EVALUATION OF EMERGENCY RULE CRITERIA FOR PROPOSED EMERGENCY RULE TO CHANGE 2026 HARVEST SPECIFICATIONS

Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes the Secretary of Commerce to implement emergency regulations to address fishery emergencies. As outlined in Agenda Item G.8, Supplemental Attachment 1, National Marine Fisheries Service (NMFS) policy guidelines for the use of emergency rules define criteria for determining whether an emergency exists under section 305(c) of the Magnuson-Stevens Act (62 FR 44451; August 21, 1997). Under NMFS' Policy Guidelines for the Use of Emergency Rules, the phrase "an emergency exists involving any fishery" is defined as a situation that meets the following three criteria:

1. Results from recent, unforeseen events or recently discovered circumstances;
2. Presents serious conservation or management problems in the fishery; and
3. Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rule making process.

NMFS' guidelines further provide that emergency action might be justified under a set of criteria, including to prevent significant direct economic loss or to preserve a significant economic opportunity that otherwise might be foregone. 62 Fed. Reg. 44421, 44422.

In addition, the Magnuson-Stevens Act section 305(c)(3) can allow for an extension of an emergency rule for an additional 186 days if the public has had the opportunity to comment and, in the case of a Council recommendation for emergency regulations or interim measures, the Council is actively preparing a fishery management plan, plan amendment, or proposed regulations to address the emergency or overfishing on a permanent basis.

Criterion #1: Results from recent, unforeseen events or recently discovered circumstances

The 2025 coastwide annual catch limits (ACLs) for shortspine thornyhead, canary rockfish, and petrale sole, decreased 60 percent, 56 percent, and 28 percent, respectively, from the 2024 ACLs. Though the Pacific Fishery Management Council (Council) and NMFS understood that the low ACLs for these species in 2025-26 were likely to have adverse economic effects, industry testimony in 2025 (summarized under Criterion #2) has indicated that the degree of the economic harm caused by these low ACLs was unforeseen.

The reduced ACLs were informed by 2023 stock assessments used to set the 2025-26 harvest specifications and management measures. The 2025 catch-only update stock assessments for shortspine thornyhead (Agenda Item G.8, Supplemental Attachment 2, September 2025), canary rockfish (Agenda Item G.8, Supplemental Attachment 4, September 2025), and petrale sole (Agenda Item G.8, Supplemental Attachment 3, September 2025) show there is a higher biomass of fish available for harvest in 2026 than shown in the 2023 stock assessments. The Council's Scientific and Statistical Committee (SSC) endorsed the use of these catch-only projections as the

best scientific information available (BSIA) and suitable for use in management (see Agenda Item G.8.a, Supplemental SSC Report 1, September 2025). These 2025 catch-only updates therefore provide recently discovered circumstances, in the form of new BSIA, that support increasing the 2026 harvest specifications and sector allocations for shortspine thornyhead, canary rockfish, and petrale sole.

Criteria #2: Presents serious conservation or management problems in the fishery.

The fishery constraints experienced by industry in 2025 are summarized below, and constitute a management problem in the fishery.

Shortspine thornyhead
Shortspine thornyhead is commonly caught in both the trawl and commercial non-trawl sectors-as both a target and incidentally-caught species. The coastwide ACL for shortspine thornyhead decreased from 2,030 mt in 2024 to 815 mt in 2025 (*i.e.,* a 60 percent reduction). This consequently led to substantive reductions in annual vessel limits (AVLs) and quota availability for shorebased individual fishing quota (IFQ) vessels and reduced trip limits for the commercial non-trawl sector during the 2025-26 biennium. The ACL reduction for shortspine thornyhead, combined with the increased ACL for sablefish—a species commonly caught alongside thornyheads—led to the new management measure in 2025-26 to eliminate the management line at 34° 27′ N. lat. (89 FR 101514; December 16, 2024). This action was intended to combine two area-based ACLs and establish a single coastwide ACL for shortspine thornyhead, with the goal of increasing flexibility and providing relief to sectors and areas where projected mortality of shortspine thornyhead was expected to exceed harvest limits.

Despite this new management measure, midwater trawl vessels reported that, in late 2024, after the Council had already taken final action on the 2025-26 harvest specifications and management measures, more shortspine thornyhead had been encountered while fishing for Pacific whiting along the Pacific Northwest coast than in any year over the previous decade. This pattern of encountering shortspine thornyhead in the Pacific whiting fishery continued into early 2025. This not only caused midwater trawlers to avoid Pacific whiting early in the fishing season, but also prevented bottom trawlers from fishing for other co-occurring species, *i.e.* the DTS complex (dover sole, thornyheads, sablefish). In addition, 2025 quota pound prices for shortspine thornyhead have increased from 2024 prices by approximately 233 percent, on a commonly used trading platform, which has restricted IFQ vessels' ability to purchase additional quota for targeting shortspine thornyhead or to cover a bycatch event (see Agenda Item E.3.a Supplemental GAP Report 1, June 2025). This restriction has been especially severe for vessels with smaller profit margins, as compared to vessels that are part of large corporations or owned by a processor. These challenges have resulted in vessels making minimal deliveries or voluntarily ceasing to fish, which if continued, will result in severe economic loss to fishery participants and fishing communities, and in overall low attainment of shortspine thornyhead and co-occurring species in 2026.

Canary rockfish

Canary rockfish is a species commonly caught in all groundfish sectors, both commercial and recreational. The coastwide ACL for canary rockfish decreased from 1,296 mt in 2024 to 571 mt in 2025 (*i.e.,* a 56 percent reduction). This decrease consequently led to the implementation of reduced bag and sub-bag limits in the recreational fisheries, lower trip limits in the commercial non-trawl fisheries, and reduced quota availability and AVLs for shorebased IFQ vessels for the 2025-26 biennium.

Recreational sectors across all three states have been constrained by reduced sub-bag limits for canary rockfish. As of August 2025, the Washington recreational sector has exceeded their state share of the harvest guideline (HG) for canary rockfish, primarily due to unanticipated morality from salmon trips, including salmon/halibut combination trips (see Agenda Item G.8.a, Supplemental GMT Report 1, September 2025). This exceedance may lead to additional reductions in the canary sub-bag limit, which risks further discouraging angler interest in bottomfish trips, impacting charter operators and other dependent businesses. The Oregon recreational fishery has not exceeded, but is approaching, its state share of the HG. The Oregon Department of Fish and Wildlife (ODFW) has already reduced the marine recreational bag limit twice through the inseason state rulemaking process to accommodate for unforeseen higher catches for canary rockfish and black rockfish in 2025. ODFW anticipates that the reduced bag limit will reduce angler effort as charter companies will find it difficult to market the lower bag limits and private anglers may not see value in fishing with the lower bag limits. The California recreational fishery remains within its state share of the HG, but anticipates increased canary rockfish mortality during the remainder of the year, as all depth fishing is now permitted in several Groundfish Management Areas in state and Federal waters with the recently rescinded quillback rockfish related restrictions (90 FR 44998; September 18, 2025), which will allow anglers more access to the depth range where canary rockfish are commonly taken in the recreational fishery.

The commercial non-trawl sector has caught less than half of its canary rockfish allocation, however the recently-published Groundfish Expanded Mortality Multi-Year report (Agenda Item G.1.b NWFSC Report 1, September 2025) shows that discard mortality in the commercial fixed gear sector increased six-fold in 2024 from 2023, and more participants are hitting at least 80 percent of their trip limits in 2025 compared to 2024 (see Agenda Item G.8.a, Supplemental GMT Report 1, September 2025). These data combined suggest an increase in regulatory discards, and therefore a trip limit increase could be warranted to reduce waste and increase attainment. Additionally, areas to protect California quillback rockfish (over 550 miles of coast) prevented commercial non-trawl fishing for canary rockfish shoreward of 3 nautical miles, areas where canary were targeted, and caught efficiently. These areas have only been recently opened (90 FR 44998, September 18, 2025; G.7.a Supplemental CDFW Report 1, September 2025), but current data do not yet reflect this regulatory regime shift. Now that these areas have been opened, canary rockfish attainment in the commercial non-trawl nearshore sector will likely increase.

Canary rockfish are occasionally caught as "lightning strikes" (*i.e.* large catch events) in the trawl fishery, making it difficult for trawl vessels to plan how and when to use their quota during the fishing year, especially under low allocations. Typically, when a lightning strike occurs, IFQ vessels trade or buy quota from a different vessel to cover a deficit or increase the amount of quota they own to cover a future potential lightning strike. However, 2025 canary allocations are so low

that minimal canary rockfish quota trading is occurring. Quota owners are keeping their quota in order to protect their ability to fish throughout the year in the event of an unexpected lightning strike. Additionally, quota prices for canary rockfish have increased by approximately 99 percent from 2024 prices on a commonly used trading platform (see Agenda Item E.3.a, Supplemental GAP Report 1, June 2025), which has restricted IFQ vessels' ability to purchase additional quota to cover a bycatch event, especially vessels with smaller profit margins, as compared to vessels that are part of large corporations or owned by a processor. In other years, some vessels could have potentially chosen to shift their fishing strategy to avoid canary rockfish. However, concurrent low allocation of shortspine thornyhead has impeded trawl vessels from switching to the DTS complex as an example, which is one of the most common alternative targets for bottom trawl vessels. This is also affecting midwater Pacific whiting vessels that fish closer to the bottom, where Pacific whiting have commonly schooled in recent years. Although the at-sea Pacific whiting sectors had only recently begun fishing operations in June 2025, due to the low canary rockfish allocations, participating vessels bypassed the only Pacific whiting school encountered off southern Washington because of the potential to also encounter schools of canary rockfish in the area (Agenda Item E.3.a, Supplemental GAP Report 1, June 2025). These challenges have resulted in vessels making minimal deliveries or voluntarily ceasing to fish, which if continued, will result in severe economic loss to fishery participants and fishing communities, and in overall low attainment of canary rockfish and co-occurring species in 2026.

Petrale sole

Petrale sole is a species commonly targeted in the IFQ sector with bottom trawl gear. The petrale sole coastwide ACL decreased from 3,285 mt in 2024, to 2,354 mt in 2025 (*i.e.* a 28 percent decrease). This consequently led to the implementation of reduced quota availability for IFQ vessels during the 2025-26 biennium. Typically, bottom trawl vessels could switch to other target species to avoid petrale sole (*e.g.* rex sole, sanddabs, English sole), but bottom trawl representatives have reported that opportunities to diversify in 2025 are severely limited due to market constraints on processors. Delivery opportunities have become much more prescriptive, mandating that only specific amounts of specific species be brought in, with price penalties for going over the trip limits set by the processor (see Agenda Item E.3.a, Supplemental GAP Report 1, June 2025). Additionally, quota prices for petrale sole have increased by approximately 66 percent from 2024 prices, on a commonly used trading platform (see Agenda Item E.3.a, Supplemental GAP Report 1, June 2025). This restricts vessels' ability to buy more quota for additional catch, especially vessels with smaller profit margins, as compared to vessels that are part of large corporations or owned by a processor. These challenges, in combination with the inability to target the DTS complex because of shortspine thornyhead constraints, have resulted in bottom trawl vessels making minimal deliveries or voluntarily ceasing to fish, which if continued, will result in severe economic loss to fishery participants and fishing communities.

Criteria #3: Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rule making process.

The increased harvest specifications and allocations that would result from this action are anticipated to alleviate some of the constraints described by industry in time for the 2026 fishing year (documented in both the Groundfish Management Team (GMT) and Groundfish Advisory Subpanel (GAP) reports under this agenda item). Furthermore, new harvest specifications generated for 2026 would inform updated harvest specifications for 2027 and beyond.

Shortspine Thornyhead
The 2025 catch-only projection for shortspine thornyhead for the SSC-approved, alternative harvest control rule (HCR) shown in Table 3 of Agenda Item G.8.a, Supplemental Attachment 2, and recommended by the GAP and GMT to implement a phase-in by reducing the buffer between the overfishing limit (OFL) and acceptable biological catch (ABC), will increase the 2026 ACL from 825 mt to 897 mt (*i.e.* an 8.8 percent increase). This ACL increase will allow affected vessels more flexibility to resume normal fishing operations, with less risk of exceeding a shortspine thornyhead quota, while still protecting the stock from overfishing.

Canary Rockfish
The 2025 catch-only projection for canary rockfish for the SSC-approved and GAP and GMT recommended alternative ACL HCR to eliminate the 40-10 reduction between the ABC and ACL, will increase the 2026 ACL from 573 mt to 626 mt (*i.e.* a 9.2 percent increase). This ACL increase will allow affected groundfish vessels more flexibility to resume normal fishing operations, with less risk of exceeding a quota at the expense of a lightning strike, while still protecting the stock from overfishing.

Petrale Sole
The 2025 catch-only projection for petrale sole as approved by the SSC and recommended by the GAP and GMT supports increasing the 2026 ACL from 2,238 mt to 2,489 mt (*i.e.* a 11.2% increase). This substantive increase will allow bottom trawlers more flexibility to target petrale sole, while still protecting the stock from overfishing.

PFMC
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