

Dated: October 17, 2024.

Samuel D. Rauch III,

*Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 241018–0275]

RIN 0648–BN15

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan; Amendment 34; Groundfish Exclusion Area for Coral Research and Restoration

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues these proposed regulations to implement amendment 34 to the Pacific Coast Groundfish Fishery Management Plan (Groundfish FMP). The proposed regulations include a closure to commercial groundfish bottom contact gear in Monterey Bay National Marine Sanctuary (MBNMS). Specifically, NMFS proposes to implement a new groundfish exclusion area (GEA) for the purposes of coral research and restoration within MBNMS at the site of Sur Ridge. The purpose of this proposed action is to close the Sur Ridge site within the MBNMS off California to commercial groundfish bottom contact gear in order to protect future deep-sea coral research and restoration projects from the impact of fishing gear. The Office of National Marine Sanctuaries (ONMS) conducts scientific research in National Marine Sanctuaries, including on deep sea coral survival, growth and reproduction, under the National Marine Sanctuaries Act (NMSA) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments on this proposed rule must be received on or before November 22, 2024.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2024-0081>. You may

submit comments on this document, identified by NOAA–NMFS–2024–0081, by the following method:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and type NOAA–NMFS–2024–0081 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of proposed amendment 34 and the draft analysis that addresses Presidential Executive Order 12866, the Regulatory Flexibility Act (RFA), and the statutory requirements of the Magnuson-Stevens Act (the Analysis), may be obtained from <https://www.regulations.gov> and the NMFS West Coast Region website at <https://www.fisheries.noaa.gov/region/west-coast>.

FOR FURTHER INFORMATION CONTACT:

Megan Mackey, 206–526–6140, megan.mackey@noaa.gov.

SUPPLEMENTARY INFORMATION: The Pacific Coast groundfish fishery in the U.S. exclusive economic zone (EEZ) seaward of Washington, Oregon, and California is managed under the Groundfish FMP. The Council developed the Groundfish FMP pursuant to the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* The Secretary of Commerce approved the Groundfish FMP and implemented the provisions of the plan at 50 CFR part 660, subparts C through G. Species managed under the Groundfish FMP include more than 90 species of groundfish, flatfish, rockfish, sharks, and skates.

This proposed rule (also referred to interchangeably as “this proposed action”) would implement regulations for amendment 34 to the Groundfish FMP. Consistent with Magnuson-Stevens Act section 303(c)(1), the Council deemed the proposed regulations consistent with and necessary to implement amendment 34 in an October 1, 2024 letter from

Council Chairman, Merrick Burden, to Regional Administrator, Jennifer Quan. The Notice of Availability for amendment 34 that published on October 9, 2024 (89 FR 81878) describes the details of the Groundfish FMP changes established through this proposed action. NMFS is concurrently seeking comment on the Council’s proposed measures in amendment 34.

Background

The Council met over 2023 and 2024 to consider developing fisheries closures for deep-sea coral restoration and research in response to a request from the ONMS. ONMS conducts scientific research in National Marine Sanctuaries, including within MBNMS, under the NMSA and the Magnuson-Stevens Act.

In September 2023, ONMS presented a scoping paper that posed 5 locations with 10 sites within Greater Farallones National Marine Sanctuary and MBNMS, for deep seas coral restoration and research (section 1.2 of the Analysis). At that meeting, the Council chose to continue to scope closures in MBNMS only, at the locations of Año Nuevo and Ascension Canyons (two sites) and Sur Ridge (one site), for areas to conduct coral research and restoration. The Council proposed that these areas could be closed to bottom contact gears as GEAs. GEAs were established by amendment 32 to the Groundfish FMP (88 FR 83830, December 1, 2023) and are a management tool intended to mitigate the impacts to sensitive environments from certain groundfish fishing activity.

At the March 2024 meeting, the Council adopted a range of alternatives for this proposed action that included modified versions of the Año Nuevo and Ascension Canyon sites to address concerns raised by the public regarding closing off key fishing grounds shallower than 400 fathoms (fm) and enforcement concerns (section 1.2 of the Analysis). The Council also confirmed that the potential sites would only be proposed to be closed to commercial groundfish bottom contact gears and that no other gear types or fisheries would be proposed in the closures.

At the June 2024 meeting, the Council adopted its final preferred alternative to develop a GEA for commercial groundfish bottom contact gear at Sur Ridge in MBNMS. If the GEA is established, it is expected that ONMS would begin deep-sea coral outplanting at Sur Ridge in 2025.

The proposed GEA at Sur Ridge would apply to commercial groundfish vessels using bottom contact gear. Currently, the GEA area is within a

bottom trawl essential fish habitat conservation area (EFHCA), and therefore no bottom trawling is permitted. If the EFHCA were to be removed in the future, the GEA would continue to prohibit bottom trawl. The GEA would create new restrictions for non-trawl commercial groundfish vessels using bottom contact gears in the limited entry fixed gear, directed open access, and shore-based individual fishing quota sectors. Vessels using non-bottom contact gear would still be permitted to operate in the area. The proposed GEA would close 36.64 square nautical miles of area, with depths ranging from 2,690 to 5,118 feet (448 to 853 fm). Overall, this proposed GEA would allow ONMS to perform deep-sea coral research and restoration while having limited impact on the groundfish fisheries.

Amendment 34

NMFS is proposing amendment 34 to the Groundfish FMP in alignment with the Council's recommendation in June 2024. Amendment 34 would revise the description of GEAs in the FMP to remove references to specific GEAs, consistent with how other closed area types are included in the FMP. Active GEAs would instead be noted in the Federal groundfish regulations at proposed § 660.70, and the history of a specific GEA would likely be provided in the groundfish Stock Assessment Fishery Evaluation document.

Proposed Rule

In addition to revising the description of GEAs under amendment 34, in alignment with the Council's recommendation, NMFS proposes regulations to modify the use of GEAs as a management tool in the following ways. This proposed rule would:

- Add GEAs to the general groundfish prohibitions found at § 660.12;
- Revise the descriptions of GEAs found in §§ 660.230, 660.330, and 660.360 to remove the specific references to the Southern California Bight; and,
- Establish a new GEA at Sur Ridge in MBNMS.

To add GEAs to the general groundfish prohibitions found in the regulations, this proposed rule would add proposed § 660.12(a)(22) to the list of prohibitions in § 660.12(a) to clarify that it is unlawful for fishermen to violate any regulations that apply to activity in GEAs. To revise the descriptions of GEAs in regulations, this proposed rule would update §§ 660.230, 660.330, and 660.360 to remove specific references to the Southern California Bight and generalize the GEA

descriptions to allow for GEAs to be located more broadly. This proposed rule would also update the GEA description at § 660.70(t) to note that there would be a total of nine GEAs and to remove the specific reference to GEAs being areas south of Point Conception, California. And, finally, this proposed rule would add § 660.70(t)(9) to the list of GEAs found in that section and would include the latitude and longitude coordinates and other information relevant to establishing the proposed Sur Ridge GEA.

Classification

Pursuant to sections 303(C) and 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Groundfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

There are no relevant Federal rules that may duplicate, overlap, or conflict with this action.

Regulatory Impact Review (RIR)

An RIR was prepared to assess all costs and benefits of available regulatory alternatives. A copy of this Analysis is available from NMFS (see **ADDRESSES** section). NMFS is recommending amendment 34 and the regulatory revisions in this proposed rule based on its assessment of the net benefits to the Nation of these measures.

Regulatory Flexibility Act

NMFS has recommended that the Chief Counsel for Regulation of the Department of Commerce certify to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant adverse economic impact on a substantial number of small entities.

For purposes of the RFA (5 U.S.C. 601 *et seq.*) only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. This standard applies to all businesses classified under North American Industry

Classification System (NAICS) code 11411 for commercial fishing, including all businesses classified as commercial finfish fishing (NAICS 114111), commercial shellfish fishing (NAICS 114112), and other commercial marine fishing (NAICS 114119) businesses (50 CFR 200.2; 13 CFR 121.201).

All commercial groundfish participants that use bottom contact gear for fisheries in the EEZ off Washington, Oregon, and California, which are managed under the Groundfish FMP, may be affected by this proposed rule. Bottom contact gear is defined at 50 CFR 660.11: "fishing gear designed or modified to make contact with the bottom. This includes, but is not limited to, beam trawl, bottom trawl, dredge, fixed gear, set net, demersal seine, dinglebar gear, and other gear (including experimental gear) designed or modified to make contact with the bottom. Gear used to harvest bottom dwelling organisms (*e.g.* by hand, rakes, and knives) are also considered bottom contact gear for purposes of this subpart."

This list is non-exhaustive. The proposed coral research and restoration area is within existing bottom trawl EFHCAs, which prohibit all bottom trawl gears from operating within those EFHCA boundaries. Given that these areas are currently closed to bottom trawl vessels, this action would establish no new impact to those vessels. Therefore, the proposed action would impact only fishing with non-trawl bottom contact gear types within the proposed GEA at Sur Ridge. The commercial gears that would be permitted to operate within the newly closed area, as currently proposed, are midwater trawl and select non-trawl gear types (troll gear and commercial vertical hook-and-line gear not anchored to the bottom, such as vertical jig gear or rod-and-reel gear with weights suspended off the bottom).

From 2019 to 2023, there were 429 distinct vessels that utilized non-trawl bottom contact gears¹ in the 3 commercial groundfish sectors (directed open access (OA), limited entry fixed gear (LEFG), and individual fishing quota (IFQ) gear switching) with an annual average of 175 vessels operating annually (table 1) between the latitudes of 40° 30' N and 36° N. As described in section 3.5.2 of the Analysis, this is the catch area that encompassed the three coral restoration and research areas

¹ Vessels were selected based on FOS_Groundfish_Sector_Codes of "Catch Shares", "LE Fixed Gear Daily Trip Limit", "Limited entry Sablefish", and "OA Fixed Gear" and were not declared (using declaration code) associated with non-bottom contact gears.

proposed within MBNMS in late 2023. The Council ultimately only recommended one offshore area to move forward as a GEA. Therefore, the estimated values here are expected to reflect the maximum number of vessels that could potentially be affected by this proposed action. The actual number is likely lower. The majority of affected vessels would participate in the directed OA fishery. To protect the confidentiality of vessel data, IFQ gear switching vessels were combined with LEFG vessels in table 1.

TABLE 1—RANGE OF VESSELS BY FISHERY SECTOR
[2019–2023]

Fishery sector	Range	Average
OA	130–172	149
LEFG/IFQ	24–29	26

For purposes of this analysis, directed OA vessels are assumed to be small entities, with ex-vessel revenues for all landings (groundfish and non-groundfish) averaging \$71,959. In 2023, 26 of the 29 LEFG permits associated with vessels that would likely be subject to this action (*i.e.*, required to fish in the primary or LE trip limit fisheries) were owned by small entities (self-reported). For gear switching vessels likely to be affected by this action, all were reported as small entities in 2023.

Note that there is not a strict one-to-one correlation between vessels and entities, nor between permits and entities; therefore, some persons or firms likely have ownership interests in more than one vessel or permit. Therefore, the actual number of entities regulated by this proposed action may be lower than the estimates presented here.

If the proposed area to be closed is key to the affected parties' fishing, and if there are limited replacement fishing opportunities available, the economic impact of the proposed action may disproportionately affect small entities compared to large entities and may result in some profit loss. Given other likely current and future fishing restrictions impacting the relevant catch area (*e.g.*, nearshore restrictions north of the area and limited or non-existent salmon seasons), offshore opportunities are likely to be of greater importance in the portfolios of California fishing vessels. However, given the limited documented historical fishing activity at Sur Ridge and the depth of the proposed closure, it is likely that a limited subset of vessels might be impacted. Additionally, these vessels could

potentially move to other fishing areas to maintain similar harvest opportunities.

Therefore, although this action would apply to the entirety of all entities fishing with bottom contact gear within the proposed GEA and the majority of those entities are considered small entities, because there has been limited documented fishing activity in the Sur Ridge area and because bottom trawl gear is currently prohibited within the proposed GEA under the EFHCA, this proposed rule is expected to have a limited impact on a modest number of small entities. For these reasons, NMFS believes that this proposed rule would not have a significant adverse economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

Paperwork Reduction Act

This proposed rule contains no new information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 18, 2024.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

- 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

- 2. Amend § 660.12 by adding paragraph (a)(22) to read as follows:

§ 660.12 General groundfish prohibitions.

* * * * *

(a) * * *

(22) Fish for, take and retain, possess (except for the purpose of continuous transit), or land any species of groundfish in the GEAs as defined at § 660.11 with coordinates defined at § 660.70.

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- 3. Amend § 660.70 by revising the introductory text of paragraph (t) and adding paragraph (t)(9) to read as follows:

§ 660.70 Groundfish conservation areas.

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(t) *Groundfish Exclusion Areas.* The Groundfish Exclusion Areas (GEAs) include nine areas off the coast of California intended to protect sensitive areas, including areas with coral and sea pens. GEAs are closed to both commercial and recreational groundfish fisheries unless otherwise noted.

* * * * *

(9) *Sur Ridge.* The Sur Ridge GEA is closed to commercial groundfish bottom contact gear only and is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed and connecting back to 36°26.00' N lat., 122°20.81' W long:

(i) 36°26.00' N lat., 122°20.81' W long.;

(ii) 36°25.55' N lat., 122°15.23' W long.;

(iii) 36°21.71' N lat., 122°15.32' W long.;

(iv) 36°17.95' N lat., 122°17.13' W long.;

(v) 36°16.42' N lat., 122°16.69' W long.; and

(vi) 36°16.41' N lat., 122°20.76' W long.

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■ 4. Amend § 660.230 by revising paragraphs (a) and (d)(17) to read as follows:

§ 660.230 Fixed gear fishery—management measures.

(a) *General.* Most species taken in limited entry fixed gear (longline and pot/trap) fisheries will be managed with cumulative trip limits (see trip limits in tables 2 (North) and 2 (South) of this subpart), size limits (see § 660.60(h)(5)), seasons (see trip limits in tables 2 (North) and 2 (South) of this subpart and sablefish primary season details in § 660.231), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (d) of this section and §§ 660.70 through 660.79). Cowcod retention is prohibited in all fisheries, and groundfish vessels must adhere to GEA restrictions (see paragraph (d)(17) of this section and § 660.70). Yelloweye rockfish retention is prohibited in the limited entry fixed gear fisheries. Regulations governing tier limits for the limited entry, fixed gear sablefish primary season north of lat. 36° N are found in § 660.231. Vessels not participating in the sablefish primary season are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The

trip limit for black rockfish caught with hook-and-line gear also applies, see § 660.230(e). The trip limits in tables 2 (North) and 2 (South) of this subpart apply to vessels participating in the limited entry groundfish fixed gear fishery and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally managed groundfish.

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(d) * * *

(17) *Groundfish exclusion areas (GEAs)*. GEAs are closed areas defined by specific latitude and longitude coordinates (specified at § 660.70) where recreational and/or commercial fishing for groundfish is prohibited. It is unlawful to fish for, take and retain, possess (except for the purpose of continuous transit) or land groundfish within the GEAs. All fishing gear for targeting groundfish must be stowed while transiting through a GEA. If fishing for non-groundfish species within a GEA, then no groundfish may be on board the vessel.

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■ 5. Amend § 660.330 by revising paragraphs (a) and (d)(19) to read as follows:

§ 660.330 Open access fishery—management measures.

(a) *General*. Groundfish species taken in open access fisheries will be managed with cumulative trip limits (see trip limits in tables 3 (North) and 3 (South) of this subpart), size limits (see § 660.60(h)(5)), seasons (see seasons in tables 3 (North) and 3 (South) of this subpart), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (d) of this section and §§ 660.70 through 660.79). Unless otherwise specified, a vessel operating in the open access fishery is subject to, and must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery. Cowcod retention is prohibited in all fisheries, and groundfish vessels must adhere to GEA restrictions (see paragraph (d)(19) of this section and § 660.70). Retention of yelloweye rockfish is prohibited in all open access fisheries. For information on the open access daily/weekly trip limit fishery for sablefish, see § 660.332 of this subpart and the trip limits in tables 3 (North) and 3 (South) of this subpart. Open access vessels are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if

the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies, see paragraph (e) of this section. Open access vessels that fish with non-groundfish trawl gear or in the salmon troll fishery north of lat. 40°10' N are subject the cumulative limits and closed areas (except the pink shrimp fishery which is not subject to RCA restrictions) listed in tables 3 (North) and 3 (South) of this subpart.

* * * * *

(d) * * *

(19) *Groundfish exclusion areas (GEAs)*. GEAs are closed areas defined by specific latitude and longitude coordinates (specified at § 660.70) where recreational and/or commercial fishing for groundfish is prohibited. It is unlawful to fish for, take and retain, possess (except for the purpose of continuous transit) or land groundfish within the GEAs. All fishing gear for targeting groundfish must be stowed while transiting through a GEA. If fishing for non-groundfish species within a GEA, then no groundfish may be on board the vessel.

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■ 6. Amend § 660.360 by revising paragraph (c)(3)(i)(B) to read as follows:

§ 660.360 Recreational fishery—management measures.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(B) *Groundfish exclusion areas (GEAs)*. GEAs are closed areas defined by specific latitude and longitude coordinates (specified at § 660.70) where recreational and/or commercial fishing for groundfish is prohibited. It is unlawful to fish for, take and retain, possess (except for the purpose of continuous transit) or land groundfish within the GEAs. Recreational fishing gear for targeting groundfish may not be deployed while transiting through a GEA. If fishing for non-groundfish species within a GEA, then no groundfish may be on board the vessel.

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[FR Doc. 2024–24556 Filed 10–22–24; 8:45 a.m.]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 241017–0274]

RIN 0648–BM77

Fisheries of the Exclusive Economic Zone; Authorizing Hook-and-Line Catcher/Processors To Use Longline Pot Gear in the Bering Sea Greenland Turbot Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations that would authorize hook-and-line catcher/processors (C/Ps) to use longline pot gear when directed fishing for Greenland turbot in the Bering Sea (BS) subarea of the Bering Sea and Aleutian Islands (BSAI). This proposed rule is necessary to improve efficiency, provide economic benefits for the hook-and-line C/P sector, and minimize potential fishery interactions with killer whales. This proposed rule would promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and other applicable laws.

DATES: Submit comments on or before November 22, 2024.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2023-0156>. You may submit comments on this document, identified by NOAA–NMFS–2023–0156 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type NOAA–NMFS–2023–0156 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be