



**TITLE 14. DEPARTMENT OF FISH AND WILDLIFE
NOTICE OF PROPOSED RULEMAKING ACTION**

Adopt Section 35.00
Amend Sections 150.06, 150.16, 189
Title 14, California Code of Regulations
Re: Commercial Groundfish Management Measures

October 11, 2024

NOTICE IS HEREBY GIVEN that the Department of Fish and Wildlife (Department) proposes to adopt Section 35.00 and amend sections 150.06, 150.16, and 189, Title 14, California Code of Regulations (CCR). The purpose of this proposed regulatory change is to continue existing regulations put in place by emergency action (OAL # 2024-0202-02E and 2024-0726-02EE) by way of certificate of compliance standard action. The proposed certificate of compliance action is necessary to preserve allowable state permitted nearshore opportunity, while also complimenting recent changes to federal regulations regarding the commercial take of groundfish south of 37° 07' N latitude.

After consideration of all public comments, objections, and recommendations regarding the proposed action, the Department may adopt the proposed regulations.

PUBLIC HEARING

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held virtually via webinar/ teleconference:

Public Hearing:

Date: Wednesday, December 4, 2024, 1:00 to 2:00 pm PST

Location: Teleconference Details will be provided at least seven days in advance of the meeting at www.wildlife.ca.gov/Notices/Regulations

WRITTEN COMMENT PERIOD

Written comments may be submitted at any time before or on December 4, 2024, by mail or email to the contact as follows:

California Department of Fish and Wildlife
Regulations Unit
Attn: Ona Alminas, Regulations Unit Manager
P.O. Box 944209
Sacramento, CA 94244-2090
Email: Regulations@wildlife.ca.gov



INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California quillback rockfish (*Sebastes maliger*) population is in decline, with the recent quillback rockfish stock assessment concluded that the population of quillback rockfish in California is overfished, and the population is estimated at only 14 percent of the unfished population.

The emergency action currently in effect arose from resultant overfishing of quillback rockfish in 2023 and subsequent closure of the entire nearshore fishery in the state waters via federal regulations, implemented January 1, 2024. The federal inseason management changes established the shoreward boundary of the federal non-trawl Rockfish Conservation Area at the 3 nautical mile boundary or shoreward Exclusive Economic Zone and resultant trip limits are to apply in federal waters only (including specifying a trip limit of zero for minor nearshore rockfish). Subsequent federal inseason action modified the southern boundary of the area affected by the regulations implemented on January 1, 2024.

It is necessary that the California Department of Fish and Wildlife (Department) continue the action to reduce mortality of quillback rockfish based upon updated analyses of commercial data. The Department proposes to make the emergency action long-term via a certificate of compliance action to continue the California Groundfish Restriction Area (CGRA) and trip limits for commercial take of nearshore rockfish, except for quillback rockfish, and California scorpionfish in state waters outside of the CGRA.

Specifically, the Department's certificate of compliance would maintain a 20-fathom boundary line approximating the 20-fathom depth contour because available fishery data indicate quillback rockfish off California are infrequently encountered in waters shallower 20- fathoms. This 20-fathom boundary line will continue to be available for use in management for both the commercial and recreational groundfish fisheries, as needed. Additionally, this action maintains the commercial CGRA between the 20-fathom boundary line and the shoreward boundary of the EEZ to north of 37° 07' N latitude (i.e., would prohibit commercial groundfish fishing between the 20-fathom and the shoreward boundary of the EEZ in this area). North of 37° 07' N latitude, the proposed action would maintain trip limits for groundfish species authorized for take under a nearshore (also known as shallow) or deeper nearshore permit, while also prohibiting commercial take of all other non-nearshore groundfish in state waters. Further, regulations statewide would be clarified, while also extending federal commercial groundfish regulations, except for those pertaining to state permitted nearshore species, into state waters south of 37° 07' N latitude (i.e., the area that was modified by recent federal action). Trip limits for groundfish species authorized for take under a nearshore or deeper nearshore permit would continue to be authorized in state waters south of 37° 07' N latitude.



BENEFITS OF THE PROPOSED REGULATIONS

This proposed certificate of compliance action will continue appropriate conservation measures for the quillback rockfish resource, while re-establishing continued economic opportunities to target and retain other nearshore opportunities.

The Department anticipates the proposed action will have positive impacts on the commercial nearshore fishery. At this time, commercial nearshore fishery permittees and deeper nearshore species permittees who hold limited-entry permits authorizing take of shallow and deeper nearshore rockfish, cabezon and greenlings, are bound by federal regulations applicable to waters north of 37° 07' N latitude that specify these fisheries are closed or limited to zero-take in federal waters. The proposed certificate of compliance action will allow these permittees to resume harvesting these species at previously authorized catch levels but will require them to operate in state waters only between the 20-fathom boundary line and the shoreline.

The proposed certificate of compliance action would also continue a series of waypoints to define this new 20-fathom boundary line, which is needed for fisheries to be able to operate in the shallowest of depths where quillback rockfish do not reside. Without the 20-fathom boundary line and the authorization to fish shoreward of that line, these fisheries would remain closed.

Without the Department's proposed certificate of compliance action, impacts to quillback rockfish from the unlimited non-nearshore commercial groundfish fishery would continue to accrue past an expiration of the current emergency in effect. The result will be continued unsustainable fishery bycatch mortality of quillback rockfish. It would likely result in the exceedance of the very small catch limits for this species, which would be inconsistent with federal law. Commercial fishing for groundfish stocks other than those authorized by a nearshore or deeper nearshore permit would continue in state waters, while also prohibiting the take of nearshore groundfish stocks in areas where quillback rockfish are infrequently encountered. This would result in serious economic harm to nearshore fishery participants and business that rely upon them. while also not mitigating impacts to quillback rockfish.

CONSISTENCY AND COMPATIBILITY WITH EXISTING REGULATIONS

The Legislature may delegate to Department such powers relating to the protection and commercial fishery resources as the Legislature sees fit, including the authority to adopt regulations pertaining to commercial fisheries (e.g., Fish and Game Code Sections 200 and 7652). No other state agency has the authority to adopt regulations governing commercial groundfish stocks. Department staff has searched the California Code of Regulations and has determined that other state regulations that apply to management of commercial groundfish fisheries are not inconsistent nor incompatible with the proposed regulations. The Department therefore finds that the proposed regulations are neither inconsistent nor incompatible with existing state regulations.



AUTHORITY AND REFERENCE

Section 35.00

Authority Cited: 200, 702, 7071, 7652 and 8587.1, Fish and Game Code.

Reference: 200, 205, 702, 1802, 7071, 7652, 8585.5 and 8587.1, Fish and Game Code.

Section 150.06

Authority cited: Sections 7071, 7652 and 8587.1, Fish and Game Code.

Reference: Sections 7071, 7652, 8585.5 and 8587.1, Fish and Game Code.

Section 150.16

Authority cited: Sections 702, 7071 and 8587.1 Fish and Game Code.

Reference: Sections 1802, 8585.5, 8586, 8587 and 8587.1, Fish and Game Code.

Section 189

Authority cited: Section 7652, Fish and Game Code.

Reference: Sections 7652, 7652.2, and 8607, Fish and Game Code.

Documents Incorporated By Reference:

None

Documents Relied Upon:

Amendment 32 repealing the Cowcod Conservation Areas posted in 88 Federal Register 83830 available from:

<https://www.federalregister.gov/documents/2023/12/01/2023-25905/magnuson-stevens-act-provisions-fisheries-off-west-coast-states-pacific-coast-groundfish-fishery>

Inseason rule removing trip limits for nearshore species north of 36° N latitude posted in 88 Federal Register 90127 available from:

<https://www.federalregister.gov/documents/2023/12/29/2023-27689/magnuson-stevens-act-provisions-fisheries-off-west-coast-states-pacific-coast-groundfish-fishery>

Quillback overfished determination available from:

<https://www.fisheries.noaa.gov/bulletin/noaa-fisheries-announces-overfished-determination-quillback-rockfish-california>

Inseason rule modifying 36° N latitude to 37° 07' N latitude posted in 89 Federal Register 22342 available from:

<https://www.federalregister.gov/documents/2024/04/01/2024-06775/magnuson-stevens-act-provisions-fisheries-off-west-coast->



[states-pacific-coast-groundfish-fishery](#)

DISCLOSURES REGARDING THE PROPOSED ACTION:

Impact Of The Regulatory Action/ Results Of The Economic Impact Assessment

The potential for significant statewide adverse economic impacts that might result from the proposed regulation 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: None.

The Department does not anticipate that the proposed action will have significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Without the proposed certificate of compliance action, the commercial nearshore fishery would be closed and quillback rockfish bycatch mortality would continue to accrue from the non-nearshore groundfish fishery. Allowing quillback rockfish mortality to exceed the small federal limits for California would be inconsistent with federal regulation and would result in the closure of nearshore and non-nearshore groundfish fishing. The proposed action ensures that the non-nearshore fishery can continue to operate in federal waters where there is less risk to the quillback rockfish resource while keeping the nearshore fishery open, allowing both to continue competing in the marketplace. Without the proposed changes the commercial nearshore fisheries would be closed, and restaurants and other fish businesses would seek alternative groundfish suppliers from other states, such as Oregon. The proposed changes provide improved enforceability and clarification of existing regulations that aid in the continued preservation of marine resources while endeavoring to minimize interruptions to commercial harvest opportunities, and thus, the prevention of adverse economic impacts.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment: None.

The Department does not anticipate adverse impacts on the creation or elimination of jobs within the state given that the proposed amendments are to commercial groundfish regulations, which maintain access of the nearshore fishery to permittees while the non-nearshore groundfish fishery may continue to operate in federal waters. The Department does not anticipate adverse impacts on the creation of new business, the elimination of existing businesses, or the expansion of businesses in California. The proposed changes are to provide improved enforceability and clarification of existing regulations, while keeping the nearshore groundfish fishery open instead of fully closed. The proposed certificate of compliance regulations close state waters to the take of non-nearshore groundfish north of 37° 07' N latitude. However, this fishery may continue to



federal waters. Taken together, the proposed certificate of compliance action and are not anticipated to change the annual level of harvest activity or the demand for goods and services related to marine resource harvest that could impact the demand for labor, induce the creation of new businesses, eliminate existing businesses, or cause the expansion of businesses in California. The Department does not anticipate any benefits to the health and welfare of California residents or to worker safety from the proposed action. The Department anticipates benefits to the State's environment directly through maintaining the harvest of healthy stocks while mitigating mortality of quillback rockfish to ensure that their population is able to rebuild.

(c) Cost Impacts on Representative Person or Business:

The Department is aware of cost impacts that a representative private person or business could reasonably incur as a result of compliance with the proposed action. The Department estimates that for the areas impacted by the proposed action, a total of 202 vessels were participating in the commercial groundfish fishery in varying capacities. From those 202 vessels, a total of 97 vessels did not fish in federal waters in the period preceding changes to federal and state regulations (2022) and may incur varying degrees of cost impact as a result of the proposed regulations. However, of the 97 vessels that did not fish in federal waters, 52 vessels actively fished nearshore fish stocks. Given the proposed regulations would maintain the nearshore fishery in state waters, these vessels could continue fishing in state waters for nearshore fish stocks or elect to fish federal waters for non-nearshore groundfish.

Under the proposed regulations, the remaining 45 vessels would no longer be able to fish for non-nearshore groundfish in state waters and would have to fish in federal waters to commercially access non-nearshore groundfish stocks. These vessel owners would need to abide by federal groundfish regulations, which in part, require a Vessel Monitoring System (VMS) while commercial fishing for or possessing commercial groundfish in federal waters. Costs associated with conforming to federal VMS requirements include the purchase of an approved VMS unit, which is fully reimbursable through a federal program while funding is available. Vessel owners would also be required to pay a monthly service fee, which may range approximately between 30 and 75 dollars per month, depending on the service provider.

While 45 vessels are estimated to be the maximum number that may be impacted by the proposed regulations, it is more likely that fewer vessels are will be severely impacted by the proposed regulation. A review of the landings data for these vessels indicates that a majority had relatively small landings of groundfish and may wish to switch to non-groundfish species or other opportunities. Of the 45 vessels that have landed non-nearshore groundfish and have not fished in federal waters, the average annual landed weight of groundfish is 388 pounds, resulting in an average ex-vessel value of \$1,427.88. Approximately four of those vessels landed an average of 22,055 pounds, with an average ex-vessel value of \$41,108.87. Given this disparity of the landed weight and ex-vessel value between these four vessels and the majority of the



remaining vessels, it is likely that the proposed regulations and the additional costs imposed by conforming to federal groundfish regulations may impact fewer than 10 vessels due to their likely preference to continue harvesting groundfish versus other species. This would result in combined direct cost impact of approximately \$1,400 to \$3,600, annually (see STD399 and Addendum).

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

This certificate of compliance adoption of the emergency rulemaking will not result in any costs or savings to state agencies and does not affect federal funding to the state. The Department has determined that the certificate of compliance action for this the commercial groundfish emergency will not affect license or landing fee revenues or the Department’s existing level of expenditures on monitoring and enforcement activities. Additionally, no other state agencies would be affected by this regulatory action.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

Effect on Small Business

The Department anticipates that the proposed certificate of compliance action may affect small businesses.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department concludes that the proposed regulation will not create additional job opportunities; result in the elimination of jobs or existing businesses, create new businesses, eliminate existing businesses, or expand businesses in the state.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The Department does not anticipate that the proposed regulation will prompt the creation or the elimination of jobs within the state. The proposed amendments maintain access of the nearshore fishery in state waters to nearshore permittees while non-nearshore fishery participants may operate in federal waters and are not expected to negatively affect current harvest activity, nor would they precipitate the creation of jobs or the elimination of jobs.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The Department does not anticipate that the proposed regulation would induce impacts on the expansion of businesses currently doing business within the state. The proposed regulation is not anticipated to increase demand for services or products from the



existing businesses that serve individuals who engage in groundfish harvest. By maintaining access to the nearshore groundfish fishery, while non-nearshore groundfish participants may continue to operate in federal waters they allow present economic activity to continue.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Department does not anticipate that the proposed regulation would induce impacts on the expansion of businesses currently doing business within the state. The proposed regulation allows for continued harvesting activity in the nearshore groundfish fishery while non-nearshore participants may continue to operate in federal waters and is not anticipated to increase demand for services or products from the existing businesses that serve individuals who engage in nearshore groundfish harvest.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Department does not anticipate benefits to the health and welfare of California residents because the proposed regulatory change has no relation to health or welfare.

(e) Benefits of the Regulation to Worker Safety:

The Department does not anticipate any benefits to worker safety in California because this action will not affect working conditions.

(f) Benefits of the Regulation to the State's Environment:

The Department anticipates benefits to the State's environment directly through maintaining the harvest of healthy stocks while mitigating mortality of quillback rockfish to ensure that their population is able to rebuild. It is the policy of this state to encourage the conservation, maintenance, and utilization of the living resources of waters under the jurisdiction and influence of the state for the benefit of all the citizens of the state.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternatives to the proposed regulation it considered or that have otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to present statements or arguments with respect to alternatives to the regulations during the written comment period.

AVAILABILITY OF RULEMAKING DOCUMENTS AND CONTACT PERSONS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout format can be accessed through the Department website at <https://wildlife.ca.gov/notices/regulations/>.



The proposed text (the “express terms”) of the regulations, as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review at 715 P Street, Sacramento, CA 95814 (17th floor). The rulemaking file will be available electronically upon request by contacting the Department at Regulations@wildlife.ca.gov. Inquiries concerning the regulatory process or requests for documents should be directed to:

California Department of Fish and Wildlife
Ona Alminas, Regulations Unit
P.O. Box 944209
Sacramento, CA 94244-2090
Telephone: (916) 902-9109
Email: regulations@wildlife.ca.gov

Inquiries concerning the subject matter or substance of the proposed action should be directed to:

Andrew Klein, Environmental Scientist
California Department of Fish and Wildlife
20 Lower Ragsdale Drive, Suite 100
Monterey, CA 93940
Telephone: (831) 241-1830
Email: groundfish@wildlife.ca.gov

The rulemaking file consists of:

- Notice of Proposed Regulatory Action
- Initial Statement of Reasons
- Proposed Text of the Regulation:
 - Addition of Section 35.00, Title 14, CCR
 - Amendment of Sections 150.06, 150.16, and 189, Title 14, CCR
- Economic and Fiscal Impact Statement (Form STD 399) and addendum
- Documents or Reports supporting the proposed regulation change

AVAILABILITY OF DOCUMENTS ON THE INTRANET

The rulemaking file is available online at:

<https://wildlife.ca.gov/Notices/Regulations/FederalGroundfish>

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all the timely and relevant comments received, the Department may adopt the proposed regulation substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulation as revised. Please send requests for copies of any modified regulation to the Regulations Unit at



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Regulations Unit
P.O. Box 944209
Sacramento, CA 94244-2090

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



the address above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by checking the website at the link provided above, or the Regulations Unit at the address above.