



November 1, 2012

Mr. Dan Wolford, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, OR 97220-1384

RE: Trawl Rationalization Trailing Actions; Final Alternatives for Chafing Gear

Dear Mr. Wolford and Council members:

Oceana is writing in support of the status quo alternative in the draft Environmental Assessment on chafing gear.¹ Current regulations already provide for a fair and reasonable compromise that allows mid-water trawl nets in the groundfish fishery to have chafing gear covering 50% of the terminal 50 meshes of the codend (50 CFR 660.130). All of the action alternatives would result in negative impacts to the marine ecosystem by increasing bycatch and increasing habitat impacts.

The main purpose of chafing gear is to allow “mid-water” trawls to contact the seafloor without sustaining net damage. By definition, however, mid-water trawl gear is to be deployed in the mid-water column, not on the seafloor. It is precisely this distinction between mid-water and bottom trawls that has been the basis for separating these two gear types in the context of management. For example, while the PFMC has implemented a series of Essential Fish Habitat Conservation Areas that are closed to bottom trawling, the mid-water trawl fishery is exempt from these closures under the notion that they do not make bottom contact. It is now recognized the mid-water trawls do in fact drag the seafloor.² As you are aware, NMFS and the PFMC are required to minimize the adverse impacts of fishing gears on essential fish habitat. The action alternatives do the opposite and we would expect both a full analysis of these impacts as well as mitigation measures.

We understand the industry desires to change current regulations so that the West Coast groundfish fishery regulations more closely resemble the liberal chafing gear regulations on mid-water trawls in the Alaska groundfish fishery; where there are no limits to chafing gear placement on the trawl codend. The problems with accommodating the industry’s desires are two-fold. First, the draft Environmental Assessment is clear that all of the action alternatives allowing more chafing gear will have negative impacts to the marine ecosystem through a combination of habitat impacts and bycatch. Second, while the Alaska pollock fishery is allowed

¹ PFMC and NMFS. 2012. Trawl Rationalization Actions: Chafing Gear. Draft Environmental Assessment. Agenda Item I.5a Attachment 3

² Whiting trawl captains self-reported that between zero and 25% of tows contact the bottom, with a median range of three to eight percent of tows on the bottom. Devitt, S. 2011. Pacific hake mid water trawl fishery EEZ West Coast USA/ EEZ Canada: surveillance report 2. Intertek Moody Marine Ltd. Nova Scotia, Canada. 39 pp.

to use more chafing gear, the Alaska fisheries are also subject to many other conservation standards designed to limit bycatch and protect habitats. Similar conservation standards have not been implemented in the West Coast mid-water trawl groundfish fisheries.

All of the action alternatives analyzed in the EA would have negative consequences to the health of the marine ecosystem. The EA finds allowing more chafing would have:

1. Negative impacts to ESA-listed eulachon by increasing the take and mortality of these threatened species (EA at 75)³,
2. Negative impacts to ecosystem prey, by increasing the bycatch of other forage fish like Pacific herring, myctophids, Pacific sardine, Pacific saury, and shortbelly rockfish (EA at 75)⁴, and
3. Increased impacts to seafloor habitats (EA at 72).

In June 2012, the Council established a forward-thinking objective of protecting currently unmanaged forage species and recognized “the importance of forage fish to the marine ecosystem off our coast”. While the Council has yet to take regulatory action on that front, the Council is now considering regulatory actions that would increase fishery impacts to a wide suite of managed and unmanaged forage species. Given that the protection of forage species is an important objective for the Council, it should not authorize the use of gear that will increase the incidental take of forage species. Instead we request you continue to work to implement a prohibition on directed fishing for unmanaged forage fish and implement a maximum retainable bycatch allowance as has been done off Alaska.

Further, the Council is now engaged in a 5-year review of essential fish habitat for groundfish, which, contrary to the initial Amendment 19 regulatory package that assumed bottom contact was negligible, contains new information on the extent of seafloor contact with mid-water whiting trawls. Clearly, any whiting management regulations, including consideration of changes to chafing regulations must demonstrate that the fishery is operating under management measures that minimize the adverse impacts of fishing.

What is more, in February 2011 NMFS issued a biological opinion on the impacts of the U.S. West Coast groundfish fishery on eulachon and other ESA-listed species.⁵ While NMFS found no jeopardy under the current chafing regulations, the biological opinion does not apply to the 2013-2014 fishery and it does not foresee potential new regulations allowing more chafing gear. As the EA states, increasing chafing gear placement on the trawl codend may increase eulachon bycatch. NMFS must evaluate these impacts and ensure that the direct and cumulative impacts on eulachon do not cause jeopardy to the species.

³ “All of the action alternatives have the potential to reduce escapement of eulachon a threatened species through the codend meshes compared to status quo regulations.” PFMC and NMFS. 2012. Draft EA at 80

⁴ “The projected impact to forage fish (ecosystem component species) is negative under all of the action alternatives because of greater chafing gear coverage compared to status quo regulations.” PFMC and NMFS. 2012. Draft EA at 80

⁵ NMFS 2011. Endangered Species Act (ESA) Section 7(a)(2) Biological Opinion. Operation of the Pacific Coast Groundfish Fishery in 2012. Available at PFMC. March 2012. Agenda Item F.3.b Attachment 3

If the industry desires consistent regulations on chafing gear across the West Coast and Alaska, it should not do so by lowering West Coast regulations to the lowest common denominator at the expense of our forage fish and seafloor habitats. In other words if it's too costly to have nets designed for two different regions, just use the nets that meet the West Coast chafing gear regulations in the Alaska fisheries. Conversely, if the Council and NMFS want to loosen chafing gear restrictions here to accommodate the mid-water trawl industry, it should also consider additional conservation measures to reduce and avoid bycatch and protect habitats as the Alaska region has implemented. It is important to remember that not only are the chafing gear regulations different between the two regions, but so too are the conservation measures designed to mitigate the effects of fishing. Managers in the North Pacific region have implemented a number of conservation measures for the Bering Sea/Aleutian Islands and Gulf of Alaska mid-water trawl groundfish fisheries that are not implemented here, including:

1. Large areas closed year-round to all trawling (including mid-water trawls) to protect seafloor habitats and reduce bycatch (e.g. Pribilof Island Habitat Conservation Area and the Nearshore Bristol Bay trawl closure)
2. Hard bycatch caps on prohibited species catch including Chinook salmon, chum salmon and others that if reached, shut down the fishery (e.g. Bering Sea fishery closes if Chinook limit reached) and/ or specific area closures (e.g. chum salmon and herring savings areas).
3. Prohibition on directed harvest for nine orders of forage fish, and a maximum retainable bycatch allowance of forage fish taken in the trawl fisheries.

Last, we are concerned by the analysis provided in the "Executive Summary of the Chafing Gear Environmental Assessment"⁶ which was provided to the PFMC as a separate submission. This document, actually does not provide a summary of the Environmental Assessment, but rather evaluates the environmental impacts of the proposed action in comparison to a baseline described as "present conditions." These present conditions are that industry has not been complying with current chafing gear regulations and NMFS has not been enforcing current chafing gear regulations. As such, this "Executive Summary" takes a different approach than the Environmental Assessment and implies that the environmental impacts of loosening the chafing gear regulations will result in no change to the environment. Not only does this conclusion contradict the analysis in the Environmental Assessment, which rightfully analyzes the status quo regulations as the baseline, but it also creates a confusing and contradictory Administrative Record whereby it is difficult for the public and the decision maker to evaluate the tradeoffs between status quo and various alternatives.

As public participation, clear analysis, and informed decision-making are the heart of the National Environmental Policy Act, the Executive Summary must be rewritten to summarize the Environmental Assessment and it should be made clear that the environmental impacts of the action alternatives compared to status quo regulations are in fact negative as illustrated by the

⁶ PFMC and NMFS 2012. Chafing Gear Environmental Assessment Executive Summary. Agenda Item I.5.a Attachment 2.

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Mid-water trawl chafing gear

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EA. As such, the conclusion in the Executive Summary that loosening restrictions on chafing gear would have 'no change' in terms of environmental impacts must be changed. As written it is akin to a proposed action to raise a highway speed limit from 65 to 85 that relies on an analysis that there would be no change in terms of public safety or fuel usage because many people already drive 85. While the impacts of the current behavior of the fleet and the lack of enforcement should certainly be recognized and analyzed, it is simply impermissible to use an environmental baseline that entrenches illegal activity and a lack of enforcement of current regulations in order to give the appearance of an environmentally neutral regulatory change.

For the above reasons, Oceana requests the Council adopt the status quo alternative to maintain current chafing gear regulations on mid-water trawls in the West Coast groundfish fishery.

Thank you for time and consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Enticknap", is written over a light blue rectangular background.

Ben Enticknap
Pacific Project Manager