



Finding of Emergency and Statement of Proposed Emergency Regulatory Action

Second Re-adoption of Emergency Action to Add Section 35.00 and Amend Sections 150.06, 150.16, and 189 Title 14, California Code of Regulations

Re: Commercial Groundfish Management Measures

October 25, 2024

I. Emergency Regulations in Effect to Date

On February 13, 2024, the California Department of Fish and Wildlife (Department) approved an emergency action adding Section 35.00 and amending sections 150.06, 150.16, and 189, Title 14, California Code of Regulations (CCR), that creates a California Groundfish Restriction Area (CGRA) and establishes trip limits for commercial take of nearshore rockfish¹, except for quillback rockfish (*Sebastes maliger*), and California scorpionfish in state waters² outside of the CGRA. The CGRA extends from 36° N latitude (near Point Lopez) to the California Oregon Border and from an easterly boundary line approximating 20 fathoms to a westerly boundary line that is defined as the boundary of the Exclusive Economic Zone or EEZ, generally three nautical miles from shore. Take and possession of all other non- nearshore groundfish not listed is prohibited in state waters north of 36° N latitude. 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*. This emergency action was re-adopted for an additional 90 days effective August 13, 2024 and is valid through November 12, 2024.

¹ Nearshore Rockfish," which means the following species of rockfish: black rockfish (*Sebastes melanops*), black and yellow rockfish (*S. chrysomelas*), blue rockfish (*S. mystinus*), brown rockfish (*S. auriculatus*), calico rockfish (*S. dallii*), China rockfish (*S. nebulosus*), copper rockfish (*S. caurinus*), gopher rockfish (*S. carnatus*), grass rockfish (*S. rastrelliger*), kelp rockfish (*S. atrovirens*), olive rockfish (*S. serranoides*), quillback rockfish (*S. maliger*), treefish (*S. serriceps*). Cal. Code Regs., tit. 14, § 1.91.

² The offshore boundary of the state's sovereign lands was established in 2014 by an [order](#) entered by the United States Supreme Court in the case of United States of America, Plaintiff v. State of California, 135 S. Ct. 563; 190 L. Ed. 2d 514; 2014 U.S. LEXIS 8436 (2014). This action by the United States Supreme Court permanently fixes the offshore boundary between the United States and California, resolving a dispute that began in 1935 with the discovery of oil in Wilmington, California. There is now a fixed boundary approximately 3 nautical miles off the coast of California extending from Mexico to Oregon, providing certainty to state and federal lessors, regulators, lessees, and operators of federal and state mineral and renewable-energy leasing programs.

Background

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. The National Marine Fisheries Service recently formally [declared the California stock of quillback rockfish as overfished](#), and a rebuilding plan for the species was recently adopted by the Pacific Fishery Management Council (PFMC).

While the 2021 quillback rockfish stock assessment was conducted on the entire stock in 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 fishlandings 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).

This 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 EEZ and resultant trip limits are to apply in federal waters only (including specifying a trip limit of zero for minor nearshore rockfish).

Currently, Title 14 of 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

³ 88 Fed. Reg. 83830, available at <https://www.govinfo.gov/content/pkg/FR-2023-12-01/pdf/2023-25905.pdf>

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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.

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 initial emergency action 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 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 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 established trip limits for groundfish species authorized for take under a nearshore (also know 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).

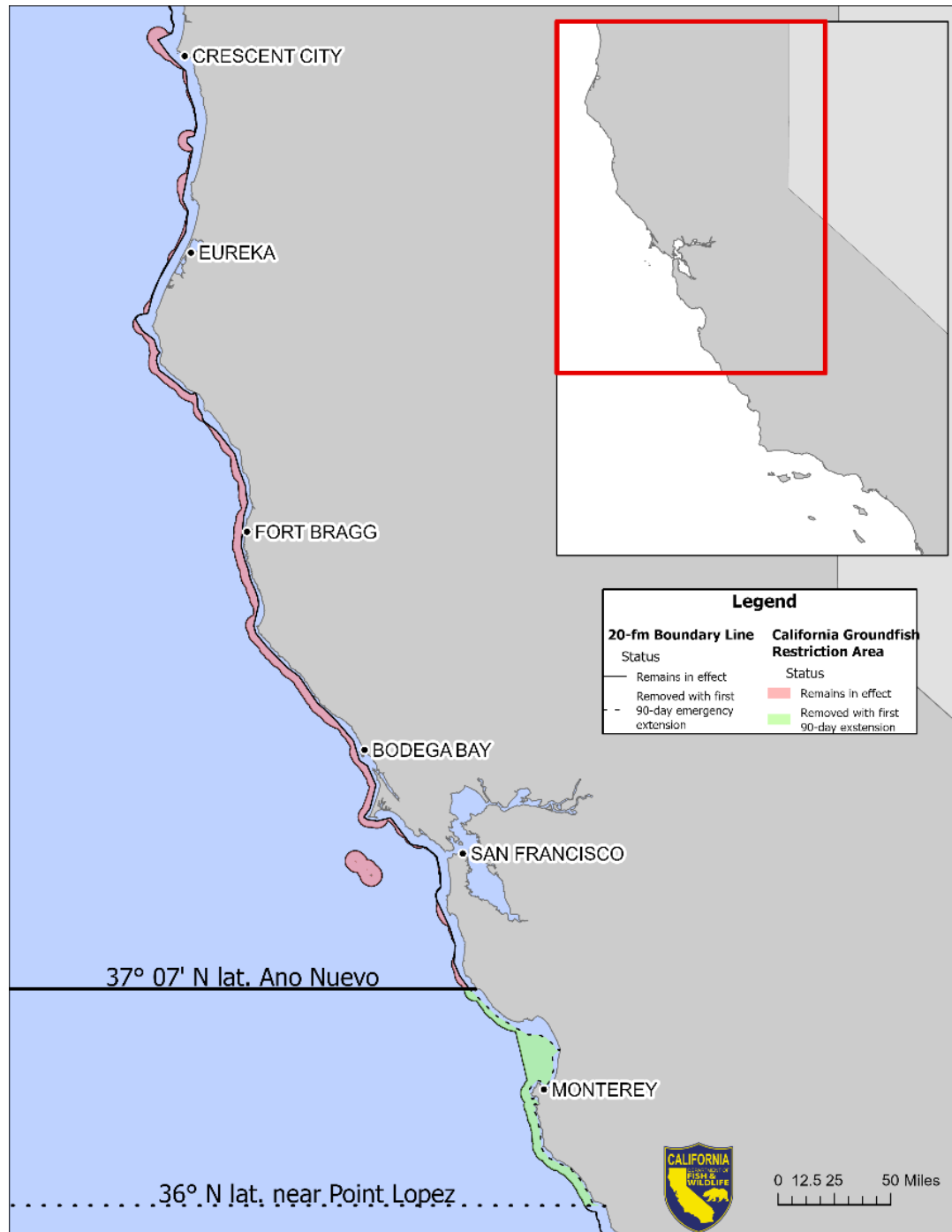
At its March 2024 meeting, the PFMC recommended modifying the southern boundary of the area defining differential federal non-trawl Rockfish Conservation Areas from 36° N latitude to 37° 07' N latitude. These modifications were based upon updated analyses that found commercial encounters with quillback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

With this federal update, the Department modified the initial emergency regulations for consistency with and to compliment recent federal action with the first 90-day extension of

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

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the regulations effective August 13, 2024. The modification adjusted the latitudinal boundary from 36° N latitude to 37° 07' N latitude, resulting in the commercial GRCA being implemented between the 20-fathom boundary line and the state waters boundary north of 37° 07' N latitude (Figure 1). 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. 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*.



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Figure 1. Map of the latitudinal boundary shift from 36° N latitude to 37° 07' N latitude made effective with the first 90-day emergency re-adoption, as well as the 20-fathom boundary line and GRCA north of 37° 07' N latitude. Note, both the 20-fathom boundary line and GRCA were removed between 37° 07' and 36° N latitude.

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 second re-adoption and include underline which was missed during the first re-adoption in section 150.16 subsection (f).

Section 35.00

Section 35.00 was added under a new Article for Division 1, Chapter 4, Title 14, CCR. Creating the new Article 2, 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 re-adoption.

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. Also, modification of the latitudinal boundary occurred with the first 90-day re-adoption to conform to federal regulations which became effective April 1, 2024, and 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

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changes occurred with the first 90-day re-adoption were necessary to update the management boundary from near Point Lopez to Año Nuevo with this re-adoption, 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 both the individual and the vessel, as is the case under current regulation.

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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) was added and modified to reaffirm extension of federal commercial trip limits for all other 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.

II. Request for Approval of Readoption of Emergency Regulations

The current emergency will expire on November 13, 2024, unless it is adopted for an additional 90 days.

The continuation of the emergency action is necessary to reduce impacts to quillback rockfish until a standard regulation can be implemented. The notice for a standard rulemaking (Certificate of Compliance) to permanently adopt these Commercial Groundfish management measures was published in the California Regulatory Notice Register on October 11, 2024, OAL # Z2024-1001-02. A public hearing is scheduled for December 4, 2025. Once the Department has weighed all public comments received, permanent regulations are anticipated to be submitted to the Office of Administrative Law in early February 2025.

III. Statement of Facts Constituting the Need for Readoption of Regulatory Action

The initial emergency action has resulted in the desired effect of creating a 20-fathom boundary line and a CGRA, trip limits for commercial take of nearshore rockfish (except

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for quillback), California scorpionfish, cabezon and greenling of the genus *Hexagrammos* in state waters outside the CGRA. Section 150.06 was modified during the first 90-day re-adoption to adjust 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, both the commercial GRCA and the 20-fathom boundary line were removed and federal trip limits for all groundfish, except for nearshore rockfish, cabezon and greenlings of the genus *Hexagrammos*, were extended into state waters south of 37° 07' N latitude. State regulations continued to authorize take up to the specified limits for nearshore rockfish, cabezon and greenlings of the genus *Hexagrammos* statewide.

The continued emergency action, with no new proposed modifications with this second 90-day re-adoption, is necessary to preserve allowable state permitted nearshore opportunity, while also complimenting changes to federal regulations regarding the commercial take of groundfish south of 37° 07' N latitude.

IV. Existence of an Emergency and Need for Immediate Action

Given the current applicability of the new federal rules, re-adoption continues to be necessary to avoid serious harm to the general welfare. Since the federal trip limit of 0lbs/2 months has completely halted commercial fishing under 232 active nearshore commercial fishing permits, the Department's re-adoption 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. 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 repeated 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 unreasonable prohibit other commercial groundfish fishing that could occur with diminished risk to the quillback rockfish resource.

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 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.

Taken together, these actions aim to prevent serious economic harm to the nearshore fishery, while also mitigating impacts to quillback rockfish. Therefore, the state must promulgate its own commercial groundfish regulations for the affected area.

V. Readoption Criteria

Same as or Substantially Equivalent

Pursuant to Government Code subdivision 11346.1(h), a re-adoption may be approved

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only if the text is “the same or substantially equivalent to an emergency regulation previously adopted by that agency.” The language proposed for this rulemaking is the same or substantially equivalent as the language of the original emergency regulation and first 90-day re-adoption action.

Substantial Progress

Government Code subdivision 11346.1(h) specifies that “readoption shall be permitted only if the agency has made substantial progress and proceeded with diligence to comply with subdivision (e)” [sections 11346.2 through 11347.3, inclusive].

A standard rulemaking is currently underway and was published in the California Regulatory Notice Register on October 11, 2024 OAL #Z2024-1001-02.

Proposed Action by the Department

The Department proposes the readoption of the emergency addition of Section 35.00 and updates to sections §150.06 and 150.16, and re-adoption of Section 189.

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

This re-adoption of the emergency rulemaking will not result in any costs or savings to local agencies or school districts and does not affect federal funding to the state. No additional costs or savings to the state are anticipated. The Department has determined that the re-adoption of the commercial groundfish emergency action will not affect license revenue or the Department’s existing level of monitoring and enforcement activities. Additionally, no other state agencies would be affected by this regulatory action.

(b) Nondiscretionary Costs/Savings to Local Agencies

None.

(c) Programs Mandated on Local Agencies or School Districts

None.

(d) 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.

(e) Effect on Housing Costs

None.

VII. Technical, Theoretical, and/or Empirical Studies, Reports, or 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>

VIII. 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.

**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

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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.