the Council chose to remove the lingcod spawning closure for all modes of recreational fishing in California. To allow for additional retention of lingcod, the Council adopted a new recreational size limit for lingcod of 22 inches (down from 24 inches) in an effort to maximize fishing opportunity and make regulations consistent among California, Oregon, and Washington. The new proposed fillet length is 14 inches.

The Council chose to increase the scorpionfish depth constraint from 40 to 60 fm in the Southern Management Area during January and February, making the depth constraint 60 fm year-round—consistent with the rest of the year.

Increased Fishing Opportunity
Based on the outcomes of recent stock assessments, and resulting increases to ACLs, the Council increased recreational fishing opportunities where appropriate. The resulting 2011 and 2012 season structure and depth constraints adopted by the Council are provided in Table 1. The proposed regulatory changes in Table 1 will affect boat-based anglers targeting groundfish and associated species; shore-based fishing and spearfishing continue to be allowed year-round for these species.

Table 1. Proposed season structure and depth constraints for the California recreational groundfish fishery for 2011 and 2012, adopted for federal waters by the Council in June 2010.

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<th>Management Area</th>
<th>Jan</th>
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<tr>
<td>Northern</td>
<td>CLOSED May 14 (2011) or May 12 (2012)–Oct 31 &lt; 20 fm</td>
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<td>Mendocino</td>
<td>CLOSED May 14 (2011) or May 12 (2012)–Aug 15 &lt; 20 fm</td>
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<td>San Francisco</td>
<td>CLOSED Open Jun 1–Dec 31 &lt; 30 fm</td>
<td>CLOSED</td>
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<tr>
<td>Central</td>
<td>CLOSED Open May 1–Dec 31 &lt; 40 fm</td>
<td>CLOSED</td>
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<tr>
<td>Southern*</td>
<td>CLOSED Open Mar 1–Dec 31 &lt; 60 fm</td>
<td>CLOSED</td>
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<tr>
<td>CCA*</td>
<td>CLOSED Open Mar 1–Dec 31 &lt; 30 fm**</td>
<td>CLOSED</td>
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* California scorpionfish is open year-round
** Only nearshore and shelf rockfish, lingcod, cabezon, California scorpionfish, greenlings, California sheephead, and ocean whitefish are allowed in the CCA.

The Council adopted a 30 fm depth constraint for the Cowcod Conservation Area (CCA), rather than the current 20 fm, meaning all areas within the CCA that are deeper than 30 fm will continue to be closed to fishing for groundfish and associated species. The current 20 fm depth constraint is defined using general depth contours, while the 30 fm depth constraint will be defined by Federal waypoints. Waypoints are preferable for angler compliance and enforceability.

Only four areas within the CCA currently open to groundfish fishing will be affected by increasing the allowable fishing depth to 30 fm: Santa Barbara and San Nicolas Islands,
and Tanner and Cortes Banks. Areas such as Osbourne Bank, which are currently open to 20 fm but drop off into deeper depths too quickly to allow compliance, will be closed to fishing.

The Council decided to expand the list of rockfish species that may be retained within the CCA to increase fishing opportunity south of Point Conception. Currently, only nearshore species are allowed and all shelf rockfish encountered within the CCA must be discarded. The Council adopted new regulations to allow for the take and possession of shelf rockfish, as defined in Section 1.91, Title 14, CCR, in the CCA.

**Regulation Simplification and Consistency**

In addition to changes that are expected to provide increased fishing opportunity, other changes to California recreational fishing regulations were adopted to simplify regulations. The Council removed the 10 fm depth closure around the Farallon Islands and Noonday Rock in order to simplify regulations. Of the habitat currently closed to fishing under this regulation, the vast majority is now part of the North Farallon Islands State Marine Reserve and Southeast Farallon Islands State Marine Reserve. The reserves were established May 1, 2010, and prohibit fishing for groundfish and associated species. The limited area outside the reserves in less than 10 fm is not a concern for fishery management or conservation and would remain open to groundfish fishing under the specified depth constraint and season length in that Management Area.

To simplify the names used to describe the recreational Management Areas, the longer, less intuitive status quo names will be replaced with single word names that relate to the geographic location of the area. In addition, the Council chose to combine the Monterey (from Pigeon Point to Point Lopez) and Morro Bay (Point Lopez to Point Conception) South-Central Groundfish Management Areas into one area.

The Department proposes to combine regulations concerning minor federal groundfish into one section of Title 14, CCR for simplification. These species include: Petrale sole, starry flounder, soupfin shark, Dover sole, English sole, arrowtooth flounder, spiny dogfish, big skate, California skate, longnose skate, ratfish, Pacific rattail, finescale codling, Pacific Cod, Pacific whiting, sablefish, longspine thornyhead and shortspine thornyhead.

For added consistency, the Council adopted gear restrictions such that no more than one line and two hooks may be used to recreationally take cabezon and greenlings. This action will make angling gear restrictions consistent among cabezon, greenlings, rockfish and lingcod, which are commonly caught and managed together as the RCG complex.

The specific proposed Title 14 regulation changes identified in this regulatory package (outlined below) are necessary in order to make the State’s recreational groundfish
regulations consistent with the new federal rules that will be established by NMFS following the Council’s actions. The proposed changes are necessary to provide the best fishing opportunities possible while staying within federal and state harvest limits.

- **Modifications to Section 27.20, Groundfish Management Areas, Seasons, Depth, Exceptions, and Fishery Closure/Rule Change Process Described.**

  Existing regulations in subsection 27.20(e) describe the fishery closure and/or rule change process. A harvest limit includes optimum yield, recreational HG, and recreational harvest target. Proposed changes would include “annual catch limit” and “annual catch target” as valid types of harvest limits.

- **Modifications to Section 27.25, Northern Groundfish Management Area.**

  Existing seasons, depth constraints, and special closure areas regulations (subsection 27.25(b)) establish a May 15 through September 15 season with a maximum depth constraint of 20 fm (120 feet) for groundfish and associated species for the waters between the Oregon border and the 40° 10’ North Latitude management line near Cape Mendocino (Humboldt County). Proposed regulations would expand the fishing season for all groundfish and associated species by changing the season duration to May 14, 2011 (May 12, 2012) through October 31, and maintain the maximum depth constraint of 20 fm (120 feet).

- **Modifications to Section 27.30, North-Central North of Point Arena Groundfish Management Area.**

  The name of the North-Central North of Point Arena Groundfish Management Area, defined in subsection 27.30(a), would be changed to the “Mendocino Groundfish Management Area” for brevity and ease of use.

  Existing seasons, depth constraints, and special closure areas regulations (subsection 27.30(b)) establish a May 15 through August 15 season for groundfish and associated species with a maximum depth constraint of 20 fm (120 feet) for the waters between the 40° 10’ North Latitude management line near Cape Mendocino (Humboldt County) and Point Arena (Mendocino County). Proposed regulations would keep the fishing season for all groundfish and associated species near status quo, only changing the opening date to May 14, 2011 (May 12, 2012) rather than May 15, while maintaining the maximum depth constraint of 20 fm (120 feet).

- **Modifications to Section 27.32, North-Central South of Point Arena Groundfish Management Area.**

  Section 27.32 would be renumbered as Section 27.35.

  The name of the North-Central South of Point Arena Groundfish Management Area, defined in subsection 27.32(a) would be changed to the “San Francisco Groundfish Management Area” in subsection 27.35(a).
Existing seasons, depth constraints, and special closure areas regulations in subsection 27.32(b) establish a June 13 through October 31 season for groundfish and associated species with a maximum depth constraint of 30 fm (180 feet) for the waters between Point Arena (Mendocino County) and Pigeon Point (San Mateo County). Regulations proposed for subsection 27.35(b) would expand the fishing season for all groundfish and associated species by changing the season length to June 1 through December 31, and maintain the maximum depth constraint of 30 fm (180 feet).

Regulations in Subsection 27.32(b)(4) establish a 10 fm or less fishing closure around the Farallon Islands and Noonday Rock. The proposed regulations would eliminate the 10 fm depth closure. Areas shallower than 10 fm within the Northern Farallon Islands or the Southeast Farallon Islands State Marine Reserves would continue to be closed; areas shallower than 10 fm outside the reserves would allow for groundfish fishing.

• Modifications to Section 27.35, Monterey South-Central Groundfish Management Area and Section 27.40, Morro Bay South-Central Groundfish Management Area. Section 27.35 would be renumbered as Section 27.40.

Proposed regulations would combine the Monterey South-Central Groundfish Management Area, defined in subsection 27.35(a), and the Morro Bay South-Central Groundfish Management Area, defined in Section 27.40(a) into one management area. The new management area would be named the “Central Groundfish Management Area” and defined in 27.40(a) as ocean waters between Pigeon Point (San Mateo County) and Point Conception (Santa Barbara County).

Existing seasons, depth constraints, and special closure areas regulations (subsections 27.35(b) and 27.40(b)) establish a May 1 through November 15 season for groundfish and associated species, with a maximum depth constraint of 40 fm (240 feet), in both the Monterey and the Morro Bay South-Central Groundfish Management Areas. Regulations proposed for the new Central Groundfish Management Area in subsection 27.40(b) would expand the fishing season for all groundfish and associated species by changing the season length to May 1 through December 31. The maximum depth constraint would be maintained at the status quo of 40 fm (240 feet).

• Modifications to Section 27.45, Southern Groundfish Management Area. Existing seasons, depth constraints, and special closure areas regulations (Section 27.45(b)) establish a March 1 through December 31 season for groundfish and associated species with a maximum depth constraint of 60 fm (360 feet) for the waters between Point Conception (Santa Barbara County) and the U.S.-Mexico border, except that California scorpionfish may be taken in January and February with a maximum depth constraint of 40 fm (240 feet). Proposed regulations would keep the open fishing season at status quo, but increase the 40 fm California scorpionfish depth constraint to 60 fm. This action would make the Southern California scorpionfish depth constraint (60 fm) consistent with the Southern groundfish depth constraint (60 fm), and California
scorpionfish would continue to be open year-round.

- **Modifications to Section 27.50, Cowcod Conservation Areas**

Existing seasons and depth constraint regulations (subsection 27.50(b)) establish a March 1 through December 31 season for specific groundfish and associated species with a maximum depth constraint of 20 fm (120 feet) for the waters inside the CCA as defined by general depth contour lines, except California scorpionfish may be taken year-round. Proposed regulations would increase the depth constraint inside the CCA from 20 fm to 30 fm year-round, as defined by Federal waypoints. Proposed regulations would add shelf rockfish, as defined in subsection 1.91(b), to the list of allowable species or species groups to be taken or possessed March 1 through December 31.

- **Modifications Concerning Lingcod to Sections 27.25, Northern Groundfish Management Area; 27.30, North-Central North of Point Arena Groundfish Management Area; 27.32, North-Central South of Point Arena Groundfish Management Area; 27.35, Monterey South-Central Groundfish Management Area; 27.40, Morro Bay South-Central Groundfish Management Area; 27.45, Southern Groundfish Management Area; and 27.50, Cowcod Conservation Areas.**

Existing lingcod season regulations in subsections 27.25(c)(3), 27.30(c)(2), 27.32(c)(3), 27.35(c)(3), 27.40(c)(3), 27.45(c)(3), and 27.50(c)(2) establish a lingcod spawning closure during January through March, and December for shore-based anglers. Proposed regulations would allow for take and possession of recreationally caught lingcod during these months from beaches, banks, piers, jetties, breakwaters, docks, and other man-made structures connected to the shore.

Existing lingcod season regulations described in subsections 27.25(c)(4), 27.30(c)(3), 27.32(c)(4), 27.35(c)(4), 27.40(c)(4), 27.45(c)(4), and 27.50(c)(3) establish a lingcod closure during January through March, and December for divers and spearfishers. Proposed regulations would remove the diving/spearfishing provision so that recreational divers and spearfishers would be allowed to take and possess lingcod during these months.

Existing lingcod season regulations in subsections 27.45(b)(1), and 27.50(b)(1) through 27.50(b)(4) establish a lingcod spawning closure during January through March, and December for boat-based anglers in the Southern Groundfish Management Area and the CCA. Proposed regulations would allow for the statewide take and possession of recreationally caught lingcod during these months from any vessel when the season for groundfish and associated species is open by management area.

- **Modifications to Section 27.65, Filleting Fish on Vessels**

Existing regulations in subsection 27.65(b)(3) establish a 16 inch minimum fillet length for lingcod filleted on a vessel. Proposed regulations would lower the minimum lingcod fillet length to 14 inches when filleted on a vessel. This action is necessary to accommodate the decrease in the statewide lingcod minimum size limit from 24 inches
to 22 inches total length. Each fillet would still need to bear intact a one-inch square patch of skin for identification.

- **Modifications to Section 28.26 California Sheephead; Section 28.27 Lingcod; Section 28.28 Cabezon; Section 28.29 Kelp Greenling, Rock Greenling; Section 28.49 Dover Sole, English Sole, Petrale Sole, Arrowtooth Flounder, and Starry Flounder; Section 28.51 Spiny Dogfish, Soupfin Shark; Section 28.52 Big Skates, California Skates, and Longnose Skates; Section 28.53 Ratfish, Rattails and Codlings; Section 28.54 California Scorpionfish (Sculpin); Section 28.55 Rockfish (Sebastes); Section 28.56 Leopard Shark; Section 28.57 Pacific Cod, Pacific Whiting, Sablefish, and Thornyheads; and, Section 28.58 Ocean Whitefish.**

The proposed regulations would combine Sections 28.49 Dover Sole, English Sole, Petrale Sole, Arrowtooth Flounder, and Starry Flounder; Section 28.51 Spiny Dogfish, Soupfin Shark; Section 28.52 Big Skates, California Skates, and Longnose Skates; Section 28.53 Ratfish, Rattails and Codlings; and Section 28.57 Pacific Cod, Pacific Whiting, Sablefish, and Thornyheads into one section, Section 28.49.

Existing regulations establish seasons and depth constraints for these species or species groups. Additionally, some species or species groups have size, bag limits, exceptions, and/or gear restrictions. The proposed regulations would change season dates and/or depth constraints to match the proposed regulations for the different Groundfish Management Areas discussed above.

- **Modifications to Section 28.27, Lingcod.**

Subsections 28.27(a)(1) through 28.27(a)(7) define the open season for lingcod in each Management Area. Existing regulations in these subsections would be modified to make the lingcod season consistent with the general groundfish season as described above.

Existing regulations in subsection 28.27(c) establish a minimum size limit of 24 inches for lingcod statewide. The proposed regulations would modify the lingcod minimum size limit from 24 inches to 22 inches.

Existing regulations in subsection 28.27(d) establish a method of take for targeting lingcod. The allowable gear used to take lingcod is defined as not more than two hooks and one line. The proposed regulations would clarify these gear restrictions apply only when recreational angling for lingcod. Lingcod take by hand or while diving or spearfishing would continue to be allowed.

- **Modifications to Section 28.28, Cabezon.**

Existing regulations in subsection 28.28(b) provide for a two fish bag limit within the ten fish aggregate bag limit for rockfish, cabezon and greenling (the RCG complex). Proposed regulations would increase the cabezon bag limit from two fish to three fish, within the RCG complex bag limit.
Modifications to subsection 28.28(d) would define an allowable method of take for cabezon while angling. This action would restrict the cabezon method of take to not more than two hooks and one line, consistent with the lingcod and rockfish regulations.

- Modifications to Section 28.29, Kelp and Rock Greenling. Modifications to subsection 28.29(d) would define an allowable method of take for kelp and rock greenling while angling. This action would restrict the kelp and rock greenling method of take to not more than two hooks and one line, consistent with the lingcod and rockfish regulations.

- Modifications to Section 28.54, California Scorpionfish (Sculpin). Existing open areas, seasons, and depth constraints regulations (subsection 28.54(a)(6)) establish a January 1 through December 31 season for scorpionfish for the Southern Groundfish Management Area with a maximum depth constraint of 60 fm (360 feet) during March through December and a maximum depth constraint of 40 fm (240 feet) during January and February. Proposed regulations would change the January and February depth constraint for California scorpionfish to 60 fm (360 feet).

- Modification to Section 28.55 Rockfish (Sebastes). Existing regulations in subsection 28.55(d) establish a method of take for targeting rockfish. The allowable gear used to take rockfish is defined as not more than two hooks and one line. The proposed regulations would clarify these gear restrictions apply only when recreational angling for rockfish. Rockfish take by hand or while diving or spearfishing would continue to be allowed.

- Modifications to Section 28.65, General Fin Fish Gear Restrictions. Regulations in subsection 28.65(c) define the angling gear restriction when rockfish or lingcod are aboard or in possession as only one line and not more than two hooks. Proposed regulations would extend this gear restriction to cabezon and kelp and rock greenlings.

- Modifications to Section 52.10, Take of Sheephead, Cabezon and Greenling. Current regulations in subsection 52.10(a)(2) set the annual TAC for cabezon at 152,100 pounds (69 metric tons). Proposed changes would increase the statewide TAC to 326,200 pounds (148 metric tons); consistent with the NFMP guidelines and the higher ACL adopted by the Council.

The commercial and recreational fisheries are each allocated a specified portion of the TAC in current regulation—subsections 52.10(a)(2)(A and B). Thus, the allocated harvest amounts for the commercial and recreational fisheries would need to be adjusted proportionally upward to account for the increase to the TAC. The current allocation ratio is 39 percent to the commercial sector and 61 percent to the recreational sector. This existing ratio was applied to the proposed new TAC to generate proposed
sector allocations:
  o The commercial fishery allocation would increase from 59,300 to 127,200 pounds.
  o The recreational fishery allocation would increase from 92,800 pounds to 199,000 pounds.

• *Modifications to Section 150.16, Commercial Take of Nearshore Fishes.*
The current cabezon two month cumulative trip limits per individual, established in subsection 150.16(e)(6)(a), are designed to keep catches to the allowable commercial catch of 59,300 pounds and are as follows:

  January-February:  300 pounds
  March-April:  100 pounds
  May-June:  250 pounds
  July-August:  150 pounds
  September-October:  900 pounds
  November-December:  100 pounds

The Department has proposed a range of trip limit options to accommodate the proposed increase to the commercial allocation in Section 52.10. The proposed values per each two-month period range from 0 to 1,000 pounds. The Commission may select values from that range which will provide for commercial fishing yet ensure the commercial fishery does not exceed its new higher annual allocation (see above under Modifications to Section 52.10) and which will continue to align the cabezon season with the minor nearshore rockfish season set by the Council.

Additional changes are proposed to clarify and simplify the regulations.