

GROUND FISH GEAR CHANGES – Issues for Consideration

Trawl Gear Configuration & Gear Use

At this meeting, the Council is scheduled to select a final preferred alternative for gear changes in the groundfish trawl rationalization program, including trawl gear configuration and gear use. A preliminary draft environmental impact statement (EIS) has been provided to inform the Council's decision (Agenda Item H.8, Attachment 1, March 2016). This report provides NMFS input to help inform the Council's decision, including:

- Why an EIS?
- Potential changes to the EIS purpose and need statement.
- Data and analysis still in development for the preliminary draft EIS.
- NMFS input on FPA timing and select alternatives.
- Estimated schedule.
- FMP Amendment considerations.

Why an EIS?

NMFS conducted an internal scoping meeting that included Council staff and subsequent to that meeting determined that an EIS, rather than an environmental assessment (EA), is the appropriate level of National Environmental Policy Act (NEPA) review for this action. In reviewing the significance criteria in both 40 CFR Part 1508.27 and NOAA Administrative Order 216-6, the proposed action to change gear regulations for the trawl rationalization program may have a significant impact on the environment.

The proposed action includes several components, called "issues" in the preliminary draft EIS, such as requirements for mesh size, codend, and multiple gears onboard the vessel. Some alternatives under these issues may have significant impacts on the environment. The proposed action to change mesh size, change codend restrictions, and eliminate selective flatfish trawl gear may negatively impact some species listed under the Endangered Species Act (ESA), including salmon and eulachon. In addition, there may be an impact on stock productivity for many species if changing the trawl mesh size or removing codend restrictions causes smaller fish to be harvested. There may be increased uncertainty in total mortality estimates for all species from allowing multiple gears to be fished during a trip. As the EIS is drafted, additional potentially significant impacts may be identified.

NMFS will publish a Notice of Intent to prepare an EIS in the *Federal Register*. The Notice of Intent informs the public of the upcoming analysis, describes how they can become involved, and determines the environmental issues relevant to the EIS.

Potential Changes to the Purpose & Need Statement

At the Council's September 2015 meeting, the Council adopted a draft purpose and need statement for this action. During drafting of the preliminary draft EIS over December and January, NMFS and Council staff have discussed revisions to further refine and clarify the purpose and need statement. **NMFS requests the Council's permission to work with Council staff on further revisions to the purpose and need statement, as needed**, before the draft EIS publishes for public review as part of the National Environmental Policy Act process, expected summer 2016.

Data and Analysis in Development for Draft EIS

NMFS is still developing the draft EIS and intends to further refine the analysis and data used. For example, total mortality tables in the biological environment (draft EIS Chapter 3, Affected Environment) may be further subdivided by target bottom trawl fishing strategy, as appropriate. In Chapter 3, the descriptions of non-target species and protected species may be further refined. Overfished and protected species impacts in Chapter 4, Impacts on the Affected Environment, may also be further refined. NMFS needs to further describe the types of excluders used in selective flatfish trawl for 2-seam and 4-seam nets. Chapters 5 (FMP and Applicable Laws) and 6 (References) need to be drafted.

NMFS Input on FPA Timing and Select Alternatives

In preparing the preliminary draft EIS, NMFS staff had discussions with experts from the Council, Northwest Fisheries Science Center, West Coast Region – Sustainable Fisheries and Protected Resources, Office of Law Enforcement, and Oregon Department of Fish and Wildlife. These discussions raised a number of issues with the alternatives, particularly the interaction of this action with the electronic monitoring action and the Essential Fish Habitat (EFH)/Rockfish Conservation Area (RCA) action. **NMFS recommends the Council delay selection of a Final Preferred Alternative on these gear changes until the Council, its advisory bodies (SSC, GMT, GAP, GEMPAC, GEMTAC, others?), and NMFS have more carefully considered the trade-offs between the gear action, the electronic monitoring action, and the EFH/RCA action.**

At the same time this gear issue is moving forward, the Council is also considering changes to monitoring in the trawl catch share program through the electronic monitoring action and changes to habitat and overfished species protections through the EFH/RCA action. With so many variables changing at roughly the same time, NMFS suggests careful consideration of monitoring (with human observers or electronic monitoring) of target, non-target, and protected species given current NMFS technical guidance; of the ability and need to track mortality of certain species inseason; and of the ability and need of management to respond to any significant concern in a timely manner. This is particularly important for alternatives where there has not been exempted fishing permits or other research on the impacts of these changes. Some specific issues with each alternative are listed below.

The preliminary draft EIS for gear changes incorporates the potential impact of electronic monitoring combined with the proposed action for gear changes in the cumulative effects section (Section 4.9). The

analysis of impacts for independent issues (minimum mesh size, codends, etc.) assumes current monitoring by observers and catch monitors and does not include the level or types of monitoring under the electronic monitoring exempted fishing permits. EFH/RCA changes combined with the proposed action for gear changes are also considered in Section 4.9.

In the preliminary draft EIS, the analysis notes that there is uncertainty in the impacts associated with several alternatives (labeled “uncertain” in the impact summary tables in Chapter 4 of the preliminary draft EIS). NMFS recommends that the Council consider the risks associated with the uncertainty in those alternatives, including whether and how to mitigate the uncertainty.

Initial thoughts for further consideration on select alternatives follows:

- **Mesh Size Alternative A2**

Another approach for bottom trawl would be to require a 3" minimum mesh size, the same as for midwater trawl. This would provide more flexibility than the 4" minimum and would simplify regulations by providing a single minimum mesh size for all groundfish trawl gears. However, this change would increase take of smaller fish, including protected eulachon.

- **Mesh Size Alternative A3**

Because of the uncertainty, particularly in biological impacts to non-target and protected species, NMFS recommends careful consideration of the risks associated with this alternative. For example, how to monitor (with human observers or electronic monitoring) target, non-target, and protected species given current NMFS technical guidance? What is the ability and need to track mortality of certain species inseason? What is the ability and need of management to respond to any significant concern in a timely manner?

- **SFFT Alternative D3**

For protected species, the biological impacts on high risk protected species could be reduced if there was accountability at the sector or individual vessel level. For example, a sector cap or individual bycatch quota could be used. This may also be true under the alternatives for mesh size, codends, and chafing gear.

- **Chafing Gear Alternative E3**

This alternative may increase access to rocky high relief habitat, favored by many overfished rockfish species. In addition, the EFH/RCA changes being considered by the Council may further open some previously closed areas. The cumulative effects of both of these actions must be considered.

- **Multiple Gears Alternative F3**

For target, non-target, and protected species, the biological impacts may be increased if retained catch is not sorted by gear and catch (retained and discarded) is not recorded by gear. Currently,

catch recorded on each fish ticket can be attributed to one area or gear. Mixing of catch from multiple gears before it reaches the dock could reduce the quality of fish ticket data and ultimately stock assessment data. Neither the current monitoring system nor electronic monitoring are equipped to enforce sorting requirements by gear. Eulachon are too small in length to effectively track discards with electronic monitoring. Allowing multiple gears to be used on the same trip may impact monitoring costs by complicating the program (e.g., an audit model with less than 100 percent review would need to sample each gear type used on the trip, increasing the total number of hauls to be reviewed and reducing the cost savings of the audit model). For tracking of landings, one suggestion is to require multiple electronic fish tickets be used for trips where multiple gears were used. NMFS has concerns with sorting sub-option B because it would reduce the accuracy of data used for stock assessments, protected species, and habitat.

- **Multiple Areas Alternative G2**

Many of the points identified under Multiple Gears Alternative F3 also apply to this alternative. NMFS suggests that this alternative should require catch to be sorted by IFQ management area for catch accounting and data purposes. Holds may need to be monitored by observers (or under electronic monitoring, by cameras) to ensure catch was kept separate by IFQ management area.

- **Stowing Alternative H2**

NMFS clarified that catch from separate hauls should not be mixed until after the observer samples the haul. Otherwise, it would reduce the accuracy of fishery data used for stock assessments and protected species management. With electronic monitoring, hauls should be kept separate on deck until all sorting from the first haul is complete. Electronic monitoring tracks total counts of discards from a haul. This alternative could also extend the time of video review, potentially increasing costs, because there would be more activity on the deck that the video reviewer would have to watch to make sure catch is not mixed or getting discarded.

Estimated Schedule

September 2015 – Adopt a purpose and need statement and range of alternatives

November 2015 – Analysis update

March/June 2016 - Select a final preferred alternative (FPA)

Summer 2016 – Proposed rule and draft EIS for public review

November/December 2016 – Final EIS, Record of Decision, and final rule publishes

January/Spring 2017 - Target implementation (June 2016 FPA may delay to spring 2017)

FMP Amendment Considerations

Several sections in the Pacific Coast Groundfish Fishery Management Plan (FMP) refer to trawl gear. Depending on the Council's FPA, some sections of the FMP may need to be updated. Excerpts of some of

the affected sections are listed below. NMFS and Council staff, in coordination with NOAA GC, will continue their evaluation of the FMP to determine what changes may be required.

In Section 6.6.1.2 there is a descriptive history that could be updated through an FMP Amendment with this action or a later action. In that history it states:

Section 6.6.1.2 Trawl Gear

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The following discussion of the Council's efforts to modify trawl gear provides examples of the types of trawl gear modifications that may be made to meet FMP goals, but does not limit the range of future trawl gear restrictions.

In the early-mid 1990s, the Council engaged the trawl industry in a series of discussions on modifying trawl nets to minimize juvenile fish bycatch. Since 1995, bottom trawl nets have been required to be constructed with a minimum mesh size of 4.5 inches, and pelagic trawl nets with a minimum mesh size of three inches. Minimum net mesh sizes are intended to allow immature fish to pass through trawl nets. To ensure the success of minimum mesh size restrictions in allowing juvenile fish to escape trawl nets, the Council also developed restrictions preventing trawlers from using a double-walled codend. Further restrictions related to this objective include prohibitions on encircling the whole of a bottom trawl net with chafing gear and restrictions on the minimum mesh size of pelagic trawl chafing gear (16 inches).

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In 2005, the Council introduced new trawl gear requirements for small footrope trawl gear north of 40°10' N latitude. Trawlers operating inshore of the Trawl RCA are required to use selective flatfish trawl gear, which is configured to reduce bycatch of rockfish while allowing the nets to retain flatfish. Selective flatfish trawl nets have an ovoid trawl mouth opening that is wider than it is tall and the headropes on these nets are recessed from the trawl mouth. This combination of a flattened oval shape and a recessed headrope herds flatfish into the trawl net while allowing rockfish to slip up and over the headrope, without entering the net. Groundfish trawlers worked with the State of Oregon to develop these nets in order to have greater access to healthy flatfish stocks. The Council is working with the State of California to determine whether the selective flatfish trawl net is also effective at reducing the bycatch of southern overfished species in fisheries targeting more abundant southern stocks.

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Section 6.6.1.1 refers to a prohibition on large footrope gear shoreward of a line approximating 100 fm depth contour, but the Council has stated its intent to maintain that prohibition with these gear changes.