



NOTICE OF PROPOSED SECOND 90- DAY EXTENSION OF EMERGENCY REGULATIONS

Commercial Groundfish Management Measures

October 25, 2024

NOTICE IS HEREBY GIVEN that the Department of Fish and Wildlife (Department) proposes to re-adopt the Section 35.00, and amend sections 150.06, 150.16, and 189, Title 14, California Code of Regulations (CCR) to create a California Groundfish Restriction Area (CGRA) and establish trip limits for commercial take of nearshore rockfish, except for quillback rockfish (*Sebastes maliger*), and California scorpionfish in state waters outside of the CGRA. The goal of the CGRA is to minimize interaction with particular species of groundfish that cannot be selectively avoided and must be protected by limiting or prohibiting fishing in certain depths or areas for federal groundfish and all greenlings of the genus *Hexagrammos*.

The Department's proposed action would readopt and extend the emergency regulations implemented on February 12, 2024, and re-adopted August 13, 2024. This re-adoption would maintain the emergency regulations that established a 20-fathom boundary line approximating the 20-fathom depth contour because available fishery data indicate quillback rockfish off California are infrequently encountered in shallower waters. This 20-fathom boundary line would be readopted and available for use in management for both the commercial and recreational groundfish fisheries, as needed. Additionally, the proposed readoption would maintain the southern boundary at 37° 07' N latitude (Año Nuevo, San Mateo County). The results in maintain the commercial CGRA between the 20-fathom boundary line and the shoreward boundary of the Exclusive Economic Zone (EEZ) 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). Trip limits for groundfish species authorized for take under a nearshore or deeper nearshore permit would continue to be authorized. Commercial take of all other non-nearshore groundfish in state waters north of 37° 07' N latitude would continue to be prohibited.

Further, this re-adoption would maintain the removal of the CGRA and 20-fathom boundary line between 37° 07' and 36° N latitude. South of 37° 07' N latitude, federal commercial groundfish trip limits, except for those species authorized for take under a nearshore or deeper nearshore permit, would continue to be extended into state waters. South of 37° 07' N latitude, take of nearshore or deeper nearshore permitted species would continue to be authorized by state regulation.

Pursuant to the requirements of Government Code Section 11346.1, the Department is providing notice of proposed emergency action with regard to the above-entitled emergency regulation. The documents outlining the proposed emergency action can be

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found on the Department's webpage at
<https://wildlife.ca.gov/Notices/Regulations/FederalGroundfish>.

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to OAL, OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code Section 11349.6.

WRITTEN COMMENT PERIOD

Any interested person may present statements, arguments, or contentions, in writing, submitted via U.S. mail or e-mail, relevant to the proposed emergency regulatory action. Written comments submitted via U.S. mail or e-mail must be received at OAL within five days after the Department submits the emergency regulations to OAL for review.

Please reference submitted comments as regarding "CDFW Emergency Regulations Re-adoption: Commercial Groundfish Management Measures" addressed to both contacts below:

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The Department anticipates it will submit the rulemaking to OAL on or after November 1, 2024. For the status of the Department's submittal to OAL for review, and the end of the five-day written submittal period, please consult OAL's website at <http://www.oal.ca.gov> under the heading "Emergency Regulations."

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

(Gov. Code, § 11346.5, subd. (a)(3))

The California quillback rockfish population is in decline and has been harvested at unsustainable levels. The recent 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.

The initial emergency 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 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 to take action to reduce mortality of quillback rockfish based upon updated analyses of commercial data. The Department proposes to re-adopt for a second 90-day period the emergency action that created a California Groundfish Restriction Area (CGRA) and established trip limits for commercial take of nearshore rockfish, except for quillback rockfish (*Sebastes maliger*), cabezon, California scorpionfish and greenlings of the genus *Hexagrammos* in state waters outside of the CGRA.

Specifically, the Department's re-adoption of the emergency action 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 shallow waters. 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, the emergency re-adoption would continue implementation of a commercial CGRA between the 20-fathom boundary line and the shoreward boundary of the EEZ 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 re-adopted emergency regulations 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. 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.

Without the Department's re-adoption of the emergency action, impacts to quillback rockfish from the unlimited non-nearshore commercial groundfish fishery are likely to continue to accrue while also prohibiting the take of other 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.

Benefits of the Proposed Regulation

This regulation 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 emergency regulations 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 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 emergency re-adoption action would also continue a series of waypoints to define the 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. The emergency regulations would continue to complement federal regulations, allowing for increased opportunity in the area between 37° 07' and 36° N latitude. These complimentary modifications were made during the first re-adoption based upon updated federal analyses of commercial impacts to the quillback rockfish stock in this area.

If the emergency regulations are not extended through a second re-adoption to cease commercial non-nearshore groundfish fisheries from operating in the CGRA, the result will be continued unsustainable fishery bycatch mortality of quillback rockfish. It would likely result in the exceedance of the very small 2024 catch limits for this species, which would be inconsistent with federal law.

The Proposed Regulation Does Not Differ or Conflict with Federal Law

The proposed regulation does not differ substantially or conflict with an existing comparable federal regulation or statute. Whereas the federal government has corresponding regulations for Nearshore Rockfish trip limits in federal waters, these

trip limits will apply only in state waters. The Magnuson Stevens Act specifically reserves to the states jurisdiction to regulate fisheries in state waters. See 16 U.S.C. § 1856. The proposed regulations are designed to correspond with the federal regulations.

The Proposed Regulation is Not Inconsistent Nor Incompatible with Existing State Regulations

The Legislature may delegate to Department such powers relating to the protection and propagation of fish and game as the Legislature sees fit. Department staff has searched the California Code of Regulations and has determined that other state regulations that apply to groundfish species 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.