



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
7600 Sand Point Way N.E.
Seattle, Washington 98115

April 17, 2014

Dorothy Lowman, Chair
Pacific Fisheries Management Council
7700 NE Ambassador Place, Suite 101
Portland, Oregon 97220-1384

RE: Council Recommendations for the Trawl Rockfish Conservation Area Configuration for 2013-2014 Groundfish Fisheries

Dear Chair Lowman:

This letter responds to the Pacific Fisheries Management Council's (Council) inseason transmittal letters dated on April 30, 2013, and September 30, 2013, recommending the shoreward boundary of the trawl rockfish conservation area (RCA) be moved from 75 to 100 fathoms year-round, and the seaward boundary of the trawl RCA be moved from 200 fathoms to 150 fathoms year-round, from the area 40° 10' to 48° 10' N. latitude.

The final rule associated with this action (79 FR 21639) adopts all Council recommendations with the exception of the seaward boundary area (between 40° 10' N. latitude and 45° 46' N. latitude), which will remain as status quo (i.e., closed). The final rule will allow fishermen significantly more access to the current trawl RCA than under existing regulations, and will increase year-round groundfish bottom trawl access to over 2,300 square miles of fishing grounds. Furthermore, additional refinements to the trawl RCA boundaries can still be made in the future. Our rationale for this decision follows.

The Council did not include any analysis of the seaward upper slope area between 40° 10' N. latitude and 45° 46' N. latitude (herein referred to as the identified area) in making their recommendations. Fishery management plans are required to describe and identify Essential Fish Habitat (EFH) and take measures to minimize adverse effects on EFH caused by fishing to the extent practicable (16 U.S.C. § 1853(7)). Logbook data analyzed in the Environmental Assessment (EA) associated with this rule demonstrate an absence of bottom trawling activities, both pink shrimp bottom trawling and groundfish bottom trawling since September 2004, providing a decade in which habitat has had a greater chance to recover from potentially adverse impacts. NMFS analysis included in the EA demonstrated that the identified area is in a more recovered state than the adjacent core RCA area that was not recommended for opening. In NMFS's view, the Council did not sufficiently acknowledge or contribute additional analysis to minimize the potential for adverse impacts on the identified area as compared to the other recommended areas, and did not provide sufficient rationale when they made their initial recommendation at the

2013 April Council meeting, nor when they reaffirmed their recommendation at the 2013 September Council meeting. At this time, NMFS concludes that allowing trawling in the identified area is likely to have adverse impacts on some of the bottom substrate.

Further, to address the “practicable” elements of section 303(a)(7) of the Magnuson Stevens Act, there is not sufficient information at this time to conclude that opening the identified area would have a substantial enough beneficial economic impact for the groundfish bottom trawl fleet to outweigh the potential adverse impacts on EFH. At the September 2013 Council meeting, industry representatives expressed a desire to use bottom trawl gear in the identified area, but did not demonstrate a sufficient need to fish in the identified area using groundfish bottom trawl gear. Furthermore, during public comment industry representatives stated that access to the identified area is desirable, but not crucial to the industry in light of the other areas that would be opened. NMFS also received comments from environmental organizations on the proposed rule and draft EA, who asserted that an Environmental Impact Statement (EIS) would be required before NMFS could open this area and that the rule as proposed called into question whether the Council and NMFS were meeting their duty to minimize adverse effects on EFH caused by fishing to the extent practicable.

As noted above, the Council and NMFS must minimize adverse effects of fishing to the extent practicable on EFH. NMFS believes opening the identified area could affect EFH in a manner that is more than minimal and not temporary in nature. Therefore, we conclude that keeping the identified area closed, at this time, minimizes to the extent practicable adverse effects on this habitat caused by bottom trawl fishing.

The Council continues to have the ability to refine the RCA boundaries, including the identified area, provided the record concerns reflected above are considered and adequately addressed.

Should your staff have any questions regarding NMFS’s decision on this matter, please contact me at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bill Stelle, Jr.", written in a cursive style.

William W. Stelle, Jr.
Regional Administrator

cc: Dr. D.O. McIsaac