

**AMENDMENT 28 ESSENTIAL FISH HABITAT AND ROCKFISH CONSERVATION
AREAS FINAL IMPLEMENTAION AND FISHERY MANAGEMENT PLAN LANGUAGE
APPROVAL**

At its September 2018 meeting, the Pacific Fishery Management Council (Council) considered draft proposed fishery management plan (FMP) amendment language for Groundfish FMP Amendment 28, and provided guidance to the Project Team. The Council asked the team to compile comments received at the September meeting and bring back at a future meeting. This report summarizes comments received and provides proposed resolutions for addressing those comments. Excerpts below are potential modifications to FMP language, for Council consideration. They do not reflect all possible edits to the FMP text, but do include those sections that may be of particular interest to the Council.

Summary of September 2018 comments

Comment (and source)	Proposed resolution
Change ‘periodically’ reviewed to ‘at least every five years’ (<i>Public comment</i>)	To be included in revised FMP Section 7.6 (see FMP text below)
FMP should reflect the Council’s ability to address multiple gear types to protect EFH, not just bottom trawling. (<i>Public comment</i>)	To be included in revised FMP Section 6.2 (see FMP text below)
HAPCs: If the HAPC procedure is removed from the FMP, ensure a process is available (in COP 22) for the Council to take action between full EFH reviews. (<i>Council discussion, ABs, public</i>)	Brief summary to be included in revised FMP Section 7.6. More detailed process is in new COP 22 (see FMP text below)
FMPs must demonstrate that the best scientific information available was used in the description and identification of EFH. (<i>NMFS and Council staff</i>)	Add paragraph to 7.1 (see FMP text below)
Arago Reef: Council should take the procedural step to amend their April 2018 final action, in order to align the west boundary of the Arago Reef EFHCA with the state waters boundary. (<i>Council discussion, ABs, public comment</i>)	This proposed change is described in G.2.a, NMFS Report 1.
Outer Soquel Canyon and West of Sobranes Point EFHCAs: These were omitted from September 2018 draft FMP text. Ensure these are identified as individual conservation areas. (<i>Public comment</i>)	Outer Soquel Canyon to be included in the MBNMS EFHCA. West of Sobranes Point is a stand-alone EFHCA.

Two other suggestions regarding the regulations were conveyed at the September 2018 meeting. These were related to the location in the regulations to list the new Block Area Closure coordinates,

and to modifications to the 700fm bottom trawl footprint closure to represent the Spanish Canyon line adjustment. These comments will be addressed in the development and Council Executive Director deeming of the regulations.

Fishery management plan (FMP) excerpts (Bold text denotes changes since September 2018)

6.2.4 *The Habitat Conservation Framework*

The primary mechanism for providing habitat protections in Council-managed fisheries is via the EFH provisions in the MSA and detailed at 50 CFR 600.805 – 600.930. The elements of EFH should be reviewed **at least every five years** and revised if warranted, based on new or newly-available information. Councils may establish closed areas to certain **fishing gear or methods**, to protect important habitats. In order to protect EFH from the adverse effects of fishing, the Council has identified areas that are closed to bottom trawling (see Sections 6.8 and 7.4). These areas are described in Federal regulations and may be modified through the full rulemaking process as described under Section 6.2D. At the outset of a periodic review, the Council will establish a set of objectives and a scope for the review and revision process, consistent with COP 22 and Federal regulatory guidance on EFH. The Council would initiate a review of information, including any new and newly-available information relevant EFH, and **identify appropriate Council and NMFS staff to coordinate the review**. If warranted, the Council could consider modifying groundfish EFH elements currently in place, including the areas currently closed to fishing activities that may adversely affect EFH, and could consider EFH elements that were not included previously. In making its determination, the Council should consider, but is not limited to considering, the best available scientific information about:

7.1 How This FMP Addresses Provisions in the Magnuson-Stevens Act Relating to Essential Fish Habitat

To ensure that habitat-related decisions are based on the best scientific information available (BSIA), scientific and technical analyses are reviewed by the Pacific Council’s Scientific and Statistical Committee (SSC), as required by the MSA. The Pacific Council’s SSC reviewed numerous analyses throughout the review/revision process. In addition, NMFS reviews FMP and regulatory actions to determine consistency with National Standard 2, which requires the use of BSIA.

7.4 Management Measures to Minimize Adverse Impacts on Essential Fish Habitat from Fishing

Federal regulatory guidance on EFH requires consideration of adverse effects and minimization measures for non-MSA fishing activities that use bottom trawl or bottom contact gear such as the pink shrimp, ridgeback prawn, and California halibut trawl fisheries. Because bottom trawl and other bottom contact fishing gear have similar adverse habitat effects regardless of the target stock, all bottom trawl and bottom contact gear closures apply to both MSA and non-MSA fisheries. For example, bottom trawling for pink shrimp (a state-managed species) in EFHCAs is prohibited. (The prohibition on non-MSA

bottom trawling does not apply to RCAs, which are designed for species conservation rather than habitat protection.)

7.6 Review and Revision of Essential Fish Habitat Provisions

The Council will review the EFH description and identification, HAPC designations, information on fishing impacts and non-fishing impacts, and **other EFH provisions** included in this FMP at least every five years, following the process described in COP 22. **The Council may choose to review specific elements of EFH on an interim basis, and should conduct a complete review of all EFH information at least every five years.** New information may be included in the SAFE document or similar document and, if necessary, the FMP may be amended. The Council may schedule more frequent reviews in response to recommendation by the Secretary or for other reasons.

The purpose of periodic reviews is to ensure that all EFH provisions are based on the best scientific information available, the current nature of the fishery, as well as other new information. During periodic reviews, the Council and NMFS will consider whether new information may warrant changes to minimization measures, EFH description and identification, socio-economic considerations, or any other elements of EFH. Amendment 19 to the Groundfish FMP utilized state-of-the-art analyses to determine overall extent of EFH, practicable minimization measures (i.e., specific areas closed to certain fishing activities and gear), and other EFH provisions. Under Amendment 28 the Council modified the configuration of areas open and closed to groundfish bottom trawling, based on new information, and to minimize to the extent practicable, adverse impacts to EFH. Details of the analysis can be found in the Amendment 28 EIS.

PFMC
02/14/19