

**ACTION TO AUTHORIZE AN OREGON RECREATIONAL FISHERY FOR MIDWATER
GROUNDFISH SPECIES
FINDING OF NO SIGNIFICANT IMPACTS (FONSI)**

Background

Proposed Action:

The proposed action would modify the recreational groundfish regulations to authorize an Oregon recreational fishery for midwater groundfish species.

Alternatives Evaluated in the Environmental Assessment:

No Action Alternative—Under the No Action Alternative, the status quo recreational groundfish regulations in Oregon remain in place, including the use of midwater long-leader gear in open areas.

Alternative 1 (preferred)—Allow midwater long-leader recreational groundfish fishing in waters seaward of a line approximating the 40 fm depth curve off the coast of Oregon for the time period April-September.

Alternative 2—Allow midwater long-leader recreational groundfish fishing in waters seaward of a line approximating the 40fm depth curve off the coast of Oregon for the time period July-September.

Alternative 3—Allow midwater long-leader recreational groundfish fishing in waters seaward of a line approximating the 40fm depth curve off the coast of Oregon for the month of August.

Selected Alternative:

Alternative 1 was selected as the preferred alternative by both the Pacific Fishery Management Council (Council) and the National Marine Fisheries Service (NMFS).

Measures to Reduce Impacts:

The action alternatives all require compliance with biennial harvest specifications and management measures. Impacts resulting from these specifications were described in the environmental impact statement for the 2015-2016 harvest specifications and management measures or the environmental assessment for the 2017-2018 harvest specification and management measures. Additional impacts resulting from implementation of the proposed action include potential impacts to protected resources, specifically salmon. Vessels fishing in this fishery could cause some low negative interactions with salmon. However, as mentioned in Section 4.2.2, these impacts are expected to be low as interactions between the type of long-leader gear in this fishery and salmon tend to be limited. Additionally, further impacts are mitigated by the requirements in current regulations regarding the handling of salmon caught with hook-and-line gear and all activity will comply with measures described in current biological opinions.

Significance Review

The Council on Environmental Quality (CEQ) Regulations state that the determination of significance using an analysis of effects requires examination of both context and intensity, and lists ten criteria for intensity (40 CFR 1508.27). In addition, the Companion Manual for National Oceanic and Atmospheric Administration Administrative Order 216-6A provides sixteen criteria,

the same ten as the CEQ Regulations and six additional, for determining whether the impacts of a proposed action are significant. Each criterion is discussed below with respect to the proposed action and any measures to reduce impacts and considered individually as well as in combination with the others.

1. Can the proposed action reasonably be expected to cause both beneficial and adverse impacts that overall may result in a significant effect, even if the effect will be beneficial?

No. The action may result in some low negative impacts to the biological environment, specifically to salmon due to limited interactions with gear, and positive benefits to the economic environment through revenue, however these impacts are not significant individually or cumulatively.

2. Can the proposed action reasonably be expected to significantly affect public health or safety?

This action is not expected to have an impact on public health or safety. There are no public health or safety effects involved. Since impacts on public health or safety are not expected, they were not further evaluated in the environmental assessment.

3. Can the proposed action reasonably be expected to result in significant impacts to unique characteristics of the geographic area, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas?

No significant impacts are expected to occur on any of the above areas. This action occurs in open water and does not affect any of the above areas.

4. Are the proposed action's effects on the quality of the human environment likely to be highly controversial?

The effects of this action on the quality of the human environment are not likely to be controversial. The proposed action is based in part on favorable Exempted Fishing Permit (EFP) test fishing results (2009-2011) as discussed in Section 1.1 of the environmental assessment for this action.

5. Are the proposed action's effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

The potential effects on the human environment are relatively certain; as many of them would be similar to actual effects observed in the test fishery under the EFP. Any new potential effects or differences from the test fishery are limited in their uncertainty as all fishing will continue to be constrained by yelloweye and blue rockfishes (see Section 4.1.2 of the environmental assessment). Best available scientific estimates of mortalities of these constraining non-target species assume that bycatch ratios in a midwater long-leader fishery will be similar to those observed on charter boats in the midwater long-leader EFP test fishery. There may be differences, however. For example, private boats may have greater bycatch ratios than charter anglers. While there is a possibility that non-observed midwater long-leader bycatch rates may be greater than those observed during the test fishery, actions can be taken to ensure that bycatch stays within acceptable limits. To avoid exceeding

established quota allocations and bycatch limits, catch and discard mortality will be monitored closely through the current Oregon Boat Survey (ORBS) program and reported weekly (one week time lag). If catch is projected to approach an established quota, mechanisms are in place to close the fishery (e.g., within 24 to 48 hours via emergency actions by the state of Oregon).

This fishery requires compliance with Pacific Coast Groundfish biennial harvest specifications and management measures; therefore, it is not expected to result in significant impacts to any protected species above or beyond the specifications and measures considered in the EIS for the 2015-2016 harvest specifications and management measures or the EA for the 2017-2018 harvest specification and management measures. Salmon are the only protected species with the potential to have interactions with the midwater long-leader fishery. As discussed above and in response to question 9 below, interactions between the gear used in the proposed fishery and salmon are expected to be low, and NMFS' biological opinion for salmon requires monitoring of salmon bycatch and response to higher than expected bycatch.

In summary, the actual bycatch of target and non-target or constraining species will depend on the potential participation in the midwater long-leader fishery. The existing ORBS monitoring program would track the catch totals for these constraining species as takes place now in the traditional groundfish fishery. With quota set-asides and a prohibition of take of benthic species, take of constraining species in a midwater long-leader fishery would be carefully managed to meet management objectives of sustainably managing groundfish resources for all fisheries.

6. Can the proposed action reasonably be expected to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

The action implements regulations for a recreational long-leader fishery off Oregon which has been tested for several years through an EFP that showed that there were no significant impacts to the human environment. The Council and NMFS, in developing this action, were careful to develop regulations that mimicked the terms and conditions for the EFP so that uncertainty was limited and impacts were known to not be significant. Any future actions that may arise, related or similar to this action, would also need data (i.e., an EFP) and an analysis to support implementation of that action in a proposed action area. For those reasons the action does not establish a precedent for future action with significant effects.

7. Is the proposed action related to other actions that when considered together will have individually insignificant but cumulatively significant impacts?

No, the action, which implements a fishery that was tested through an EFP, would have some negligible to low negative effects, but none of the effects disclosed in the environmental assessment for this action would individually or cumulatively cause significant impacts. Cumulative effects of this action in conjunction with other actions taking place in the near future are not expected to be significant. Additional actions under NMFS' consideration or the future Council consideration may require subsequent NEPA analyses to determine the cumulative impacts at that time.

8. *Can the proposed action reasonably be expected to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources?*

Nothing has been identified in association with the action that would result in adverse effects to historic places eligible for the National Register, nor cause the destruction or loss of significant, cultural or historic resources.

This activity would occur in the marine environment and has no direct effect on the terrestrial environment.

9. *Can the proposed action reasonably be expected to have a significant impact on endangered or threatened species, or their critical habitat as defined under the Endangered Species Act of 1973?*

The action is not expected to have any significant impacts on any endangered or threatened species or their critical habitat as defined under ESA. The action is expected to have some limited impacts on salmon (i.e. bycatch), some of which may be listed under the ESA. However, those impacts are not expected to be significant and are within the range of effects considered in the December 2017 biological opinion covering the effects of the groundfish fisheries on ESA-listed salmon, which concluded the groundfish fisheries is not likely to jeopardize the continued existence of the affected listed species. The impacts of the action on other protected species, such as green sturgeon, shorttailed albatross, and marine mammals are all expected to be within the effects considered in the biological opinions for those species, which also concluded that jeopardy is not likely. Impacts to eulachon, which is currently undergoing consultation under the ESA, are expected to be within what was analyzed in the 7(a)2 and 7(d) memo developed for the 2017-18 harvest specifications and management measures.

10. *Can the proposed action reasonably be expected to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection?*

No, this action, which would change fishing regulations off the coast of Oregon, does not threaten a violation of any other laws or requirements.

11. *Can the proposed action reasonably be expected to adversely affect stocks of marine mammals as defined in the Marine Mammal Protection Act?*

No. West Coast pot fisheries for sablefish are considered Category II fisheries under the MMPA, indicating occasional interactions. All other West Coast groundfish fisheries, including hook and line fisheries, are considered Category III fisheries under the MMPA, indicating a remote likelihood of or no known serious injuries or mortalities to marine mammals. Washington groundfish jig (hook and line) gear is very similar to the gear that is the subject of this action in Oregon waters, and is a Category III fishery with no documented takes of marine mammals.

12. *Can the proposed action reasonably be expected to adversely affect managed fish species?*

This action would not significantly impact target or non-target stocks. Although this action has the potential to increase the risk of overfishing those stocks compared to the risks of overfishing that were considered in the 2015-2016 EIS and subsequent biennial groundfish harvest specifications, there are measures in place to prevent this. This fishery would be subject to Ocean Recreational Boat Survey monitoring program and overfishing concerns, if any, could be addressed through adaptive management/inseason actions. The fishery would be managed with the goal of keeping total catch levels for species in the fishery within their annual catch limits (ACLs). Therefore, any increased harvest from the proposed action on groundfish stocks would be controlled to avoid adverse effects to the species.

13. Can the proposed action reasonably be expected to adversely affect essential fish habitat (EFH) as defined under the Magnuson-Stevens Fishery Conservation and Management Act?

Physical environment, marine ecosystems, and essential fish habitat would not be significantly affected as the gear being proposed would have no more impact than gear currently allowed.

14. Can the proposed action reasonably be expected to adversely affect vulnerable marine or coastal ecosystems, including but not limited to, deep coral ecosystems?

Physical environment, marine ecosystems, and essential fish habitat would not be significantly affected as the gear being proposed would have no more impact than gear currently allowed.

15. Can the proposed action reasonably be expected to adversely affect biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)?

Physical environment, marine ecosystems, and essential fish habitat would not be significantly affected as the gear being proposed would have no more impact than gear currently allowed. Further, catch of groundfish species resulting from the action will be managed to avoid exceeding any ACLs, which are intended to ensure sustainable fishing. Bycatch of ESA-listed non-groundfish species will be monitored and kept within levels anticipated in the applicable biological opinions.

16. Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?

Activities under the proposed action would not involve the transport of non-indigenous species. The fishing vessels participating in the proposed action would not increase the risk of introduction through ballast water or hull fouling because they are vessels that have been and continue to be based on the west coast of the U.S. disposition of the catch does not include any translocation of living marine resources, nor use of any nonindigenous species as bait.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting environmental assessment prepared for the authorization of an Oregon recreational fishery for midwater groundfish species, it is hereby determined that the authorization of an Oregon recreational fishery for midwater groundfish species will not significantly impact the quality of the human environment as described above and in the supporting environmental assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an environmental impact statement for this action is not necessary.



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Date