

OREGON DEPARTMENT OF FISH AND WILDLIFE REPORT ON AMENDMENT 28
FISHERY MANAGEMENT PLAN LANGUAGE

ODFW proposes the following changes to the Groundfish FMP text shown in Agenda Item G.2, Attachment 1 for consideration by the Pacific Fishery Management Council (Council). Underline/strikethrough formatting from G.2 Attachment 1 is preserved. Additionally, underline/strikethrough in combination with highlighting is used to denote the new changes proposed in this report. Rationale for each is provided in a sub-bullet:

1. 6.2, page 6: “The *habitat conservation framework* allows the Council to modify the number, extent, and location of areas closed to bottom trawling certain types of fishing in order to protect EFH.”
 - Rationale: Consistent with Magnuson-Stevens Fishery Management Act, includes other types of fishing in addition to bottom trawling that may adversely affect groundfish habitat.
2. 6.2.4, page 6: “The presence, ~~and~~ location, and condition of important habitat (as defined immediately above).”
 - Rationale: Condition is an important element of habitat function and vulnerability to adverse impacts.
3. 6.2.4, page 6: “3. The presence and location of habitat that is vulnerable to the effects of ~~bottom trawl~~ fishing with bottom contact gear.”
 - Rationale: consistent with MSA, expands to all bottom contact gear.
4. 6.2.4, page 7: “5. New or increasing threats to EFH from fishing or non-fishing related activities.”
 - Rationale: Recommend adding this as an important factor in considering review/modification of EFH provisions.
5. 6.2.4, page 7: “5c. The socioeconomic and management-related effects of closures, including changes in the location and intensity of bottom ~~trawl~~ contact fishing effort, the displacement or loss of revenue from fishing, and social and economic effects to fishing communities attributable to the location and extent of closed areas.”
 - Rationale: Consistent with MSA, expands from trawl to bottom contact effort.
6. 6.2.4, page 7: “Upon receipt of ~~a recommendation from the committee considering~~ advisory body, NMFS, and staff reports and public comment, the Council will decide whether to begin the rulemaking process described in Section 6.2 D for establishing, adjusting, or removing discretionary management measures intended to have a permanent effect.”
 - Rationale: Although the Council may consider public comment prior to any decision, addition to this list clarifies the expectation.

7. 6.6.1.2, page 9: “In 2018, the Council took action to remove the trawl RCA ~~was removed~~ offshore of Oregon and California because the trawl catch shares program (Amendment 20) effectively reduced rockfish bycatch and the trawl RCA was no longer needed as a year-round catch control tool, but the trawl RCA remains in place offshore of Washington.”
 - o Rationale: Clarifies timeline (Council action, not RCA removal, occurred in 2018) and adds brief explanation for trawl RCA removal off Oregon and California.

8. 6.8, page 11: “Because the RCAs, the Yelloweye Rockfish Conservation Area, and the Cowcod Conservation Areas have all been implemented to protect overfished groundfish species, they are collectively referred to in Federal regulations as Groundfish Conservation Areas (GCAs).”
 - o Rationale: Housekeeping, may be the first time this term appears

9. 6.8.2, page 12: “Under Amendment 28, the Council took action to remove the groundfish trawl RCA off Oregon and California because the trawl catch shares program (Amendment 20) effectively reduced rockfish bycatch and the trawl RCA was no longer needed as a year-round catch control tool. ~~but~~ The trawl RCA is a management measure that remains in place off Washington.”
 - o Rationale: Clarifies timeline (Council action, not RCA removal, occurred in 2018) and adds brief explanation for trawl RCA removal off Oregon and California.

10. 6.8.5, page 13: “As of June 30, 2006, under Amendment 19 (see 50 CFR 660.306(h)), there ~~are were~~ 50 such closures. With the implementation of Amendment 28, there are six additional closures and spatial modifications to several existing closures.”
 - o Rationale: Adds reference to Amendment 19 in text, and clarifies the timeline for closures.

11. 6.8.8, page 17: “Amendment 28 to the Groundfish FMP established a Deep Water Bottom Contact Gear Closure in the EEZ in waters deeper than 3500m (the deepest extent of EFH), ~~but~~. Although still inside the EEZ, waters deeper than 3500m which are not identified as groundfish EFH. Amendment 28 closed these waters to all bottom contact groundfish gear, primarily to protect deep sea corals.
 - o Rationale: improves clarity of meaning.

12. 7.1, page 17: “• Section 7.6 describes procedures for the review and revision of EFH provisions.”
 - o Rationale: A description of the review/revision procedures was not included in the original list, but is proposed in G.2.a, Project Team Report 1, and should be referenced here.

13. 7.1, page 17: “• Section 7.6~~7~~ describes how the Council will support habitat-related monitoring and research activities through the ongoing management program.”
 - o Rationale: Housekeeping; section number correction. This section is 7.7 in the main body of the text.

In addition, ODFW supports the potential modifications to FMP language as presented in Agenda Item G.2.a, Project Team Report 1, and thanks the Project Team for developing them. We recommend one minor addition:

14. 7.6, page 4: **“The Council may choose to review specific elements of EFH on an interim basis, such as Habitat Areas of Particular Concern, particularly if inaction could result in significant harm, and should conduct a complete review of all EFH information at least every five years.”**

- Rationale: While the Council may choose to review HAPCs or any other element of EFH at any time without this addition, there has been particular interest by participants in the Amendment 28 process in retaining this possibility for HAPCs. Including this language confirms that remains an option. The phrase, “...if inaction could result in significant harm” uses wording from the current COP 22 (last revised 4/2/11) and is intended to signal that interim review of EFH elements is expected to be infrequent.