

NATIONAL MARINE FISHERIES SERVICE REPORT ON PROPOSAL TO EXTEND THE GEAR EXEMPTED FISHING PERMIT AND A 2019 IMPLEMENTATION DATE FOR THE GEAR RULE

National Marine Fisheries Service (NMFS) believes that several benefits would result from continued data collection under the trawl gear exempted fishing permit (EFP) through 2018, and delayed implementation of the trawl gear rulemaking. NMFS would only consider approval of the EFP through 2018 after consideration by the Pacific Fishery Management Council (Council). The purpose of this memo is to specify NMFS' current thinking regarding the progress of the Council's recommendation regarding the trawl gear rule.

NMFS has reinitiated its Endangered Species Act (ESA) consultations addressing the effects of the groundfish fishery on salmon and eulachon. The proposed actions described in the existing biological opinions for the groundfish trawl fishery did not include any of the measures in the gear rule package. In addition, the Council at the April 2017 meeting did not include certain elements of the gear rule as a part of their proposed action for the reinitiated consultation on salmon. NMFS cannot approve the gear rule based on the existing biological opinions. Because the Council's proposed action for the ongoing consultation on salmon does not include all components of the gear rule, it is not clear at this time if NMFS could approve the gear rule as it currently is and without additional consultation. It is also unclear if the ongoing consultation for impacts to eulachon will fully address the gear rule. For both species, analyses using data from historical fisheries in which components of the gear rule were in effect suggest potentially significant impacts on both species.

However, preliminary data generated through the trawl gear EFP shows that the impacts to salmon and eulachon from removing the requirements for use of a selective flatfish trawl and minimum mesh size given participation in the EFP and other characteristics of the current fishery are very low and well below impacts observed in the historical data. NMFS believes that additional information gleaned from fishing under the EFP in 2018 will provide data that is more indicative of impacts to salmon given current fishing behavior and methods that would better inform any needed ESA consultation.

With this in mind, NMFS presents the following 2017-2018 schedule for consideration:

- 1) The ESA consultations that are currently in development for eulachon and salmon are anticipated to be completed in 2017, with the salmon biological opinion expected to be completed late in 2017.
- 2) In September 2017, the Council is scheduled to consider preliminary management measures for the 2019-2020 biennium. The Council indicated an intent to include management measures in the 2019-20 biennium to address and further reduce salmon bycatch.
- 3) The existing trawl gear EFP, which expires in December 2017, could be considered for renewal at that time after consultation with the Council. A new or renewed EFP must be

consistent with the salmon biological opinion and incidental take statement completed in 2017.

- 4) Fishing under the exempted fishing permit through spring 2018 has a strong potential to inform trawl gear rulemaking.
- 5) Because the proposed action for the consultation that will be completed in 2017 will not specifically include all of the components of the gear rule, NMFS may have to re-initiate consultation using the up-to-date information from the EFP on impacts to ESA-listed species. A timeline for the consultation and trawl gear rule would be developed at the time a decision is made on whether reinitiation is necessary.