



April 7, 2009

Mr. Donald Hansen and Members of the Pacific Fishery Management Council  
Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, OR 97220-1384

**Re: Public Comments on Agenda Item F.5. FMP Amendment 20-Trawl Rationalization-Analysis Parameters for Adaptive Management Program**

Dear Mr. Hansen and Pacific Fishery Management Council Members:

Ocean Conservancy and Natural Resources Defense Council, on behalf of our more than 1.4 million members and activists, respectfully submit the following comments on Agenda Item F.5. FMP Amendment 20-Trawl Rationalization-Analysis Parameters for Adaptive Management Program.

At its November 2008 meeting, the Council adopted a final preferred alternative for the trawl ITQ program which included an Adaptive Management Program (AMP). Under this program, every two years, as part of the Council's biennial management specifications process, the Council may elect to set aside up to 10 percent of the available quota pounds (QP) for use in this program. As envisioned, the AMP program could be used for several purposes related to socio-economic balance and conservation including increasing landings in certain communities, increasing deliveries to certain processors, helping crew and others enter the fishery, encouraging specific harvesting behaviors, such as bycatch avoidance, and to mitigate unforeseen outcomes of program implementation. The Council elected to determine the details of this program as part of a trailing action, scheduled to be completed in June 2009.

The decision is now before the Council to determine the goals and objectives of the program, as well as to identify the AMP options for analysis. With this decision, the Council has the opportunity to set into motion the development of a program with the potential to greatly enhance achievement of ITQ program objectives, including promoting practices that reduce bycatch and discard mortality and minimize ecological impacts, and minimizing the adverse effects of the program on fishery communities.

For the past four months, Ocean Conservancy and Natural Resources Defense Council have participated in a multi-stakeholder effort, lead by Environmental Defense Fund (EDF), to develop ideas for how the program might be structured, including identification of priority uses, goals, objectives for the program. The results of these meetings have been submitted under separate cover for review under this agenda item. We would like to take this opportunity to identify those issues of greatest importance to us for your consideration.

### **1. Include “improve conservation performance” as a goal of the Adaptive Management Program**

Many different interest groups have targeted the AMP as the means by which their concerns about the ITQ program overall can be met. In order to have a meaningful impact on priority issues, it is important that the AMP quota not be spread too thinly between great numbers of priorities. Rather, it should be focused on two or three priority areas for which there is significant opportunity to offer a meaningful benefit for the fishery overall.

Ocean Conservancy and Natural Resources Defense Council believe conservation should be a primary purpose of this program. As bycatch management, especially of overfished species, and minimizing ecological impacts are two of the primary drivers for developing an ITQ program for this fishery, it is fitting that the AMP be used to enhance the achievement of this goal. In addition, nothing in the trawl design creates an incentive to reduce habitat impacts. Moreover, the ITQ program as designed does not include incentives to reduce bycatch of non-quota species. The AMP could be used to strengthen the conservation performance of this fishery by, for example, providing additional incentives to reduce bycatch, limit habitat impacts, and to encourage innovation and the development and use of “best practices” in the fishery.

With “improved conservation performance” identified as a goal of the program, there are several objectives that the AMP could be used to meet. These include:

- Reducing bycatch of overfished and non-target or unmarketable species;
- Minimize habitat impact;
- Encourage innovation; and
- Encourage compliance

### **2. Support designating 30-50 percent of the AMP quota to meeting the “Conservation” goal.**

To realize the potential conservation benefits of the AMP described above, it is imperative that a meaningful portion of the available AMP quota pounds be used for conservation purposes. We urge the Council to consider a set-aside of up to 30-50 percent of the AMP quota to ensure adequate poundage is available to meet the AMP’s conservation objectives.

We are, of course, aware that different “priority uses” have been identified by other stakeholders, and agree that other goals such as community stability have merit. However, it is imperative that conservation goals be identified as a priority and have a set percentage of the AMP quota allocated to them, and that use of AMP to, for example, mitigate community disruption, not preclude an AMP focus on improving the conservation performance of this fishery.

### **3. Support analysis of both a formulaic and proposal-driven approach**

We believe the goals of the AMP could effectively be met either using a proposal-driven or formulaic approach, and support including both approaches in further analyses.

### ***Proposal-driven approach***

A proposal-driven approach would operate similarly to the current EFP process where an applicant would submit an application for AMP quota which would be qualitatively assessed through a review process. Proposals would be weighed against one another and those with the most merit would receive AMP quota allocation. Should the Council elect to move forward with a proposal-driven approach, there are several objectives we would hope to see successful proposals address, including:

- Reduce bycatch of overfished species;
- Reduce catch of any non-target or unmarketable species;
- Reduce impacts to bottom habitat (e.g., including use of lower impact gear or reducing tow times)

### ***Formulaic approach***

We believe that many opportunities exist to encourage conservation through a formulaic approach. We have identified two possible paths to implementing a formulaic approach for the conservation goal of the program.

#### **a. Reward-focused**

A reward-focused approach would provide incentive for meeting conservation objectives by rewarding certain demonstrated behaviors and results. It would have the additional benefit of being fairly automated, and would not necessarily require any sort of application outside of a request for consideration to receive the quota. For example:

- The top individuals who have achieved the greatest reduction in bycatch rate from the previous year (or management cycle) are awarded with a portion of the conservation-designated quota. (The number of rewarded individuals would be determined based upon analysis of how many pieces that quota could be broken into and still be meaningful.)
- The top individuals who have achieved the greatest reduction in relative bottom impacts (measured in terms of catch/total aggregated tow time) are rewarded with additional quota.
- The top individuals with the greatest quantity of overfished species quota left over are rewarded with additional quota of target species.

#### **b. Application-focused**

An application-focused approach would allow a pre-determined pool of applicants to apply for some portion of the AMP quota based upon commitments made to improving conservation performance as well as encouraging the development of strategies, gear technologies, etc. that might have broader application in the fishery. For example:

- Give quota to individuals who commit to using a gear proven to reduce bycatch (which would have to be defined by NMFS).

- Provide opportunities for adding to the list of NMFS-approved bycatch reduction technologies by giving quota to individuals who apply with a commitment to testing new gears and strategies that will result in bycatch reduction.

In order to ensure that the quota is not distributed too broadly among applicants, it may be necessary to narrow down the universe of potential applicants up front. One option for doing so may be to identify the segments of the fishery with the greatest overall bycatch, or the least amount of catch per hours towed (i.e., the greatest habitat impacts).

A post-term report would be required at the end of the quota period that would demonstrate the success of the efforts made, or lack thereof (which in and of itself might provide useful information on bycatch reduction or tow time reduction strategies that were proven to be unsuccessful).

The “formulaic” aspect of this approach might come in two phases. First, a proposal might be evaluated based on whether or not it meets one or more of the stated goals of the AMP program itself. A second formula could be applied that would determine what portion of the AMP quota each eligible applicant would receive. In terms of conservation projects, you might consider identifying key priorities (e.g., a particular segment of the fishery with the greatest need for improvement) and thus narrowing the pool of applicants up front. Alternatively, we might develop a list of conservation elements their application addresses (e.g., reduce bycatch of overfished species, testing of new gear, reduce bottom impacts) and award quota on a scaled basis with more quota going to applications that address more issues or issues noted as of greatest concern.

#### **4. Implement Adaptive Management Program in Year One of the ITQ**

We strongly urge you to not delay the implementation of this aspect of the program. By postponing implementation of the AMP, distribution of all quota share would become the status quo, and later repossession of 10 percent of this quota for the AMP would likely be met with significant opposition, decreasing the ease (and likelihood) of successful implementation of the AMP provision down the road.

We appreciate the Council's concern with developing and implementing a potentially complicated program at the same time as the greater ITQ program, and support consideration of a more simplified program in years one and two, so long as it addresses each of the identified priorities of the AMP, including conservation.

Good ideas are a great start, but ultimately you get what you design and plan for. The AMP is an important design feature of the ITQ program for ensuring that many of the hoped-for environmental benefits actually occur.

Thank you for the opportunity to comment on this issue. We look forward to continuing to work with Council staff and stakeholders to develop a workable framework for this program that will create maximum benefits with minimal administrative burden.

Sincerely,

Jen Kassakian  
Pacific Fishery Sustainability Manager  
Ocean Conservancy

A handwritten signature in black ink, appearing to read 'Laura Pagano', with a long, sweeping horizontal stroke extending to the right.

Laura Pagano  
Attorney  
Natural Resources Defense Council