

**NATIONAL MARINE FISHERIES SERVICE REPORT
FOR 2023-2024 GROUNDFISH BIENNIAL MANAGEMENT MEASURES**

At the November 2021 meeting, the Pacific Fishery Management Council (Council) adopted Action Item 12e through the [motion](#) for Agenda Item E.5 as part of the range of alternatives for the Council to consider for the 2023-2024 Groundfish Biennial Management Measures:

12e: Groundfish retention in the Non-trawl Rockfish Conservation Area between the WA/OR border and the U.S./Mexico border using only non-bottom contact hook and line gear; including no dinglebar, no longline, and no vertical hook and line gear that is anchored to the bottom, similar to requirements in the 2021-2022 management measures. This would be a management measure to reduce nearshore fishery effort and bycatch on overfished or precautionary nearshore stocks, while also avoiding bottom contact and benthic species of concern.

NMFS has preliminarily evaluated this item and the analysis currently being prepared by Council staff. There is substantial uncertainty about the potential impacts from Action Item 12e as adopted in the range of alternatives at the November 2021 meeting. Because of this uncertainty, analyzing the impacts of Action Item 12e as currently described and determining that they are not significant may go beyond the scope of what can be completed in the 2023-2024 harvest specifications process.

The gear type that would be allowed in the non-trawl Rockfish Conservation Area (NT-RCA) via Action Item 12e is not defined in regulations, but could include gears like troll and jig gear. However, those gear types are not typically used to target groundfish outside of the NT-RCA compared to other non-trawl gear types (e.g., longline, vertical hook-and-line), which limits our ability to estimate impacts. Additionally, the NT-RCA has been closed for 20 years and as such, very little fishery-dependent data exists to inform analysis of potential impacts from restored fishing access to this area. Through our preliminary evaluation of the Council's draft Action Item 12e analysis, we are concerned with the ability to determine the action will have no significant impacts due to the uncertainty around the gear impacts. Particularly, there is uncertainty regarding seabird impacts. And finally, we have concerns with the enforceability of the broad gear allowance. Due to these concerns, and our understanding of the Council's desire for an expedited action as part of specifications, we offer below a narrowed proposal for Action Item 12e, primarily tailored to the gears tested under exempted fishing permit (EFP) projects, for the Council's consideration as part of the 2023-2024 Groundfish Biennial Specifications and Management Measures.

Seabirds

As put forward in the November 2021 motion, Action Item 12e raises potential effects beyond the scope of the proposed action analyzed under the 2017 Seabird Biological Opinion (FWS Reference #: O1EOFWOO-2017-F-0316). Seabirds, including the Endangered Species Act (ESA)-listed short-tailed albatross, are known to strike baited hooks on hook-and-line gear types, and can become inadvertently hooked or entangled in the gear, leading to injury or death. The EFP projects in the NT-RCA allowed a limited number of vessels to test specific non bottom contact hook-and-line gear configurations for their ability to target healthy midwater rockfish species and avoid benthic species. Per Council guidance during EFP application development, these vessels are required to use artificial bait during their EFP trips to minimize potential seabird interactions. EFP trips conducted between 2013 and early 2020 were 100 percent observed, with no recorded seabird interactions or takes. Action Item 12e would allow the use of natural bait, rather than restricting the action to the EFP gear requirements. The use of natural bait will create seabird bycatch risk beyond what was analyzed in the 2017 Seabird Biological Opinion, and would likely trigger the need for reinitiation of consultation under section 7 of the ESA for the short-tailed albatross. Therefore, we recommend the Council consider restricting Action Item 12e to use of artificial bait only. If the Council is interested in evaluating natural bait, this evaluation could be incorporated as part of the on-going separate non-trawl RCA action (next scheduled for consideration in April 2022).

Gear specificity

In addition, the Council's Enforcement Committee recommended that a new gear definition be developed for this action based on enforcement concerns for Action Item 12e (*see [Agenda Item E.6.a Supplemental EC Report 1](#)* from the November 2021 meeting). As such, NMFS is recommending a gear definition for the alternative, based on the gear types tested in the San Francisco Community Fishing Association (*i.e.*, Emley-Platt) and Real Good Fish EFP projects. NMFS is also recommending a sector definition for the directed open access fishery, as the current Action Item 12e does not specify which sectors are intended for this provision.

NMFS offers revised language below for Council consideration at this March 2022 meeting. The below revisions narrow the scope of Action Item 12e by requiring the use of artificial bait, adding a new gear definition for non bottom contact hook-and-line gear, and specifying the sectors that would be permitted to fish inside the NT-RCA through the 2023-2024 Groundfish Harvest Specifications and Management Measures action. Limiting Action Item 12e to this scope will address some of the concerns expressed above, as well as provide enough time to complete the supporting analysis for implementation by or soon after January 2023. NMFS notes that the proposed revisions below apply only to the alternative being put forward in the 2023-2024 Groundfish Harvest Specifications and Management Measures action. These provisions can be expanded or adapted for the separate NT-RCA Management action, which is scheduled to be discussed further at the April 2022 Council meeting.

Proposed Revision for Action Item 12e in the November 2021 Motion

Allow vessels in the directed open access fishery targeting groundfish to operate inside the NT-RCA from 46° 16' N. latitude to the U.S./Mexico border with non-bottom contact hook-and-line gear only, subject to the specifications below. Prohibited bottom contact hook-and-line gears would include bottom longline, commercial vertical hook-and-line gear (anchored to the bottom), and dinglebar gear. Vessels must declare their intent to fish within the NT-RCA prior to departure. Vessels may fish inside and outside of the non-trawl RCA on the same trip but may only carry legal non-bottom contact hook-and-line gear on-board the vessel when fishing occurs in the NT-RCA.

New gear definition

Non-bottom contact hook-and-line gear means open access groundfish troll gear or stationary jig gear attached to the vessel and not anchored to the bottom. The following requirements apply to groundfish stationary jig gear: 1) gear must be suspended no less than 30 feet from the bottom; 2) no more than 4 vertical mainlines may be used at one time, and; 3) no more than a total of 100 hooks may be in the water at one time. Groundfish troll gear includes a horizontally-suspended monofilament mainline attached to a troll wire. The following requirements apply to groundfish troll gear: 1) gear must be suspended no less than 50 feet off the bottom; 2) no more than 1 mainline may be used at one time, and 3) no more than a total of 500 hooks may be in the water at one time. Both stationary jig gear and groundfish troll gear may be equipped with artificial lures and flies. Natural bait or weighted hooks may not be used.

New sector definition within the definition for open access fishery

Directed open access means that a fishing vessel lands groundfish under the requirements of 50 CFR 660 Subpart F without landing any other species besides groundfish, except for any prohibited or protected species with retention requirements.

NMFS notes that limited entry fixed gear vessels would be permitted to fish with the new gear inside the NT-RCA, subject to Federal open access requirements and crossover provisions.