

WASHINGTON DEPARTMENT OF FISH AND WILDLIFE REPORT ON
ESSENTIAL FISH HABITAT (EFH) AND ROCKFISH CONSERVATION AREA (RCA)
AMENDMENT 28

The Washington Department of Fish and Wildlife (WDFW) would like to provide the following information for the Council's consideration under this agenda item.

Background

In September 2015, the Coastal Treaty Tribes provided a statement to the Pacific Fishery Management Council (Agenda Item H.8.a, Supplemental Tribal Report) indicating their expectation that the range of alternatives for establishing any new essential fish habitat conservation areas (EFHCAs) within their usual and accustomed fishing areas (U&As) would be excluded from this five-year review. The National Marine Fisheries Service (NMFS), on behalf of the Tribes, proposed this in the form of a motion and added that the removal of any existing rockfish conservation areas (RCAs) both within the Tribes' U&As and outside their U&As would be excluded from this action. The Council subsequently modified this in April 2016 to remove RCA changes only within the Tribes' U&As from further consideration.

It is our understanding that the intent of these motions was to allow the Tribes time to review the available information, including the analyses from the Northwest Fisheries Science Center, and assess through the Habitat Framework process the potential effects of changes to EFHCAs on their treaty rights. If, after that assessment the Tribes decided to propose changes to EFHCAs within their U&As, then any such proposals would be submitted and considered through a subsequent Council process.

WDFW has supported and continues to support the Coastal Treaty Tribes in their desire to examine proposed actions affecting EFHCAs and RCAs overlapping with their respective U&As more closely as it relates to potential effects on their treaty fishing rights. The Coastal Treaty Tribes requested government-to-government consultations with NMFS on these matters and, as a co-manager, WDFW respectfully requested that NMFS include us in such discussions. In February 2016, NMFS responded, indicating a willingness to meet with WDFW on changes to EFHCAs and RCAs in the Tribes' U&As either separately or in conjunction with the Tribes; however, to date, such meetings with WDFW have yet to occur.

Over this same period, the western boundaries for the Quinault Indian Nation and the Quileute Tribe's respective U&As were adjudicated in federal court. However, based on an assumption of where the U&A boundaries for the Quinault Indian Nation and the Quileute Tribe were at the time, the adjudicated U&A boundaries do not align with the boundaries used in the draft analytical document (Agenda Item F.3.a, Project Team Report 1, Preliminary Draft EIS).

Grays Canyon and Quinault Canyon

WDFW reviewed the updated western boundary of the Quinault Indian Nation U&A compared to the proposed alternatives, and there are areas around Grays Canyon and Quinault Canyon that may now be available for Council consideration. Specifically, there are portions of the originally proposed Oceana et al. EFHCA and RCA changes that had been included in the scope of the Council's action and range of alternatives in April 2016, but were then excluded from subsequent analytical documents under the assumption that they were within the Quinault U&A. However, as they are seaward of the updated western boundary, WDFW believes they may be candidates for Council consideration, and would like clarification from NMFS on this.

Please note that in the information below, we refer to the "original" Alternative 1b as the area that had been included in the preliminary analysis, but then excluded from analytical documents after April 2016 due to the Tribal U&A exclusion, and the "modified" Alternative 1b as the area included in the analytical documents after April 2016.

Grays Canyon (northern section)

WDFW reviewed the area around the Grays Canyon northern section in closer detail and compared the revised U&A coordinates to the Oceana report that displayed where corals and sponges were observed in the same area. Including the area seaward of the Quinault U&A would add about 28.2 square miles of essential groundfish habitat to the EFHCA where the presence of corals and sponges have been observed, including a large glass sponge reef, which is an important refuge for rockfish. Further, given that the majority of this area is within the RCA, most of it has been closed to bottom trawl gear for several years.

Therefore, WDFW recommends the Council consider the additional Grays Canyon area that had been part of the initial range of EFHCA alternatives (i.e., the original Alternative 1b, Oceana et al.) seaward of the Quinault Indian Nation U&A to be closed to bottom trawling to protect corals and sponges as essential fish habitat for groundfish.

Grays Canyon (southern section)

There is strong overlap between the Grays Canyon southern sections in Alternative 1a, Collaborative, and Alternative 1b, Oceana et al. that include observations of coral and sponge, but there are slivers of area that would be closed to bottom trawl under Alternative 1b that would remain open under Alternative 1a. These areas, while relatively small in size, are important to the bottom trawl fishery and do not appear to include observations of coral and sponge. Therefore, WDFW is supportive of Alternative 1a for the southern Grays Canyon area for the protection of coral and sponge as essential fish habitat for groundfish.

Quinault Canyon

WDFW did a similar exercise for Quinault Canyon. However, when we compared the Quinault U&A boundary to the Oceana observations of corals and sponges, it appears that the area seaward of the Quinault U&A (i.e., to the left of the dashed line and above the solid line) did not

include observed coral and sponge. Unlike Grays Canyon, this area has been trawled in recent years and continues to be an important area to the bottom trawl fishery. Therefore, WDFW does not recommend including this area to the Alternative 1b, Oceana et al. closure for Quinault Canyon.

With regard to the modified Alternative 1b for Quinault Canyon and the area adjacent to the Biogenic 2 EFHCA, the northern portion of this area is important to the trawl fishery and does not include observations of coral and sponge; however, the majority of southern area has not been recently trawled and includes observed coral and sponge habitat. WDFW would like to propose shifting the northern boundary of Quinault Canyon Alternative 1b southward.

The WDFW-proposed boundary would extend from approximately 47°17'00" N. lat., 125°15'38" W long. (NW point) to 47°10'00" N. lat., 125°10'00" W long. (NE point). With this proposed boundary modification, WDFW would support Quinault Canyon modified Alternative 1b to be closed to bottom trawling as a groundfish essential fish habitat conservation area.

Olympic Footprint Modification

With regard to the proposed modification of the trawl footprint near Nitnat Canyon (Olympic), WDFW is supportive of Alternative 1b, Oceana et al. This area has not been fished with bottom trawl gear and, therefore, is consistent with establishing a trawl "footprint," and includes observations of coral and sponge habitat.

Willapa Canyonhead

WDFW is supportive of Alternative 1b, Oceana et al. to provide EFH protection for the Willapa Canyonhead. As most of this area overlaps with the trawl RCA, it has not been fished with bottom trawl gear for several years and includes observations of coral and sponge habitat. Therefore, should the Council decide to reopen the trawl RCA in this area, WDFW is recommending that this area would remain closed for the protection of coral and sponge as essential fish habitat for groundfish.

Rockfish Conservation Area North of WA/OR Border

In addition to the EFHCA closures addressed above, WDFW also recommends keeping the RCA north of the Washington/Oregon border closed to bottom trawling, which includes the portion of the RCA seaward of the Quinault U&A in the Grays Canyon area.

While WDFW continues to believe that the RCAs were developed and implemented for a different purpose (i.e., to reduce bycatch of overfished rockfish and assist in their rebuilding), we believe that such intent is still relevant today. Additionally, there may be bycatch reduction benefits resulting from the RCAs for other rockfish (e.g., shortbelly, roughey) and prohibited species (e.g., Pacific halibut and salmon).

Recommendations

To summarize, WDFW recommends the Council consider the following areas, which are all outside of the Coastal Treaty Tribes' adjudicated U&As, to be closed to bottom trawling in Pacific ocean waters adjacent to Washington:

1. Olympic Footprint Modification – Alternative 1b, Oceana et al.
2. Grays Canyon EFHCA (northern portion) inclusive of the area outside the updated western boundary for the Quinault Indian Nation U & A – **original** Alternative 1b, Oceana et al.
3. Grays Canyon EFHCA (southern portion) – Alternative 1a, Collaborative
4. Quinault Canyon EFHCA exclusive of the area outside the updated western boundary for Quinault U & A – **modified** Alternative 1b, Oceana et al. with WDFW-proposed northern boundary
5. Willapa Canyonhead– Alternative 1b, Oceana et al.

And for RCAs, WDFW recommends the No Action alternative for the area north of the Washington/Oregon border.

Given that the Preliminary Preferred Alternative for Washington for EFHCAs and RCAs had been “No Action” and that these recommendations would not open areas to bottom trawling beyond what had been analyzed in the Biological Opinion for ESA-listed salmon in the groundfish trawl fisheries, we do not believe that our recommendations would trigger re-consultation of the Biological Opinion.