

**GROUNDFISH MANAGEMENT TEAM REPORT ON HUMPBACK WHALE
ENDANGERED SPECIES ACT CONSULTATION**

The Groundfish Management Team (GMT) reviewed the materials in the briefing book and participated in a pre-Pacific Fishery Management Council (Council) webinar briefing by Ms. Keeley Kent of the National Marine Fisheries Service (NMFS) and has the following comments on the development of the Term and Conditions. The GMT did discuss the other Terms and Conditions, not included in this report, but does not have any input on them at this time.

Term and Condition 1 - Gear Marking Feasibility Study

NMFS proposes conducting a feasibility study to evaluate whether additional gear marking in the groundfish pot fishery would increase the ability to visually identify gear involved in future whale entanglements. The GMT notes that reports provided by the California Department of Fish and Wildlife ([Agenda Item F.2.a, Supplemental CDFW Report 1, April 2021](#)), the Oregon Department of Fish and Wildlife ([Agenda Item F.2.a, Supplemental ODFW Report 1, April 2021](#)), and the Washington Department of Fish and Wildlife ([Agenda Item F.2.a, Supplemental WDFW Report 1, April 2021](#)) provide comprehensive resources specific to gear marking regulations already in place for various state-managed trap/pot fisheries. To provide additional context and comparative information, the GMT provides the following regulations which already exist specific to groundfish gear marking for limited entry fixed gear and open access gears in 50 CFR 660.219 and 660.319.

§660.219 Fixed gear identification and marking

- (a) *Gear identification.* (1) Limited entry fixed gear (longline, trap or pot) must be marked at the surface and at each terminal end, with a pole, flag, light, radar reflector, and a buoy.
(2) A buoy used to mark fixed gear must be marked with a number clearly identifying the owner or operator of the vessel. The number may be either:
 - (i) If required by applicable state law, the vessel's number, the commercial fishing license number, or buoy brand number; or
 - (ii) The vessel documentation number issued by the USCG, or, for an undocumented vessel, the vessel registration number issued by the state.

§660.319 Open access fishery gear identification and marking

- (a) *Gear identification.* (1) Open access fixed gear (longline, trap or pot, set net and stationary hook-and-line gear, including commercial vertical hook-and-line gear) must be marked at the surface and at each terminal end, with a pole, flag, light, radar reflector, and a buoy.
(2) Open access commercial vertical hook-and-line gear that is closely tended as defined at §660.311 of this subpart, may be marked only with a single buoy of sufficient size to float the gear.
(3) A buoy used to mark fixed gear under paragraph (a)(1) or (a)(2) of this section must be marked with a number clearly identifying the owner or operator of the vessel. The number may be either:

- (i) If required by applicable state law, the vessel's number, the commercial fishing license number, or buoy brand number; or
- (ii) The vessel documentation number issued by the USCG, or, for an undocumented vessel, the vessel registration number issued by the state.

The GMT was asked to provide input on the information gathering process of this feasibility study. The GMT suggests that utilizing formal Council meetings with dedicated agenda items specific to developing Endangered Species Act (ESA)-related actions has been an efficient process for issues such as short-tailed albatross mitigation measure development (streamer lines) and eulachon incidental take statement development. Utilizing the already-existing Council process, especially joint session(s) between the GMT and the Groundfish Advisory Subpanel (GAP), ensures broad geographic and fishery sector representation. The GAP has previously indicated interest in additional industry input and participation throughout these types of processes. The GMT hopes that NMFS continues to work with state agencies, the tribes, and industry to ensure this process includes all stakeholders.

Term and Condition 2

The Council has the opportunity to potentially revise the Terms of Reference specifically related to the Groundfish Endangered Species Workgroup (GESW). The GESW was established in June 2013 to serve as a multi-party advisory body to the Council with the objective to support ESA Section 7(a)(2) compliance and Biological Opinion for the continued operation of the groundfish fishery. The GMT notes that GESW meetings are held every two years and are publicly noticed; the next meeting is scheduled for April 26-28, 2021 via webinar¹. These meetings review the biology of the five ESA-listed species relevant to the groundfish fishery (humpback whale, eulachon, short-tailed albatross, green sturgeon, and leatherback sea turtle), their current stock assessment information, and expanded observer data relative to take levels. Meetings also examine patterns and trends in fishing effort in Federal fisheries. While mitigation measures can be discussed, this topic typically constitutes only a small portion of the meeting. Any action items that result from the meeting are deferred to dedicated Council agenda items. The results of the April 2021 meeting will be discussed at the June 2021 Council meeting. The GMT suggests that interested members of the GAP and public join the April 2021 GESW webinar and provide comments on the GESW Terms of Reference relative to industry representation, frequency of meetings, and subject content at the June Council meeting.

PFMC
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¹ <https://www.pccouncil.org/events/groundfish-endangered-species-workgroup-to-hold-online-meeting-april-26-28-2021/>