

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE REPORT ON CORDELL BANK CONSERVATION AREA REVISIONS

At the March 2023 Council meeting, the California Department of Fish and Wildlife (CDFW) identified a newly emergent regulatory need which was subsequently prioritized by the Council. A CDFW report ([Agenda Item F.8.a, CDFW Report 1, March 2023](#)) outlined multiple overlapping conservation areas around Cordell Bank (an offshore bank northwest of San Francisco, CA), each with differing regulatory prohibitions and allowances that create unnecessary regulatory complexity and confusion for the public. The differing regulations among these conservation areas is problematic for recreational fisheries given the depth constraint configurations effective with the 2023-2024 Biennial Harvest Specifications and Management Measures and will become problematic for non-trawl commercial fisheries when the seaward Rockfish Conservation Area (RCA) boundary line moves to 75-fathoms, which is anticipated to take effect in 2024 as part of the Amendment 32 Non-Trawl Area Management Measures action. The purpose of CDFW's proposal is to eliminate regulatory redundancy, improve clarity for stakeholders, and allow for improved enforceability of closed areas. CDFW submits the following proposal for Council consideration.

Background

In the area around Cordell Bank, there are three overlapping conservations areas, the Cordell Bank Biogenic Essential Fish Habitat Conservation Area (hereafter bottom trawl EFHCA), the Cordell Bank Groundfish Conservation Area (hereafter Cordell GCA) and the Cordell Bank (50-fm) Isobath Essential Fish Habitat Conservation Area (hereafter bottom contact EFHCA). Shown below in *Figure 1* is the bottom trawl EFHCA (stippled polygon), the Cordell GCA (yellow polygon with gray hashed outline) and the bottom contact EFHCA (red polygon).

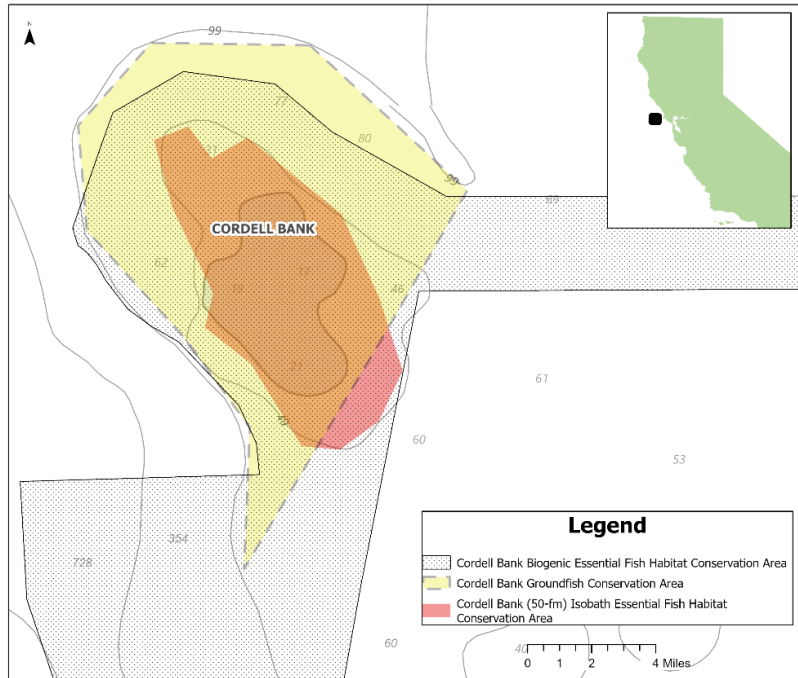


Figure 1. Map of the Cordell Bank Biogenic Essential Fish Habitat Conservation Area (trawl EFHCA), Cordell Bank Groundfish Conservation Area (Cordell GCA) and Cordell Bank (50-fm) Isobath Essential Fish Habitat Conservation Area (bottom contact EFHCA), northwest of San Francisco, CA.

The Cordell GCA was implemented during the 2004 Harvest Specifications and Management Measures process specifically to prohibit recreational groundfish fishing as a measure to protect seven species that were declared overfished during that time period ([69 FR 11063](#)). The Council then evaluated the trawl and non-trawl commercial RCA boundary lines and determined that, for 2004, Cordell Bank was within the non-trawl commercial RCA, but was shoreward of the trawl RCA. As a result, inseason action was taken at the March 2004 Council meeting to adjust the trawl RCA boundary line thereby closing the bank to all commercial groundfish fishing ([69 FR 23440](#)). Then as part of the 2005-2006 Biennial Harvest Specifications and Management Measures process, the Cordell GCA was specified in regulation with its own coordinates and prohibited all groundfish fishing, except for take of other flatfish by the non-trawl commercial and recreational sectors ([69 FR 77011](#)). Currently, the Cordell GCA prohibits take of groundfish, except for non-trawl commercial take of other flatfish, and, recreational take of other flatfish, petrale sole and starry flounder. The Cordell GCA does not restrict other fishery activity from operating within the area but groundfish retention rules still apply.

Originally, the bottom trawl EFHCA was implemented in 2006 during the initial EFH process ([71 FR 27408](#)), and subsequently modified in 2020, including expansions to the north and southwest, though not to the boundaries of the Cordell GCA, as part of Amendment 28 ([84 FR 63966](#)). This conservation area is one of 38 bottom trawl EFHCAs off California designed to protect habitat from bottom trawl impacts. It prohibits use of bottom trawl gear, except for demersal seine, and while the bottom trawl EFHCA extends outside of the Cordell GCA, it does not encompass the entirety of the Cordell GCA.

The bottom contact EFHCA was also implemented during the 2006 EFH process ([71 FR 27408](#)), and was part of the formal EFH review in 2020 but was not modified. This conservation area is one of 14 similar

areas. Within the bottom contact EFHCA, use of bottom contact gear of any type, including by both federally and state managed fisheries, is prohibited.

Where the bottom trawl EFHCA, Cordell GCA and the bottom contact EFHCA all overlap, the cumulative result of these regulations creates an area in which groundfish fishing is prohibited. While the non-trawl commercial and recreational RCAs have covered Cordell Bank, excluding most groundfish fishing from occurring there, both sectors have been exempted from the RCAs while fishing for select flatfish species. However, with implementation of the 2023-2024 biennial recreational management measures, which allows either an all-depth or seaward of the 50-fathom RCA boundary line fishery, the area has become exposed. Further, as part of Amendment 32, the Council recommended authorizing a non-bottom contact fishery to operate inside the non-trawl RCA and modified the seaward non-trawl commercial RCA to the 75-fathom boundary line (denoted in *Figure 2* as a hashed nautical black line) for that sector. The effect of these actions means that 91 percent of the bottom contact EFHCA will remain closed to groundfish fishing (thick black outlined polygon in *Figure 2*), while the remaining nine percent is open or is anticipated to be opened to non-bottom contact groundfish fishing.

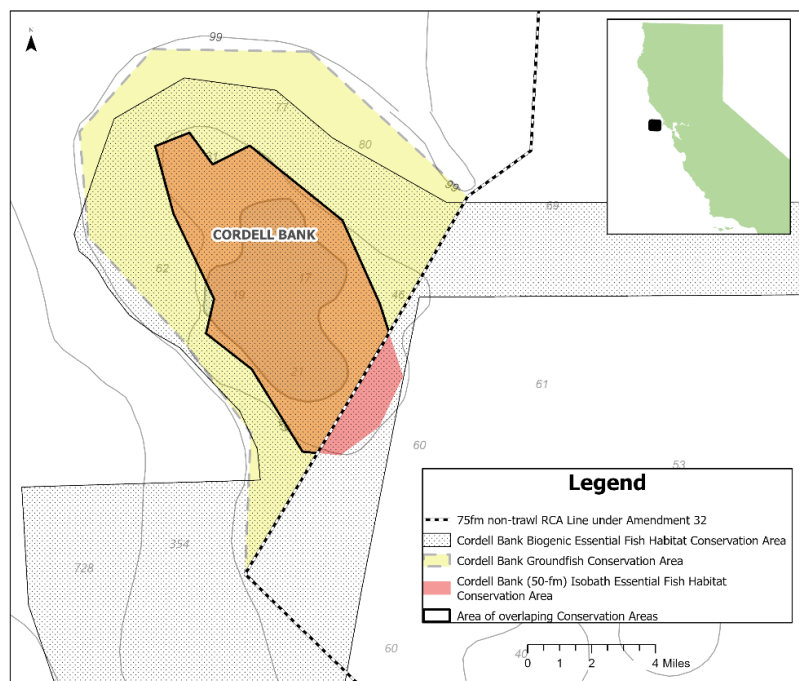


Figure 2. Map of the Cordell Bank Biogenic Essential Fish Habitat Conservation Area (trawl EFHCA), Cordell Bank Groundfish Conservation Area (Cordell GCA), Cordell Bank (50-fm) Isobath Essential Fish Habitat Conservation Area (bottom contact EFHCA) and the 75-fathom non-trawl Rockfish Conservation Area boundary line under Amendment 32, detailing the area of overlap which has resulted in a cumulative effect of prohibiting groundfish fishing, northwest of San Francisco, CA.

Regardless of the non-trawl commercial and recreational RCA boundary line configuration, the area around Cordell Bank still has a multitude of differential regulations (*Table 1*). This comes at a cost to agencies, including CDFW, to educate the public and enforce, while is also confusing to the stakeholders attempting to operate in the area. Significant outreach and education with commercial and recreational groundfish stakeholders is needed to convey permissible activities in each conservation area, and explain permitted

activities in the portions where they overlap. The continued existence of the Cordell Bank GCA needs be evaluated, given its intended purpose of protecting several species of overfished groundfish has been met. Today it creates an overly complex and confusing regulatory regime around the bank for stakeholders, as well as complicates enforcement activities.

Table 1. Summary table of conservation areas around Cordell Bank, including fisheries to which they apply, prohibitions and section of federal regulation specifying the conservation area.

Conservation Area	Applicable Fisheries	Prohibition	Federal Regulatory Section Defining Area
Rockfish Conservation Area (RCA)	Non-trawl commercial, recreational and incidental open access groundfish fisheries	Generally, all groundfish, except non-bottom contact gear (non-trawl comm.); petrale sole, starry flounder and other flatfish (rec.); and yellowtail rockfish (incidental salmon troll)	660.71 through 660.74
Cordell Bank/Biogenic Essential Fish Habitat Conservation Area (bottom trawl EFHCA)	All fisheries, including non-groundfish	Fish with bottom trawl gear, other than demersal seine	660.79(q)
Cordell Bank Groundfish Conservation Area (Cordell GCA)	Non-trawl commercial and recreational groundfish	Generally, all groundfish, except for non-trawl comm. take of other flatfish and rec. take of petrale sole, starry flounder, and other flatfish	660.70(q)
Cordell Bank (50-fm (91m) isobath) Essential Fish Habitat Conservation Area (bottom contact EFHCA)	All fisheries, including non-groundfish	Fish with bottom contact gear of any type	660.79(r)

Proposed Action

CDFW proposes to remove the Cordell GCA entirely (yellow polygon in *Figure 1*) and create a new Groundfish Exclusion Area (GEA), which is intended to mitigate impacts to sensitive environments from certain groundfish fishing activities, that overlays the existing bottom contact EFHCA. CDFW believes this approach would accomplish the intended goals of 1) reducing regulatory complexity, 2) maintaining the current level of sensitive environment protections in place over the majority of the bottom contact EFHCA, and 3) allowing fishing access to areas where prohibitions are no longer needed by the Cordell GCA (*Figure 3*). No changes or modifications to either the bottom trawl or bottom contact EFHCAs are proposed.

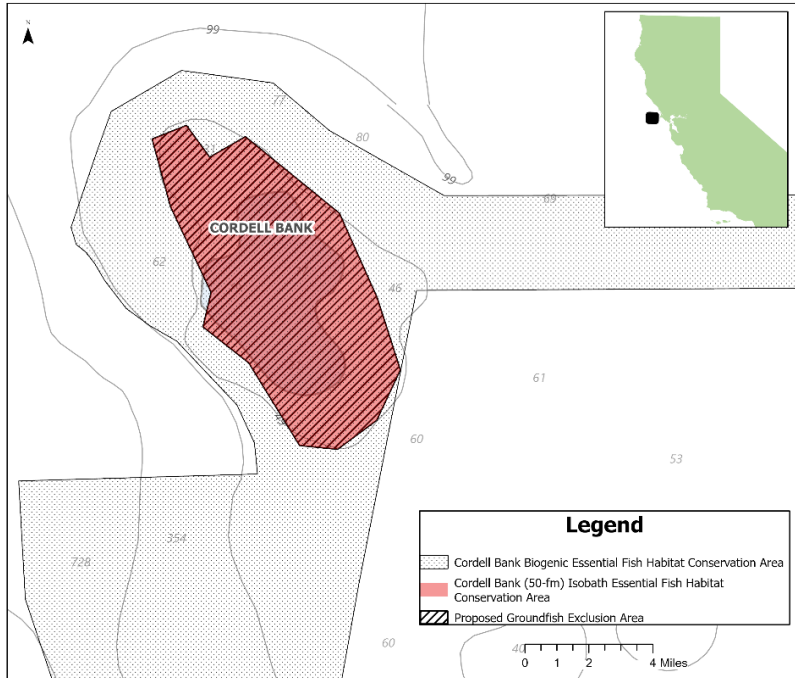


Figure 3. Map depicting the Cordell Bank Biogenic Essential Fish Habitat Conservation Area (bottom trawl EFHCA), the Cordell Bank (50-fm) Isobath Essential Fish Habitat Conservation Area (bottom contact EFHCA) and the proposed new Groundfish Exclusion Area, northwest of San Francisco, CA.

Because the outer boundaries of all three conservation areas do not align with each other, removing the Cordell GCA creates truncated and exposed portions in three areas specific to the trawl sector (*Figure 4*, purple outlined polygons). In total, 16.3 square miles currently within the Cordell GCA but outside of the bottom trawl EFHCA would open to bottom trawling if the Cordell GCA were removed. It should be noted that the bottom trawl EFHCA would remain in place and continue to provide protections to the habitat identified through the Amendment 28 process.

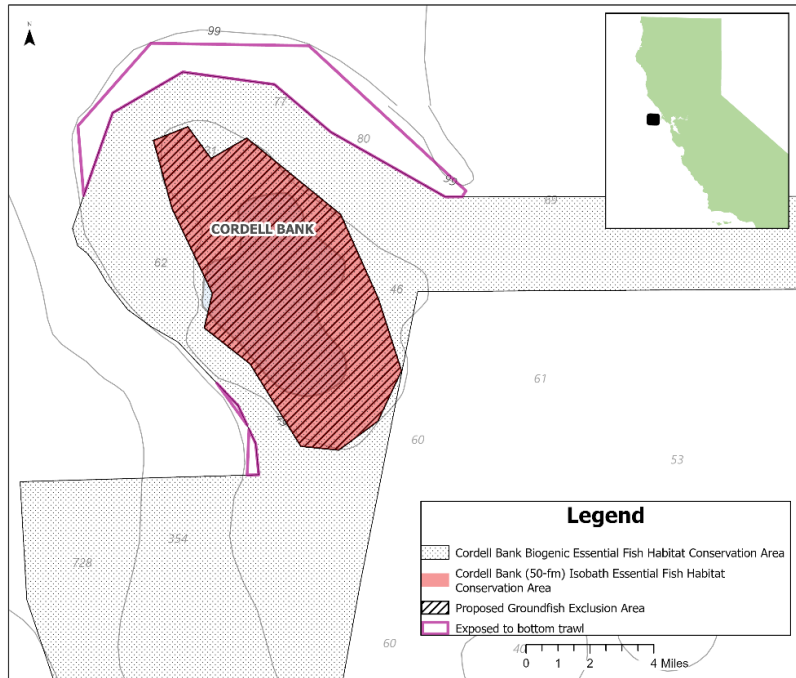


Figure 4. Map of the Cordell Bank Biogenic Essential Fish Habitat Conservation Area (bottom trawl EFHCA), the Cordell Bank (50-fm) Isobath Essential Fish Habitat Conservation Area (bottom contact EFHCA), the proposed new Groundfish Exclusion Area and area that would be exposed to bottom trawl, northwest of San Francisco, CA.

For the non-trawl commercial and recreational sectors, removal of the Cordell GCA would open 64.5 square miles to the retention of groundfish and eliminate the differing retention prohibitions between sectors (*Figure 5*, green outlined polygon).

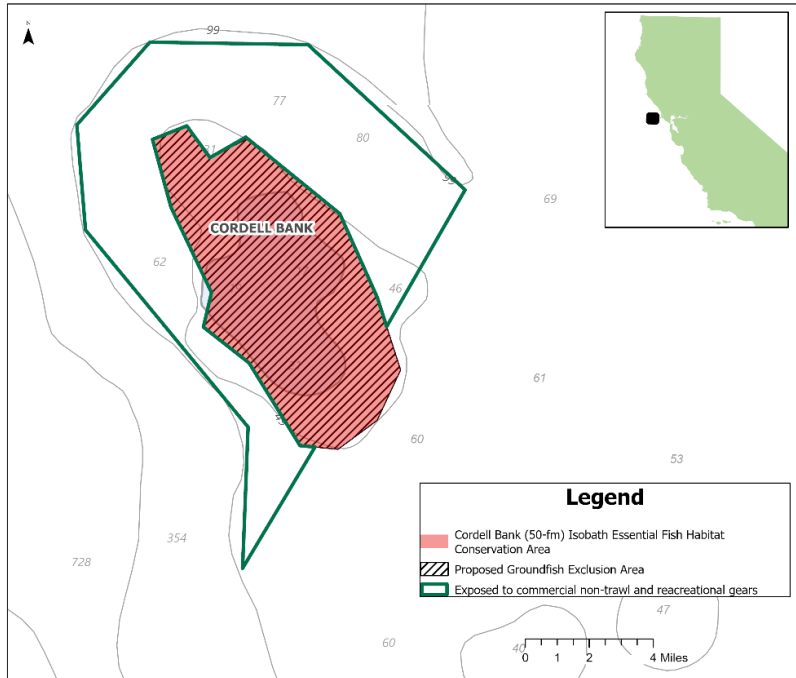


Figure 5. Map of the Cordell Bank (50-fm) Isobath Essential Fish Habitat Conservation Area (bottom contact EFHCA), the proposed new Groundfish Exclusion Area and area that would be exposed to commercial non-trawl and recreational gear, northwest of San Francisco, CA.

If the Cordell GCA were removed without a new GEA being added, sensitive environments, including corals and shallow pinnacles, within the bottom contact EFHCA would be exposed to non-bottom contact groundfish fishing activity. Therefore, overlaying a GEA with the bottom contact EFHCA would maintain status quo protections over 91 percent of the bottom contact EFHCA which is currently within the Cordell GCA (thick black outlined polygon in *Figure 6*). In addition, the new GEA would extend protections to nine percent (approximately 4 square miles) of the bottom contact EFHCA outside of the Cordell GCA (hashed blue outlined polygon in *Figure 6*), that is or is anticipated to be exposed to non-bottom contact groundfish fishing. In total, this new GEA would have an area of 42.5 square miles and would encompass over 97 percent of observed coral and sponges within the action area, according to the National Oceanic and Atmospheric Administration Deep Sea-Coral and Sponge Map Portal.

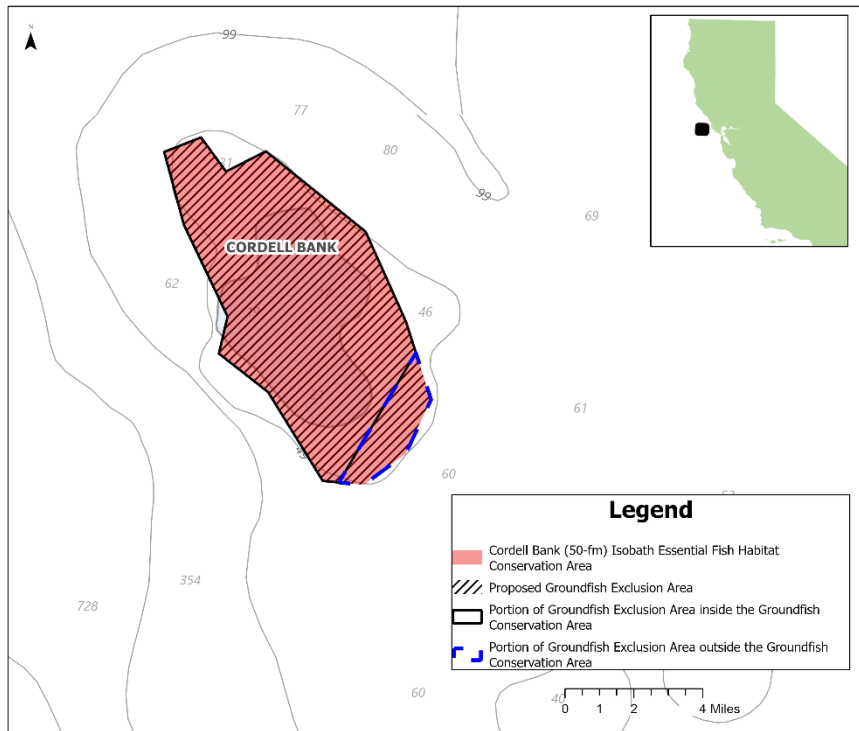


Figure 6. Map of the Cordell Bank (50-fm) Isobath Essential Fish Habitat Conservation Area (bottom contact EFHCA) and proposed new Groundfish Exclusion Area, detailing the portions within and outside the current Cordell Bank Groundfish Conservation Area (Cordell GCA), northwest of San Francisco, CA.

Rationale

The Cordell GCA was implemented to protect seven groundfish species that had been declared overfished at the time. However today, new and better spatial tools are available that were not previously, should the Council need to mitigate mortality of select groundfish stocks. For example, the Council recently recommended that Block Area Closures be available for use in the commercial non-trawl sector, which is anticipated to be implemented with Amendment 32. Similarly, the most recent Biennial Harvest Specifications and Management Measures regulations implemented a ‘novel use’ of RCA boundary lines to permit recreational fishing seaward of a boundary line during certain times of the year.

The circumstances that necessitated implementation of the Cordell GCA are outdated and no longer necessary. Further, the intersecting/overlying nature of each conservation area near Cordell Bank create a confusing regulatory regime for stakeholders and enforcement.

By overlaying a new GEA with the bottom contact EFHCA, status quo protections can be maintained over the majority the bottom contact EFHCA and slightly extended to the portion outside of the existing Cordell GCA footprint. This would create a more uniform regulatory regime for groundfish fisheries around the bank and mitigate groundfish impacts to sensitive environments.

Preliminary Stakeholder Feedback

Over summer, CDFW conducted preliminary scoping with stakeholder groups, including industry representatives, enforcement and one conservation organization, specific to this proposed approach. All have indicated initial support to scope this proposal primarily as a mechanism to clarify regulations in a manner that balances maintaining sensitive environment protections. CDFW Law Enforcement Division staff have also reviewed and given preliminary support to move this proposal forward with scoping.