

State of California
California Department of Fish and Wildlife
Initial Statement of Reasons for Regulatory Action
Certificate of Compliance

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

I. Date of Initial Statement of Reasons: August 10, 2024

II. Dates and Locations of Scheduled Public Hearing

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

[https://wildlife.ca.gov/Notices/Regulations/
federalgroundfish](https://wildlife.ca.gov/Notices/Regulations/federalgroundfish)

Meeting details will be made available on
the Proposed Regulations webpage:

Location: Teleconference and Webinar

III. Description of Regulatory Action

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

Unless otherwise specified, all section and subsection references in this document are to Title 14 of the California Code of Regulations (CCR).

BACKGROUND

The California Department of Fish and Wildlife (Department) works with the National Oceanic and Atmospheric Administration (NOAA) Fisheries, the states of Oregon and Washington, and the Pacific Fishery Management Council (PFMC) to manage west coast groundfish recreational and commercial fisheries, including off the coast of California, on a sustainable basis. One of the groundfish species, quillback rockfish (*Sebastes maliger*) has driven recent management actions taken. The 2021 quillback rockfish stock assessment concluded that the population status of quillback rockfish in California is in severe decline, and the population is estimated at only 14 percent of the unfished population. NOAA Fisheries formally [declared the California stock of quillback rockfish as overfished](#), and a rebuilding plan for the species has been adopted by the PFMC.

While the 2021 quillback rockfish stock assessment was conducted on the entire stock off California, separate Annual Catch Targets (ACTs) were established for the areas north and south of 40°10' N lat. (near Cape Mendocino) based on the estimated biomass in those areas. Catches are tracked during the season through commercial fish landings and through Department surveys of reported and observed recreational catch.

An Overfishing Limit (OFL) is the estimate of the maximum amount of a stock that can be caught in a year without further depleting the stock. An ACT is a type of harvest target that is set below the OFL and is specified in federal regulations to guide management.

At its November 2023 meeting, the PFMC recommended inseason changes to commercial fisheries in order to limit the mortality of quillback rockfish off the coast of California for 2024. The federally specified harvest limits (both the ACT and OFL contributions) for the stock of quillback rockfish off the coast of California were estimated to be significantly exceeded in 2023 (see 88 FR 67656, October 2, 2023, for more information).

The need for state regulatory action 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 establish the shoreward boundary of the federal non-trawl Rockfish Conservation Area at the 3 nautical mile boundary or shoreward Exclusive Economic Zone (EEZ) and resultant trip limits are to apply in federal waters only (including specifying a trip limit of zero for minor nearshore rockfish).

Currently, the California Code of Regulations establishes trip limits, as well as Rockfish Conservation Areas, for commercial take of groundfish, which includes both shallow nearshore rockfish and deeper nearshore rockfish, and California scorpionfish in state waters by incorporating federally established commercial groundfish regulations.

Specifically for shallow and deeper nearshore rockfishes and California scorpionfish: “Cumulative trip limit values noticed in the Federal Register by the National Marine Fisheries Service for the cumulative trip limit periods for shallow nearshore rockfish, deeper nearshore rockfish, and California scorpionfish apply to each individual California commercial licensee in addition to the federally-defined vessel-based limits.” Cal. Code Regs. Tit. 14, § 150.16, subd. (e)(5); see also *id.* at Section 150.05. The federally defined trip limits are located at 50 Code of Federal Regulations (CFR) Part 660, Tables 2 & 3 to Part 660, Subpart F.

PRIOR EMERGENCY ACTION

Because data had indicated the quillback rockfish stock is rarely encountered south of 36° N latitude (near Point Lopez), federal regulations implemented January 1, 2024 closed commercial nearshore fishing, while commercial fishing for non-nearshore groundfish stocks remained open north of 36° N latitude (near Point Lopez). As a result of combined current state and federal regulations, the state permitted commercial nearshore fishery, which primarily operates in state waters and is a limited access fishery, is closed. Meanwhile, the commercial fishery for other non-nearshore groundfish stocks, which does not limit the number of fishery participants, could operate in state waters. This does little to limit mortality of quillback rockfish unless regulations are changed.

The Department’s action, effective February 12, 2024, established a 20-fathom boundary line with the initial emergency action (OAL # 2024-0202-02E), which approximates the 20-fathom depth contour, because available fishery data indicate quillback rockfish off California are infrequently encountered in waters shallower 20 fathoms. In portions of the coast where the 20-fathom depth contour extends into federal water, the 20-fathom boundary line was limited by the extent of state waters. This new 20-fathom boundary line is available for use in management for both the commercial and recreational groundfish fisheries, as needed. Additionally, the emergency action implemented a commercial California Groundfish Restriction Area (CGRA) between the 20-fathom boundary line and the shoreward boundary of the EEZ north of 36° N latitude (i.e., prohibited commercial groundfish fishing between the 20-

fathom and the shoreward boundary of the EEZ in this area). The emergency action also established 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 north of 36° N latitude. Further, the emergency action clarified regulations statewide, while also reaffirming extension of federal commercial groundfish regulations into state waters south of 36° N latitude (e.g., the area that was unaffected by recent federal action).

At its March 2024 meeting, the PFMC recommended modifying the southern boundary of the area defining differential federal non-trawl Rockfish Conservation Areas from 36° N latitude to 37° 07' N latitude. These modifications were based upon updated analyses that found commercial encounters with quillback rockfish were rare between 37° 07' N and 36° N latitude. This recommendation was subsequently implemented into federal regulation, effective April 1, 2024¹.

With the first action to re-adopt the emergency regulations (OAL #2024-0726-02EE), the Department modified the initial emergency regulations for consistency with and to compliment federal action taken on April 1, 2024. The modification included adjusting the latitudinal boundary from 36° N latitude to 37° 07' N latitude. This resulted in the commercial GRCA being implemented between the 20-fathom boundary line and the state waters boundary north of 37° 07' N latitude. In the area between 37° 07' N latitude and 36° N latitude, regulations were modified to remove both the commercial GRCA and the 20-fathom boundary line. In this area, federal trip limits for all groundfish, except for nearshore rockfish, cabezon and greenlings of the genus *Hexagrammos*, were extended into state waters. State regulations continue to authorize take up to the specified limits for nearshore rockfish, cabezon and greenlings of the genus *Hexagrammos*.

PROPOSED REGULATIONS

The proposed rulemaking aims 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.

Since the federal nearshore trip limit of 0lbs/2 months completely halted commercial fishing under 232 active nearshore commercial fishing permits, this certificate of compliance action will maintain nearshore rockfish trip limits as they were prior to federal action, while prohibiting commercial take of quillback rockfish and other non-nearshore groundfish north of 37° 07' N latitude (Figure 1). Closure of non-nearshore commercial groundfish fishery north of 37° 07' N latitude is needed to avoid repeated overage of the quillback rockfish ACTs and OFLs. The greater and more repeated the overage, the greater the risk to California's quillback rockfish resource, which has received a federal 'overfished' declaration. It is equally necessary to ensure these amendments do not unreasonably prohibit other commercial groundfish fishing that could occur with diminished risk to the quillback rockfish resource.

¹ 89 Fed. Reg. 22342, available at: <https://www.govinfo.gov/content/pkg/FR-2024-04-01/pdf/2024-06775.pdf>

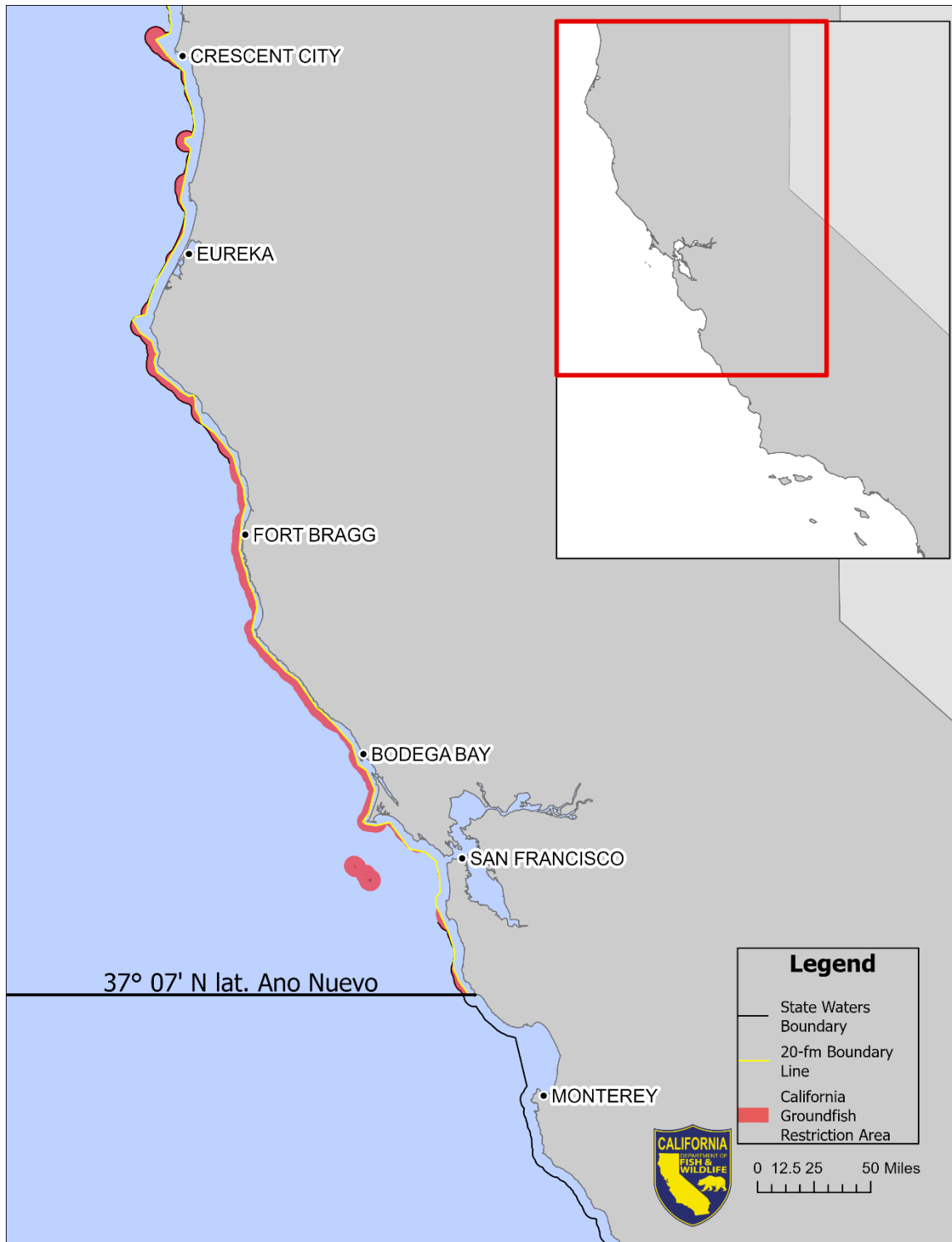


Figure 1. Map of the proposed regulations that would be effective with the Certificate of Compliance. The 20-fathom boundary line and GRCA would be implemented in the area between the Oregon-California border and 37° 07' N latitude.

Section 35.00

Section 35.00 was added under a new Article for Division 1, Chapter 4, Title 14, CCR. Creating a new Article 2, to be called, “Ocean Management Boundaries” is necessary because the use of the new section for the defined 20-fathom line may involve both commercial and recreational

sectors for groundfish stocks. It's also possible for future ocean boundary lines to also be added under this new Article.

Section 35.00 was added to establish the waypoint coordinates of the 20-fathom boundary line which may be used in commercial or recreational groundfish fisheries management as a tool to mitigate impacts to groundfish stocks of concern. Separate grouping of coordinates for Mainland coast from islands makes it easier to reference the general geographic grouping of coordinates. Defining a 20-fathom line for the CGRA is necessary for management because available fishery data indicate quillback rockfish off California are infrequently encountered in waters shallower 20-fathoms. No changes to Section 35.00 are proposed with this certificate of compliance action.

With this proposed certificate of compliance, corrections are made to coordinate nomenclature defining the 20-fathom line to remove an extra "N" designating North. These changes are necessary for clarity and consistency, and include:

- three pairs of coordinates for "Mainland Coast.", and;
- four pairs of coordinates for "San Clemente Island."

The following explanations, by subsection, were reflected in the emergency statement for the first 90-day re-adoption action. Only non-substantive changes are proposed with this certificate of compliance action. In sections 150.06 and 150.16, the noun "Ano Nuevo" was corrected to "Año Nuevo" for accuracy of this location in the Spanish language.

Section 150.06

Subsection 150.06(a) was amended to remove the definition of "Cowcod Closure Areas" which are located in federal waters and have been repealed from federal regulation. This subsection is necessary to define the area and reference the boundary lines of the CGRA for use in commercial groundfish management north of 37° 07' N latitude. Reference is made to the Code of Federal Regulations due to the required definition of the EEZ for consistency with federal regulations. The latitudinal boundary shifted to conform to federal regulations which became effective April 1, 2024, which modified the area to which the CGRA and 20-fathom boundary line apply to north of 37° 07' N latitude.

Subsection 150.06(b) was added to establish a transit provision to would allow for groundfish legally taken in federal waters to be landed in California, which would require transiting areas that are otherwise closed to the take and possession of groundfish in state waters. This provision is necessary to allow for exemption for transit through the CGRA. Subsection 150.06(b) was renumbered to subsection (c) and amended to clarify that federal commercial regulations, except for nearshore rockfishes, cabezon, California scorpionfish, California sheephead and greenlings of the genus *Hexagrammos*, are extended into state waters south of 37° 07' N latitude. These changes are necessary to update the management boundary from near Point Lopez to Año Nuevo, and clarify which federal commercial trip limits are extended into state waters.

Subsection 150.06(c) previously specified where state defined seasonal closures for nearshore rockfishes, cabezon, California scorpionfish, California sheephead and greenlings of the genus *Hexagrammos* are specified in state regulation.

Subsections 150.06(c) and (c)(1) through (c)(3) are deleted to remove establishing federally defined closure periods and times for nearshore rockfishes, cabezon, California sheephead and greenlings of the genus *Hexagrammos*. This change is necessary given federal regulations do not authorize take of these species north of between 37° 07' and 36° N latitude.

Section 150.16

Subsection 150.16(a) was amended to remove reference to Fish and Game Code section 8588 since the section was repealed by statute upon adoption of regulations implementing a fishery management plan for nearshore fish stocks by the Fish and Game Commission.

Subsection 150.16(b) was updated to reflect changes made to commercial landing requirements which have been implemented prior to the last time this subsection was amended requiring submission via electronic fish ticket. This update is necessary because the Fish and Game receipt is no longer applicable.

Subsection 150.16(e) was amended to include reference to federal groundfish for cumulative trip limit periods and update to the correct name for California sheephead. This is needed to clarify cumulative trip limit periods for nearshore fish stocks and retain consistency with federal trip limits established for non-nearshore groundfish.

Subsection 150.15(e)(1) Subsection 150.16(e) was amended to clarify that cumulative trip limits are totaled by the sum of the pounds landed during the applicable limit period.

Subsection 150.16(e)(3) was amended to clarify how cumulative trip limits are summed, depending on whether the cumulative trip limit period applies to nearshore fish stocks or other non-nearshore federal groundfish. This amendment and those additions of subsections (e)(3)(A) and (B) are needed because under current state and federal regulations the cumulative trip limit period for the afore mentioned groundfish groups accrue either against the individual and vessel or solely against the vessel.

Subsection 150.16(e)(3)(A) was added to specify that the cumulative trip limit period for shallow and deeper nearshore rockfish, cabezon and California scorpionfish accrue against both the individual and the vessel, as is the case under current regulation. Additionally, this new subsection is largely a renumbering of subsection 150.16(e)(5).

Subsection 150.16(e)(3)(B) was added to clarify that the cumulative trip limit period for all other non-nearshore federal groundfish accrue against the vessel, as is the case under current regulation.

Subsection 150.16(e)(5) was deleted because this subsection was slightly amended and renumbered as subsection (e)(3)(A).

Subsection 150.16(e)(6) was renumbered to subsection (e)(5) and was amended to include other federal groundfish as well as clarify the regulatory text for the species or species groups originally included in this section. This is necessary because federal trip limits for certain groundfish are being extended into state waters. Specifically, federally permitted take of yellowtail rockfish by commercial salmon troll north of 37° 07' N latitude and other non-nearshore federal groundfish south of 37° 07' N latitude.

Subsection 150.16(5)(6)(A) was added to establish and specify trip limits between 42° N

latitude and 37° 07' N latitude. Minor modifications were made to abbreviate “latitude” for consistency throughout the regulatory text.

Subsection 150.16(5)(6)(B) was added to establish and specify trip limits south of 37° 07' N latitude. Minor modifications were made to abbreviate “latitude” for consistency throughout the regulatory text.

Subsection 150.16(e)(6)(B) was renumbered to subsection (e)(5)(C) and was amended to specify that the Department may take inseason action to modify trip limits or closures for nearshore rockfish and California scorpionfish based upon harvest limits established in federal regulation. This is necessary because harvest limits for these species or species groups are established in federal regulation while the state specifies a Total Allowable Catch (TAC) for cabezon, California sheephead and greenlings of the genus *Hexagrammos* in state regulation.

Subsection 150.16(e)(6)(C) was renumbered (e)(6)(D) and amended to address a typo in the word “permittee” for maximum clarity.

Subsection 150.16(e)(6)(D) was renumbered (e)(6)(E) and amended to increase clarity for the mechanism of closure for cabezon, California sheephead, greenlings of the genus *Hexagrammos* and nearshore rockfish, if needed. This amendment does not make any material changes.

Subsection 150.16(f) was amended to establish commercial trip limits for all other non-nearshore groundfish not specified in subsections 150.16(e)(5)(A) and (e)(5)(B).

Subsection 150.16(f)(1) was added to prohibit take and possession of all other groundfish not specified in subsection 150.16(e)(6)(A), except for purposes of continuous transit, in state waters north of 37° 07' N latitude, except as provided in subsection (f)(1)(A) and (B). This is necessary to mitigate mortality of quillback rockfish by the non-nearshore groundfish fishery, which is not limited in the number of participants.

Subsection 150.16(f)(1)(A) was added to provide an exception for the take and possession of groundfish in cases of continuous transit. This is necessary because otherwise it would prohibit groundfish legally taken elsewhere (e.g., federal waters) from being landed into California and would unduly burden commercial fishers and negatively impact the California economy.

Subsection 150.16(f)(1)(B) was added to provide an exception for the take and possession of yellowtail rockfish in state waters by commercial salmon troll fishers. This is necessary because the gear used in this fishery is fished in the midwater column and is unlikely to adversely impact quillback rockfish.

Subsection 150.16(f)(2) is added and modified to reaffirm extension of federal commercial trip limits for all other non-nearshore groundfish, except for those explicitly specified in subsection 150.16(e)(5)(B), in state waters south of 37° 07' N latitude. The proposed modifications to this subsection are designed to conform and complement federal regulation south of 37° 07' N latitude. Federal regulations do not allow for the take of those species explicitly specified in subsection 150.16(e)(5)(B) and would result in the closure of the state permitted nearshore fishery in absence of this modification. Together, these modifications extend federal trip limits into state waters for species which aren't specified in state regulation, while continuing to authorize take of state permitted nearshore species.

Subsection 150.16(g) was added to extend federal crossover provisions for entities that may take groundfish from areas that have differing cumulative trip limits to maintain consistency between state and federal groundfish regulations.

Subsection 150.16(h) was added to clarify the cumulative trip limits specified in section 150.16 shall not be exceeded.

Section 189

Section 189 was amended to make minor technical changes to existing regulations, including an update to the method by which the public may contact the Department of Fish and Wildlife to receive a copy of federal regulations.

(b) Goals and Benefits of the Regulation

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

The Department anticipates the proposed certificate of compliance action will have positive impacts on the commercial nearshore fishery. At this time, commercial nearshore fishery permit holders 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 continuation of the emergency regulations allows these permittees to continue 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. In absence of the certificate of compliance, the commercial nearshore fishery north of 37° 07' N latitude would be closed and more than \$750,000 in ex-vessel value would be forgone.

The proposed certificate of compliance action would also maintain the waypoints defining the 20-fathom boundary line, which is needed for recreational and commercial groundfish 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.

If the emergency regulations are not extended through certificate of compliance action to cease commercial non-nearshore groundfish fisheries from operating in state waters north of 37° 07' N latitude, 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.

Lastly, the certificate of compliance would continue to complement recent federal regulatory action, allowing for increased opportunity in the area between 37° 07' and 36° N latitude. These complimentary modifications are based upon updated federal analyses of commercial impacts to the quillback rockfish stock in this area.

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

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.

(d) Specific Technology or Equipment Required by Regulatory Change

None.

(e) Identification of Reports or Documents Supporting Regulation Change

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>

(f) Public Discussions of Proposed Regulations Prior to Notice Publication

CDFW solicited public comment and input on the development of the 20-fathom boundary line beginning December 8, 2023, through December 23, 2023. Over 220 public comments were submitted and considered in the development of the 20-fathom boundary line.

<https://cdfwmarine.wordpress.com/2023/12/08/cdfw-wants-your-input-on-new-20-fathom-rockfish-conservation-area-boundary-line/>

Various public and technical discussions were held at PFMC meetings of the proposed federal

regulatory changes were presented and discussed:

- September 2023, Spokane, Washington
- November 2023, Garden Grove, California
- March 2024, Fresno, California

IV. Description of Reasonable Alternatives to Regulatory Action

(a) Alternatives to Regulation Change

No other alternatives were identified by or brought to the attention of Department staff that would have the same desired regulatory effect. Regulatory amendment is required to maintain commercial nearshore groundfish harvest opportunity, while also limiting mortality of quillback rockfish.

(b) No Change Alternative

Without the proposed certificate of compliance action to continue prevention of commercial non-nearshore groundfish fisheries from operating in state waters north of 37° 07' N latitude, 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. Additionally, in absence of the certificate of compliance action, the nearshore fishery north of 37° 07' N latitude would be closed in state waters, resulting in forgone harvest and economic opportunity, in depths where data indicates quillback rockfish are infrequently encountered.

(c) Description of Reasonable Alternatives that Would Lessen Adverse Impact on Small Business

There is no reasonable alternative that would have less of an impact on small businesses operating in the commercial groundfish fishery. Without the proposed certificate of compliance regulations, north of 37° 07' N latitude the nearshore fishery would be completely closed to nearshore permittees and bycatch mortality of quillback rockfish would continue to accrue in state waters from the non-nearshore fishery. The non-nearshore groundfish fishery may still be pursued in federal waters where there is diminished risk to California's quillback rockfish resource.

V. Mitigation Measures Required by Regulatory Action

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures 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 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

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 a Representative Private 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

VII. Economic Impact Assessment

(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.

(g) Other Benefits of the Regulation

None.

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 Regulation

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). 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.