



National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Northwest Region
Attn: Federal Permits Office
7600 Sand Point Way NE
Seattle, WA 98115
www.nwr.noaa.gov

SMALL ENTITY COMPLIANCE GUIDE

PACIFIC COAST GROUND FISH ESSENTIAL FISH HABITAT CONSERVATION AREA CLOSURES AND GEAR PROHIBITIONS

This guide is designed for commercial and recreational fishermen. It explains regulations that implement groundfish EFH protection measures in waters off Washington, Oregon, and California.

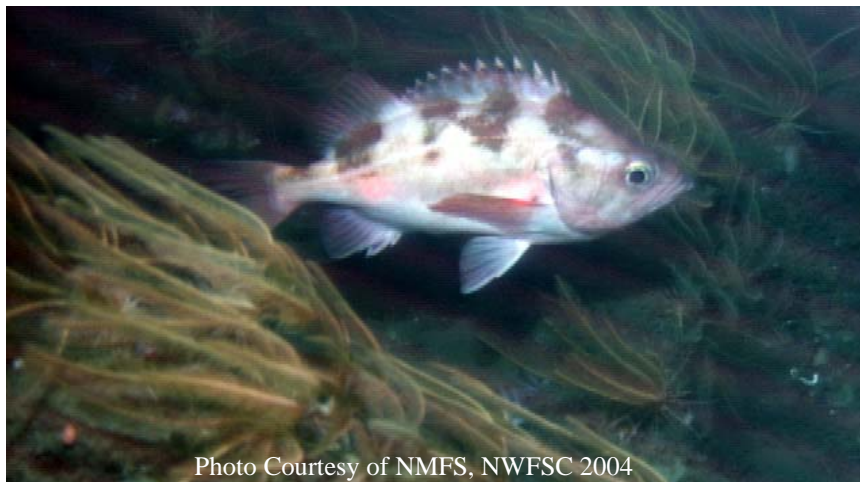


Photo Courtesy of NMFS, NWFSC 2004

This document serves as a Small Entity Compliance Guide, complying with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996.

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This guide was prepared pursuant to section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. 104-121. This guide may not be used for enforcement purposes. This document is intended to provide a plain-language summary of how small businesses can comply with the regulations implementing a comprehensive program to describe and protect essential fish habitat (EFH) (71 FR 27408, May 11, 2006). In the event that there is any deviation or ambiguities from the regulations, the regulations are controlling.

WHO SHOULD READ THIS GUIDE?

You should read this guide if you are a fisherman who operates a commercial or recreational vessel using any of the following gear types: bottom trawl gear, demersal seine, bottom contacting gear (including, but not limited to, fixed gear, set net, dinglebar gear, pots, rakes, dredge, beam-trawl and other gear (including experimental gear) that makes contact with the bottom) in Federal EEZ waters (3-200 miles) off of the Pacific coast.

You should read this guide if you are a fisherman who operates a commercial or recreational vessel fishing for groundfish, California or Pacific halibut, crab and lobster, shrimp, and species similar to groundfish including California sheephead and white croaker in Federal EEZ waters off of the Pacific coast.

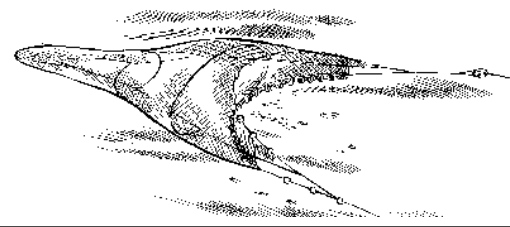
INTRODUCTION

NMFS and the Pacific Fishery Management Council (Council) developed a groundfish habitat protection plan to comply with section 303(a)(7) of the Magnuson-Stevens Act by amending the Pacific Coast Groundfish Fishery Management Plan (FMP) to identify and protect groundfish essential fish habitat (EFH)¹. Amendment 19 to the FMP includes four categories of action: identification and description of EFH; designation of habitat areas of particular concern (HAPC); research and monitoring; and, measures to minimize adverse impacts of fishing on EFH. This compliance guide focuses on regulations implemented to minimize, to the extent practicable, the adverse effects of fishing on EFH. The other three components of Amendment 19 do not regulate fishing activity, so they are not discussed further in this compliance guide. See NMFS EFH website² for more information.

NMFS and the Pacific Council considered fishing gear restrictions and area closures as the primary tools for minimizing adverse effects to EFH. These measures directly control where impacts may occur and the type of impact, based on gear type, that would be allowed.

Effective June 12, 2006, NMFS will close 51 discrete areas to specified gear types. These ecologically important habitat closed areas are intended to minimize, to the extent practicable, the adverse effects of fishing on groundfish EFH. There are two types of closures: Areas where bottom trawling is prohibited; and, Areas where bottom-contacting gears are prohibited. These areas do not vary seasonally and they are not usually modified through inseason or biennial management actions. Maps of these areas are in Attachment A and described by specific latitude and longitude coordinates in the Federal Register (71 FR 27408, May 11, 2006).

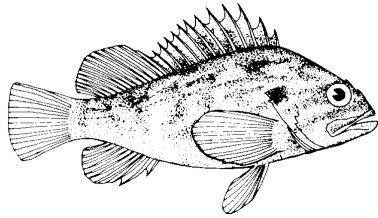
EFH protection measures will implement 51 area closures for specific gear types, effective June 12, 2006.



¹ EFH is defined by the Magnuson-Stevens Act to mean those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity (16 U.S.C. 1802 (10)).

² <http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/Groundfish-EFH/Index.cfm>

EFH measures will protect a huge amount of essential fish habitat.



NMFS and the Pacific Council worked closely with the fishing industry and environmental groups to determine appropriate gear restrictions and area closures to minimize adverse effects on EFH with minimal negative socioeconomic effects. The selection of the specific closed areas took place over a four year period with many opportunities for public input through Pacific Council meetings, local outreach meetings, and comments on the Draft Environmental Impact Statement (EIS)³. The closed areas included in this action protect an unprecedented amount of groundfish habitat off

the West Coast, an area of approximately 130,000 square miles.

CHANGES TO REGULATIONS

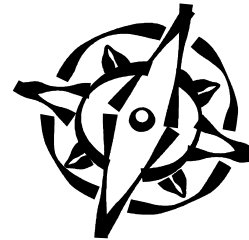
Almost all of the changes to regulations as a result of this action are at 50 CFR Part 660 – Fisheries off West Coast States in the Code of Federal Regulations (CFR). The most important new regulations for fishermen are the changes to gear definitions, prohibitions, and how each of those apply to EFH conservation areas.

EFH conservation areas are described by sets of latitude and longitude coordinates delineating the boundaries of each area, and these coordinates were published in the Federal Register (71 FR 27408, May 11, 2006). Coordinates are also available from the NMFS NWR “Groundfish Closed Areas” web site⁴ in several useful formats. Maps for each state, showing the location of the area and the type of gear restriction within, can be found in Attachment A to this compliance guide.

Bottom trawl gear and bottom contacting gear are the two types of gears restricted within certain EFH conservation areas. These gear types, as well as others, are defined in the regulations and were published in the Federal Register (71 FR 27408, May 11, 2006). The definitions for bottom trawl gear and bottom contacting gear are reproduced in Attachment C for your convenience.

The prohibitions going into effect from this action are restrictions on certain gear types within certain areas that have been designated as EFH. An informational summary of these EFH prohibitions is given in Attachment C. Prohibitions are listed in their entirety in the Federal Register (71 FR 27408, May 11, 2006).

Maps of EFH conservation areas can be found in Attachment A.



³ The Final EIS is on the NMFS NWR web site at: <http://www.nwr.noaa.gov/>

⁴ <http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/Groundfish-Closed-Areas/Index.cfm>

QUESTIONS AND ANSWERS

How will I know where the exact boundaries of EFH conservation areas are?

The boundaries of EFH conservation areas are delineated by sets of latitude and longitude coordinates. These coordinates were published in the Federal Register (71 FR 27408, May 11, 2006), and the GIS data is available for download on the NMFS NWR website at <http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/Groundfish-Conservation-Areas/Index.cfm>

Will areas designated as groundfish EFH change in the future?

NMFS and the Council are required to review EFH as new information becomes available or at least every 5 years. Any changes to EFH will be announced in the Federal Register and will be subject to public comment.

Where can I get more information?

Questions regarding West Coast Groundfish EFH can be addressed to:

Steve Copps, 7600 Sand Point Way N.E., Seattle, WA 98115. Phone: (206) 526-6187, Fax: (206) 526-6736, E-mail: steve.copps@noaa.gov.

ATTACHMENT A – MAPS

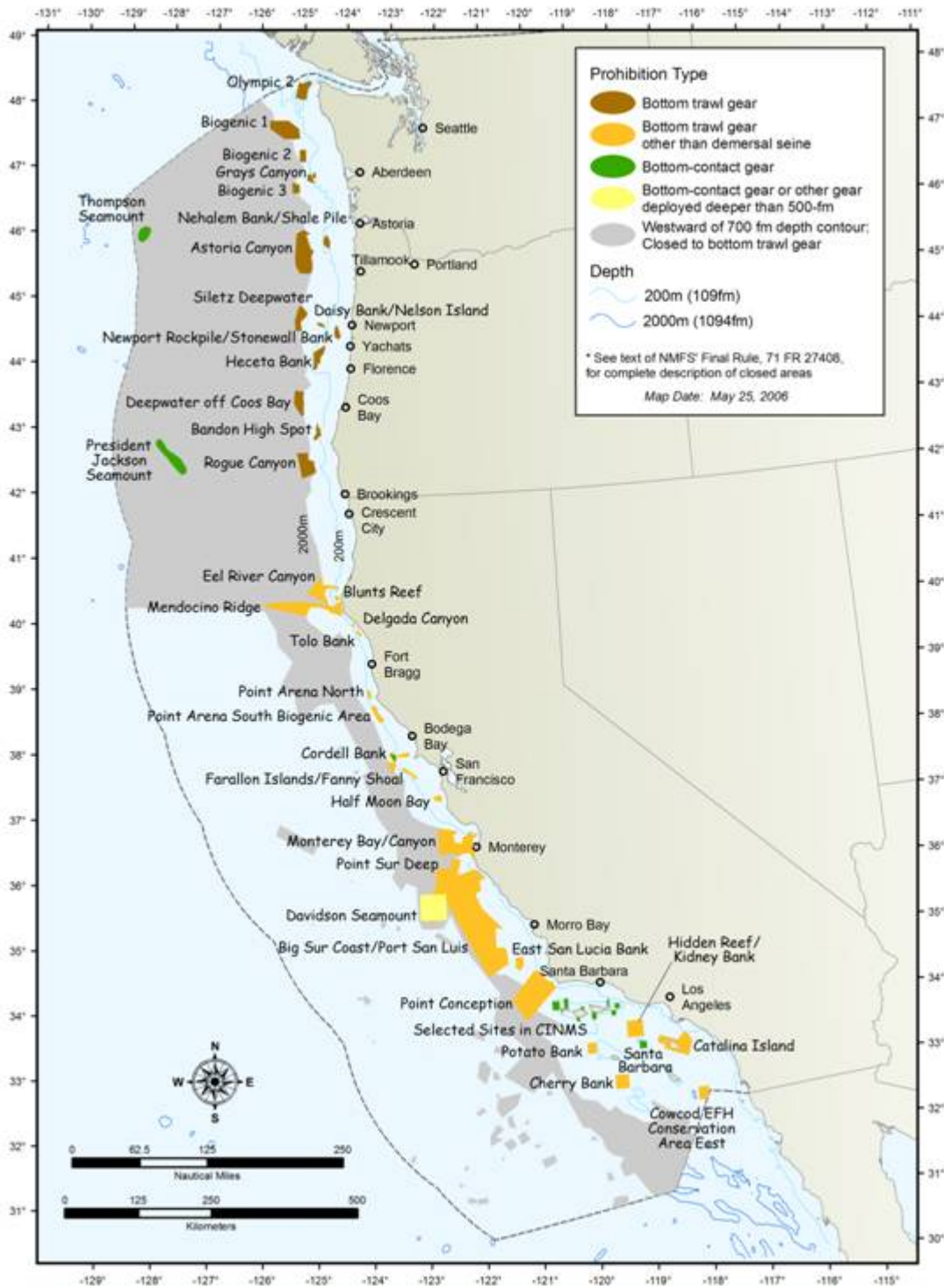


Figure 1 - Coastwide EFH area closures to protect Pacific Coast groundfish habitat.

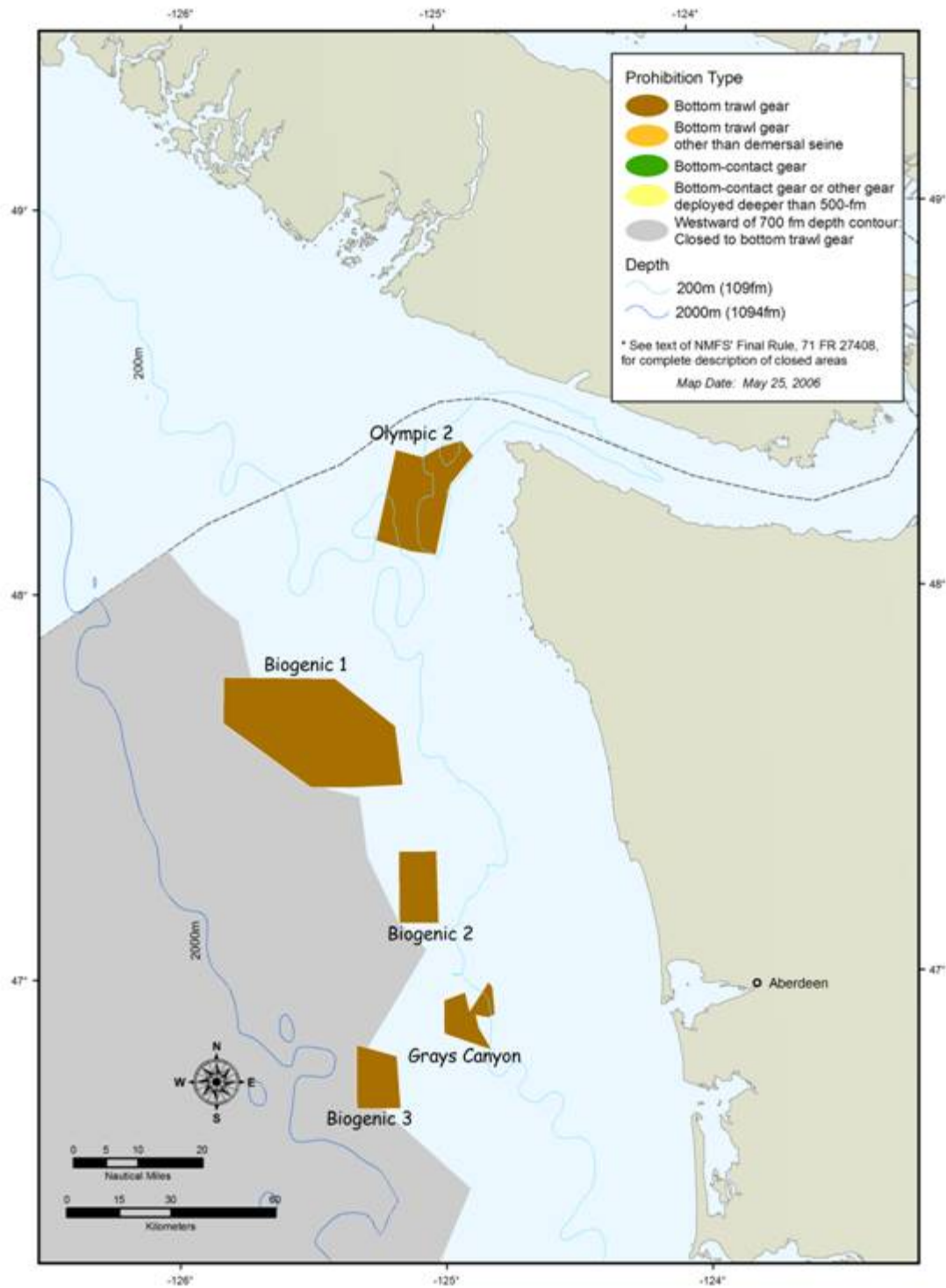


Figure 2 - EFH area closures to protect Pacific Coast groundfish habitat - Washington.

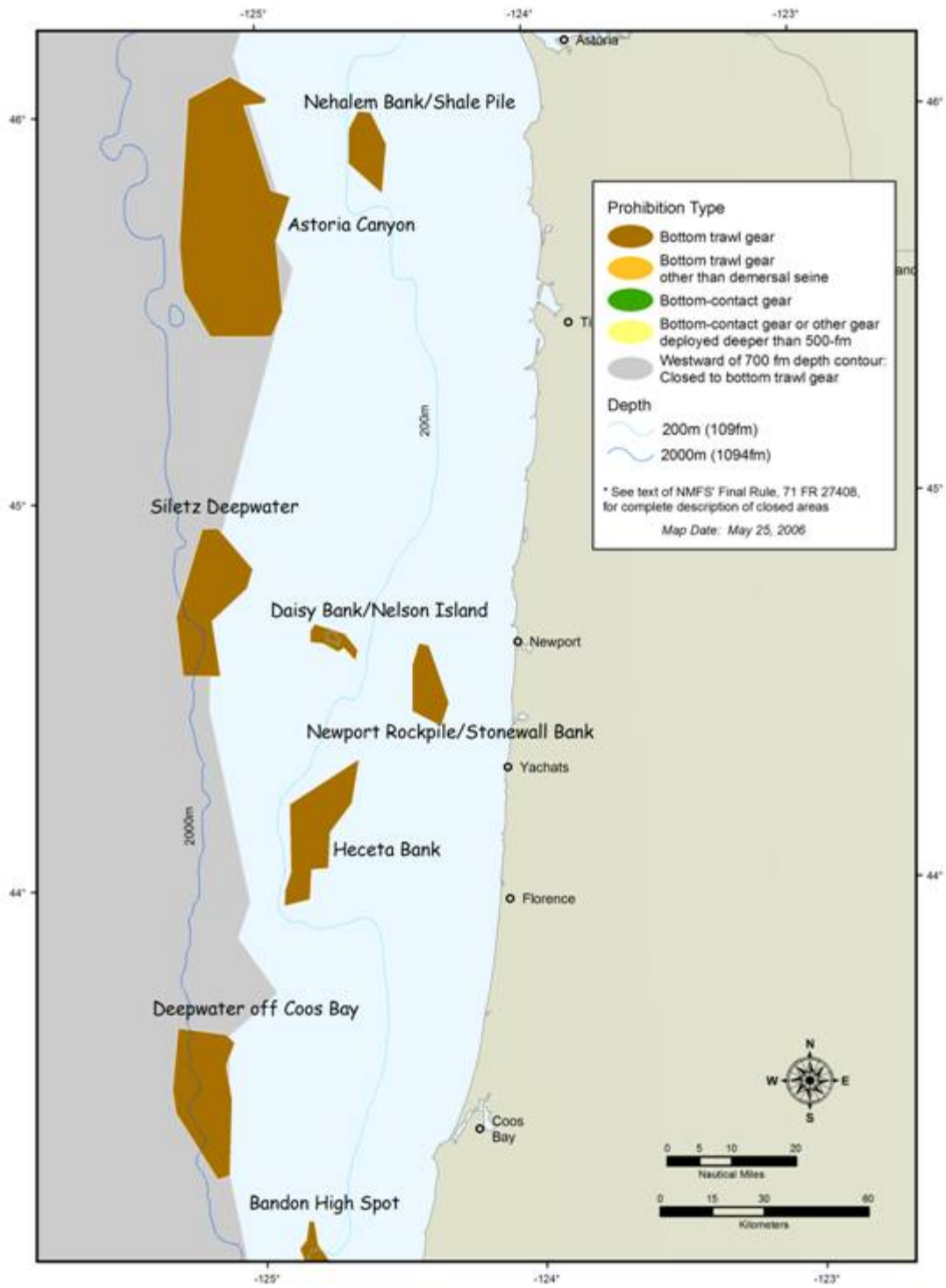


Figure 3 - EFH area closures to protect Pacific Coast groundfish habitat - Oregon.

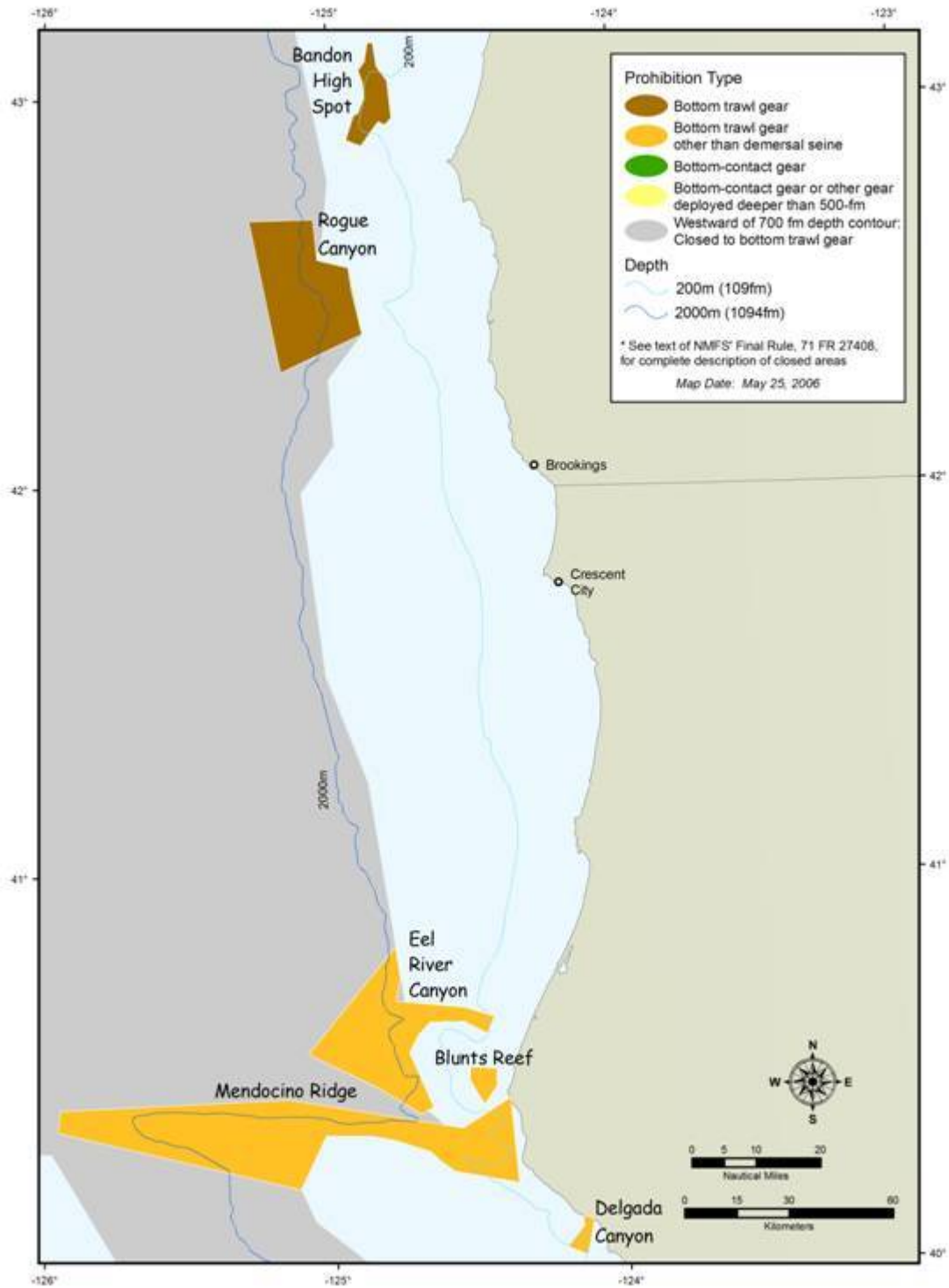


Figure 4 - EFH area closures to protect Pacific Coast groundfish habitat – Oregon and Northern California.

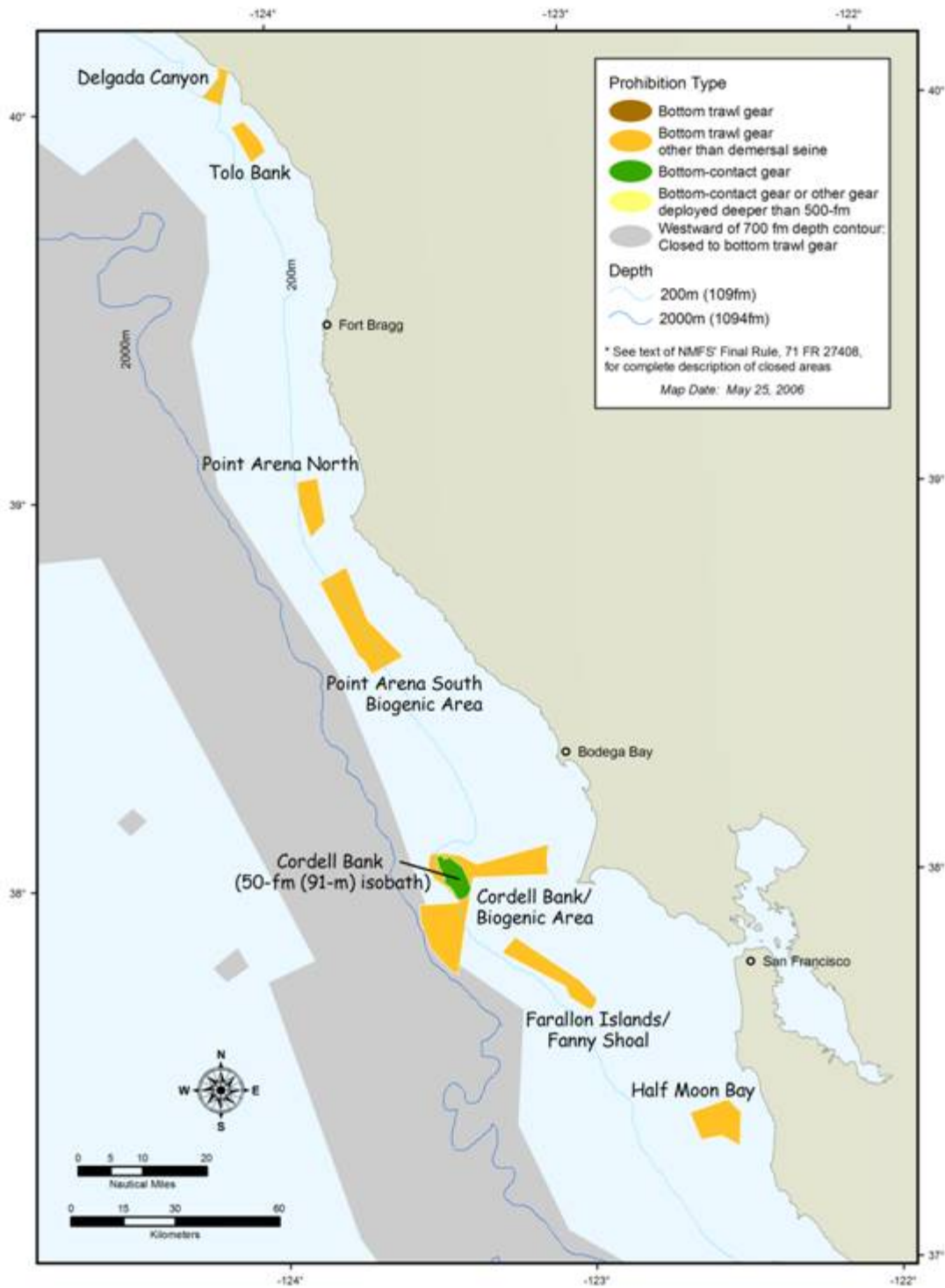


Figure 5 - EFH area closures to protect Pacific Coast groundfish habitat – Northern California.

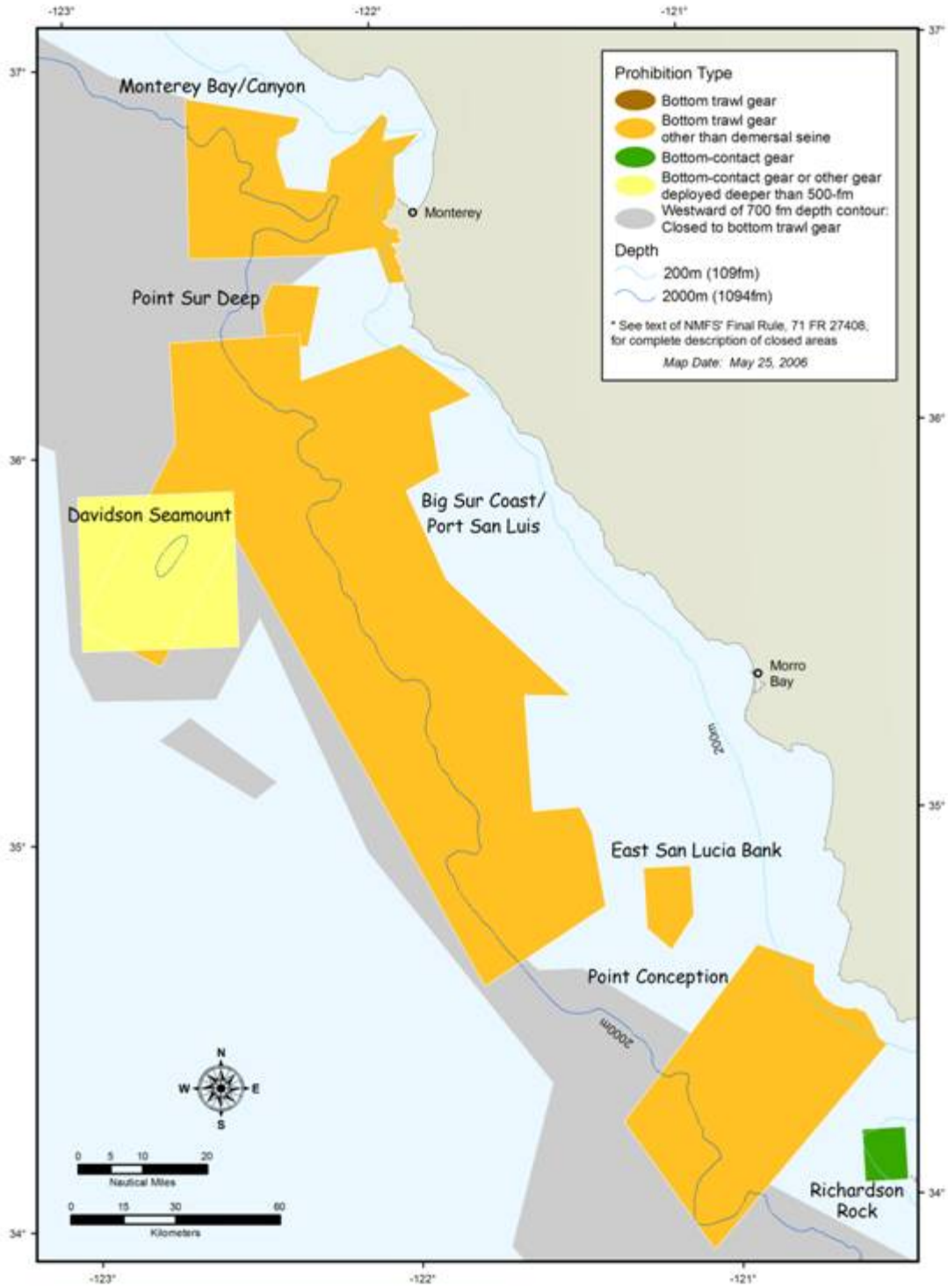


Figure 6 - EFH area closures to protect Pacific Coast groundfish habitat – Central California.

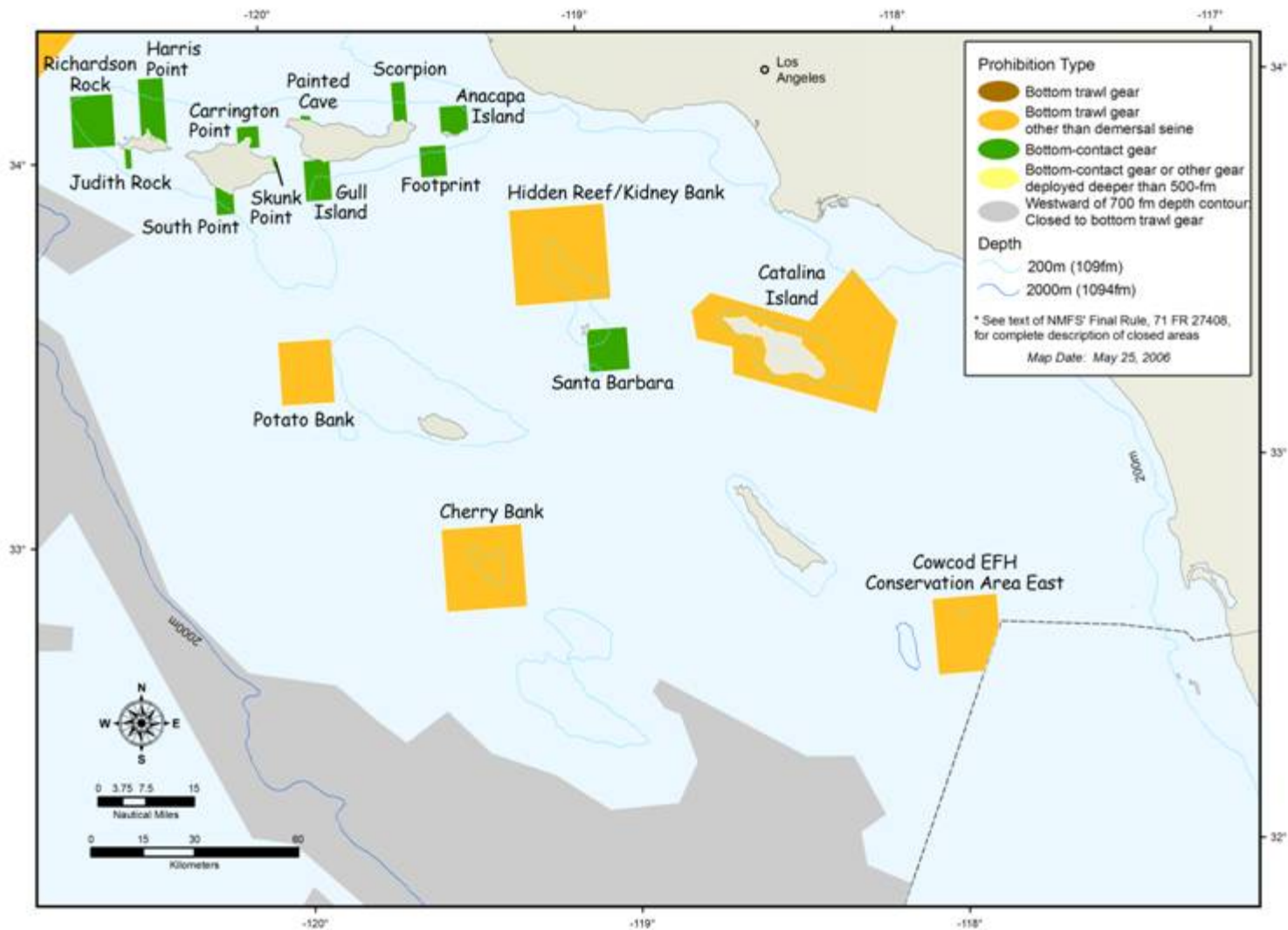


Figure 7 - EFH area closures to protect Pacific Coast groundfish habitat – Southern California (see Attachment B for more information).

ATTACHMENT B - CHANNEL ISLANDS

The areas listed below are within the Channel Islands, off the coast of California, and for clarification we have listed them with alternate names used in other state or federal regulations.

Harris Point (San Miguel Island)

Richardson Rock (San Miguel Island)

Scorpion (Santa Cruz Island)

Painted Cave (Santa Cruz Island)

Carrington Point (Santa Rosa Island)

Judith Rock (San Miguel Island)

Skunk Point (Santa Rosa Island)

Footprint (Anacapa Passage)

Gull Island (Santa Cruz Island)

South Point (Santa Rosa Island)

ATTACHMENT C – DEFINITIONS AND PROHIBITIONS

50 CFR § 660.306 – Prohibitions⁵ (in summary)

it is unlawful for any person to:

- ⊕ Fish with bottom trawl gear anywhere within EFH within the EEZ seaward of the 700-fm depth contour.
- ⊕ Fish with bottom trawl gear with a footrope greater than 19 inches anywhere within EFH within the EEZ.
- ⊕ Fish with bottom trawl gear with a footrope greater than 8 inches anywhere within the EEZ, shoreward of 100-fm.
- ⊕ Fish with bottom trawl gear within the EEZ in the following areas: Olympic 2, Biogenic 1, Biogenic 2, Grays Canyon, Biogenic 3, Astoria Canyon, Nehalem Bank/Shale Pile, Siletz Deepwater, Daisy Bank/ Nelson Island, Newport Rockpile/Stonewall Bank, Heceta Bank, Deepwater off Coos Bay, Bandon High Spot, and Rogue Canyon.
- ⊕ Fish with bottom trawl gear, other than demersal seine, within the EEZ in the following areas: Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Point Arena North, Point Arena South Biogenic Area, Cordell Bank/Biogenic Area, Farallon Islands/Fanny Shoal, Half Moon Bay, Monterey Bay/Canyon, Point Sur Deep, Big Sur Coast/Port San Luis, East San Lucia Bank, Point Conception, Hidden Reef/Kidney Bank (within Cowcod Conservation Area West), Catalina Island, Potato Bank (within Cowcod Conservation Area West), Cherry Bank (within Cowcod Conservation Area West), and Cowcod EFH Conservation Area East.
- ⊕ Fish with bottom contact gear within the EEZ in the following areas: Thompson Seamount, President Jackson Seamount, Cordell Bank (50–fm isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara.
- ⊕ Fish with bottom contact gear, or any other gear that is deployed deeper than 500–fm, within the Davidson Seamount area.

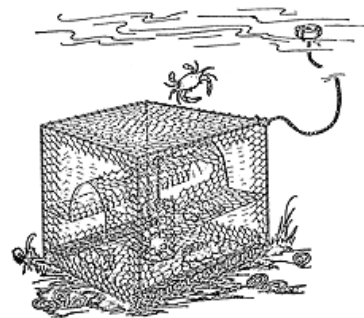
50 CFR § 660.302 – Definitions (in part)

* * *

“Bottom trawl gear: A trawl in which the otter boards or the footrope of the net are in contact with the seabed. It includes demersal seine gear, and pair trawls fished on the bottom. Any trawl not meeting the requirements for a midwater trawl in § 660.381 is a bottom trawl.”

* * *

“Bottom contact gear: 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.”



⁵ Measures implemented to minimize adverse impacts to groundfish EFH do not apply to tribal fisheries in their usual and accustomed fishing areas (as described in 50 CFR § 660.324).