

ENFORCEMENT CONSULTANTS REPORT ON NON-TRAWL SECTOR AREA MANAGEMENT MEASURES

The Enforcement Consultants (EC) have reviewed the documents pertaining to Agenda Item F.6, Non-trawl Sector Area Management Measures, received a presentation by Pacific Fishery Management Council (Council) Staff Brett Wiedoff and Jessi Doerpinghaus, discussions with California Department of Fish and Wildlife (CDFW) staff Andre Klein and National Marine Fisheries Service (NMFS) staff Lynn Massey, and provide the following comments.

The EC have provided preliminary comments previously under Agenda Items [F.3.a, Supplemental EC Report 1, April 2021](#), and [E.6.a, Supplemental EC Report 1, November 2021](#). Regarding Non-Trawl Rockfish Conservation Area (NT_RCA) boundary modifications, the EC prefer boundary changes rather than allowing fishing within the NT_RCA and note concerns about enforceability in some areas where the inner and outer boundary depth contours are very close (e.g., along a steep bank/shelf with little separation), which makes monitoring with Vessel Monitoring Systems (VMS) ineffective. Further, if fishing is allowed within the NT_RCA, declaration codes should be developed for vessels permitted to fish within the NT_RCA. This aspect would simplify enforcement in distinguishing vessels and gear types that are allowed to fish within the NT_RCA from those that are transiting.

EC Comments regarding F.6, Attachment 1:

Alternative 1: Allow open access (OA) vessels to use select hook-and-line gear in the NT_RCA

Alternative 1 appears to be enforceable, provided consistent regulations apply both inside and outside the NT_RCA. These regulations include gear carriage, use, and switching restrictions; trip limits; species-specific retention prohibitions; observer requirements; and VMS declaration requirements (including creation of new declarations as needed).

Alternative 2: Allow limited entry fixed-gear (LEFG) to use select hook-and-line gear in the NT_RCA

The EC have the same recommendations for LEFG in Alternative 2 as for OA gear in Alternative 1.

Alternative 3: Move the seaward boundary of the NT_RCA to 75 fm from 46° 16' to 34° 27'N lat.

The EC are generally supportive of Alternative 3 as a preferred alternative. The EC have noted that by moving the NT_RCA to 75 fathoms some Essential Fish Habitat Conservation Areas (EFHCAs) would be divided and portions of the same EFHCA would potentially have different regulations. The EC recommend having consistent regulations for the entire EFHCA to reduce confusion and provide larger contiguous areas to assist with VMS monitoring.

The EC also note that if the NT_RCA line is moved from 100 fathoms to 75 fathoms there will be different regulatory closed areas for the directed and incidental Pacific halibut fisheries than for the groundfish fisheries. The EC recommend that if the NT_RCA boundary is moved under this alternative, that the closed areas under the Pacific halibut regulations (50 CFR 300.63(e)) be similarly changed to reduce confusion and regulatory complexity.

Alternative 4: Removal of the NT RCA from 46° 16' to 34° 27' N. lat.

Alternative 4 is the preferred alternative for the EC. Even with the allowance of Suboption 1 and prohibiting all bottom contact groundfish gear in the groundfish EFHCAs that would otherwise be open under this alternative, the EC consider this alternative to be fairly straightforward and will reduce the overall complexity and enforcement effort.

Under Alternative 4 the EC still have the concerns about the different regulatory NT_RCA lines between the groundfish and the directed Pacific halibut fishery. If Alternative 4 moves forward, the EC ask the Council to consider addressing this difference.

Alternative 5: Repeal the CCA

The EC have reviewed Alternative 5 and have the following comments. CDFW has limited offshore enforcement capacity. Due to an anticipated increase in fishing activity within this remote area, the effort of large patrol vessels and aircraft will have to be redirected to this area. Additionally, the Cowcod Conservation Areas (CCAs) have been in place for over 20 years and will require an increase in enforcement outreach and compliance assistance during this transition.

The EC have reviewed the related Agenda Item [F.6.a, CDFW Report 1](#) on Proposed Protection Areas within the CCAs and have the following comments:

Shape and coordinates: The EC recommend the shape of the protection areas be all square or rectangular and the latitude and longitude be rounded to the minute. Ideally, the EC recommend that protection areas “d”, “e” and “f” be adjusted so the two sides run north and south and the other two sides run east and west.

Transit through protected areas: The EC recommend requiring vessels to follow the continuous transit with gear stowed regulations when entering a protection area with groundfish onboard.

Take of species other than groundfish: The EC recommend that fishing for other species not be allowed within the protected areas. Due to their remoteness, many of these areas will be patrolled by aircraft or large patrol vessels. It will be difficult for an aircraft to determine if a vessel found fishing in a protected area is targeting groundfish or another species. Likewise, it will be difficult for a large patrol vessel to approach a vessel fishing in a protected area without being detected before any illegal catch is discarded.

Alternative 6: NT_RCA adjustments off WA for Pot Gear

As mentioned in past statements, the EC have concerns about enforceability in areas where the inner and outer boundary depth contours are very close geographically (e.g., along a steep bank/shelf with little separation), which make monitoring with VMS difficult. In addition, on the water enforcement would be equally challenging in determining if gear was set lawfully in areas where the inner and outer boundary depth contours are very close (e.g., along a steep bank/shelf with little separation).

The EC recommend limiting additional gear exceptions within the NT_RCA as it would create complexity and increase the enforcement burden beyond what is already anticipated with this alternative. If this alternative moves forward, a new declaration code may be needed to facilitate monitoring.

Finally, page 67 notes this alternative will be refined in the future to ensure the open areas avoid direct and indirect conflicts with recreational and other fisheries currently fishing within 100 fm. The EC would like to note the strong possibility for gear conflict during recreational halibut seasons in the waters near the Southwest Corner of the North Coast Recreational Yelloweye_RCA as it is an extremely popular recreational fishing location. For this reason, the EC recommend consideration of a late summer or early fall commercial fishery.

PFMC
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