



## REPORT FROM THE PACIFIC FISHERY MANAGEMENT COUNCIL MEETING September 14 - 20, 2016 Boise, Idaho

### OPEN COMMENT PERIOD

#### ***B.1. Comments on Non-Agenda Items D.4.***

##### Letter from EDF RE: Trawl Gear Modification Workshop

Fishermen, researchers, and gear designers are continually improving the efficiency and selectivity of trawl gear, as well as finding new ways to reduce bottom impacts. However, the results of that work aren't always shared widely enough.

With this in mind, The Environmental Defense Fund (EDF) and Oregon Trawl Commission (OTC) sponsored a Trawl Gear Modification Workshop that was held in Newport, Oregon July 26<sup>th</sup> to 28<sup>th</sup>. The workshop sought to bring together members of the fishing industry, gear modification experts, and researchers, to discuss modifications from the West Coast, Alaska, and beyond. The goal was to help fishermen learn about modification work and decide if modifications that reduce fuel costs, bycatch, and impacts, might work for their businesses.

The workshop was primarily intended to provide a forum where fishermen and researchers could ask technical questions and "get into the weeds" on various designs and strategies. However, there were a few specific policy considerations that were identified.

1. There was wide recognition that the Council's decision to remove the selective flatfish trawl and small mesh requirements post-rationalization, given the incentives to avoid overfished species, will facilitate development and adoption of more efficient, effective excluders and nets, as well as foster greater catch of target species.
  - a. It is critical that those regulations be implemented in a timely way so that fishermen can begin to experiment with improved gear.
2. There was a discussion of the two-sided nature of the incentives created by restrictive quota levels. On the one hand, they create the incentives that drive many of the innovations in terms of excluders and net design. On the other hand, when the quota limitations for some species (such as yelloweye and cowcod rockfish) become extreme, they work to dissuade any experimentation with modifications to target co-existing species such as lingcod because the consequences are so severe.
3. Finally, it was also voiced that while excluders and other gear modifications are the future, defining them and mandating their use can actually serve to stifle innovation.

### GROUND FISH MANAGEMENT

#### ***F.1. National Marine Fisheries Service (NMFS) Report [Groundfish]***

##### **Rulemaking Plan for 2016 Groundfish**

In addition to a list of groundfish and halibut actions that have published since the June 2016 Council meeting, NMFS provided a list of rulemakings that are currently in progress.



**In Progress (Table 1)**

	<b>Rule</b>	<b>Timing (Tentative)</b>	<b>Sectors Affected</b>
<b>1</b>	<b>Midwater Recreational Fishery off Oregon</b>	Proposed rule – fall 2016 Final rule – winter/spring 2017	Oregon Recreational
<b>2</b>	<b>Sablefish Rule</b> Includes: Registering a LE trawl and fixed gear permit to a vessel at same time (joint registration), sablefish- endorsed LE fixed gear ownership issues, electronic fish tickets	Final rule – late summer 2016 Effective October, 2016 Effective January 1, 2017 for electronic fish tickets	LE Trawl (IFQ), LE fixed gear, OA
<b>3</b>	<b>Trawl Gear Modifications</b>	Proposed rule – winter 2017 Final rule – summer 2017	LE Trawl (IFQ/MS/CP)
<b>4</b>	<b>Electronic monitoring</b>	Proposed rule – summer 2016 Final rule – fall 2016	LE Trawl (IFQ)
<b>5</b>	<b>Widow reallocation</b>	Proposed rule – June 2016 Final rule – fall 2016	LE Trawl
<b>6</b>	<b>2017-2018 Biennial Harvest Specifications and Management Measures</b>	Proposed rule – fall 2016 Final rule – January 1, 2017	LE, OA, Tribal, Recreational
<b>7</b>	<b>Vessel Movement Monitoring</b>	Proposed rule – fall 2016 Final rule – January 1, 2017	LE and OA

In addition to rulemakings and responding to litigation (including recent Ninth Circuit Court Decision on Cost Recovery), NMFS has the following near-term priorities:

- Salmon ESA Section 7 Consultation for Groundfish FMP.
- Eulachon ESA Section 7 Consultation for Groundfish FMP.
- Seabird ESA Section 7 Consultation for Groundfish FMP.
- ESA section 7 Consultation on Pacific Halibut Fisheries and Catch Sharing Plan

At its March 2016 meeting, the Council selected Final Preferred Alternatives for Gear Changes for the Pacific Coast Groundfish Fisheries Trawl Catch Share Program. The Council’s selection of final alternatives for the gear change package was based on a thorough analysis of impacts and an almost-complete (draft) Environmental Impact Statement. Hence, the majority of the technical work required to support and approve the action has long been completed. These new regulations would remove archaic regulations, and allow the fleet to configure gear in a manner that is most efficient for catching target species, while best excluding non-target species, and were passed with the unanimous support of the Council, including the NMFS.

At the June 2016 Council meeting, NMFS indicated that rulemaking for the gear change package was “in progress”, with a proposed rule scheduled for publication in summer 2016. Promulgation of the gear change package of regulations was to be completed in fall 2016 with publication of the final rule (June 2016 Briefing Book, Agenda Item G.1.a. NMFS Report 2).

Now, with less than 3 months until implementation, NMFS reports implementation is delayed for at least 6 months (Table 1, Line 3). Trawl Fishery participants (Harvesters and Processors) were alarmed to learn of the delay. The concern was detailed in letters to the Council, including

one submitted by the Congress of the United States, as well as in public testimony. The gear change package is critical to increase fishing opportunities and flexibility for the groundfish fleet, and bring the trawl catch share program one step closer to achieving its primary objectives. Timing for implementation of these regulatory changes is critical; increased annual catch limits (ACLs) for rebuilding/rebuilt rockfish, starting January 1, 2017, will provide the first opportunity for a directed rockfish fishery in many years. The industry needs the components of the gear change package to be implemented by January 1, 2017, in order to take advantage of the increased rockfish ACLs, and to plan business operations accordingly.

During Public Comment on this matter, it was revealed that some industry representatives and the NMFS had met and determined an Exempted Fishing Permit (EFP) would be the most expedient method of implementing the highest priority components of the gear change package of regulations. However, the EFP involves a trade-off; work on implementing the gear change package of regulations will cease and efforts will be diverted to work on the EFP. The Council ultimately agreed that an EFP is the best method, and NMFS will proceed with EFP development.

**F.5. Five Year Catch Share Program and Intersector Allocation Review Update**

The Council adopted an accelerated calendar for the catch share review. Under this revised calendar, the review is scheduled to be finished by November 2017, at which time the Council would adopt ranges of alternatives for priority follow-on action(s). Action(s) would be analyzed over the winter of 2017-2018, with the intent of scheduling final action in the spring. The Council also requested the Northwest Fishery Science Center’s Economic Data Collection Program (EDC) meet with the newly-appointed ad hoc Community Advisory Board (CAB) and other interested parties to further inform them about the EDC data and results. The update of the catch share review description will be completed at the November Council 2016 meeting. Additionally, at the November meeting, the Council will consider a schedule for moving ahead with the review of intersector allocations specified in the groundfish fishery management plan.

**Table 2. Trawl Catch Share Program Review Calendar (Revised)**

Alternative Process (Tight Timelines) <sup>1</sup>				
Dates	Council Program Review Action	SSC	CAB/Hearing	Development of Follow-on Action
June	Approve Calendar			
Sept	Appoint CAB		Hearings	
Nov	Approve Blueprint	Rev <sup>2</sup>	CAB Mtg	
<b>2017</b>				
			CAB Web	List of Potential Issues
April	Program Report & Guidance			
June	Public Review Draft Approval	Rev <sup>3</sup>		
			CAB Mtg	Refine Issues - P&N, Dev ROA
Sept	No Action on Review			List of Issues & P&N for Public Comment
			CAB Mtg	Initial Analysis
Nov	Final Approval of Program Review			ROA for Full Analysis
<b>2018</b>				
March				Select PPA
April				Select FPA

<sup>1</sup>CAB = Community Advisory Board; FPA = Final Preferred Alternative; PPA = Preliminary Preferred Alternative; P&N = Purpose and Need; ROA = Range of Alternatives; Web = webinar

<sup>1</sup> The fall back for this tight timeline would be to have preliminary materials in June 2017 that would be available for a July CAB meeting but not have a document approved by the Council for public review until September 2017. This would leave a very minimal amount of time after September to incorporate any revisions and release the document with enough time for public comment prior to November 2017. In that case, final document approval might still have to be delayed until April 2018. However, it may still be possible to proceed in November with identification of a ROA for analysis over the winter so that an FPAs could still be selected at the April 2018 meeting.

<sup>2</sup> SSC reviews plans (blueprint) for analysis.

<sup>3</sup> SSC reviews results prior to release for public review.

### ***F.6. Inseason Management Final Action***

Following review of progress in the groundfish fishery to date, the Council determined that no adjustments to management measures were necessary.

### ***F.7. Amendment 21 At-Sea Sector Set Asides Final Action***

The Council selected a Final Preferred Alternative for managing the allocated amounts of darkblotched rockfish and Pacific ocean perch (POP) in the at-sea whiting sectors, with the intent to implement the action by the start of the 2017 primary whiting season, May 15, 2017. Under this alternative, [Agenda Item F.7.a, WDFW Report](#), at sea sector allocations of darkblotched rockfish and POP will be considered set-asides rather than total catch limits. In the event the species-specific at-sea set-aside amounts plus the buffer amounts are anticipated to be exceeded, the Council recommended NMFS exercise inseason authority to automatically close the 2017 or 2018 at-sea whiting fisheries.

### ***F.8. Mid-Biennium Annual Catch Limit Adjustment and Rebuilding Harvest Rate Adjustment Policies***

The mid-biennium annual catch limit (ACL) adjustment policy was originally considered when the biennial management process was developed under the Groundfish Fishery Management Plan (FMP) Amendment 17 (November, 2002). The biennial management cycle begins in odd years, when groundfish stock assessments are conducted, reviewed, and adopted if endorsed by the Scientific and Statistical Committee. Assessment results inform management decisions for the following two years (i.e., the next two-year management cycle). Mid-biennium ACL adjustments were contemplated in the Amendment 17 process because a significant change in stock status, (i.e., a stock transitions from healthy to overfished or vice versa) as evidenced by an approved stock assessment, could compel an ACL adjustment in the second year of the management cycle in which the assessment was approved. Decreasing the ACL mid-biennium (i.e., “red light” policy) and increasing the ACL mid-biennium (i.e., “green light” policy) were both contemplated under Amendment 17; however, in October, 2003 the Secretary of Commerce only approved the “red light” policy.

The Council decided to revisit this decision in June, 2016.

The Council directed staff to develop alternatives that would allow changes to ACLs in the second year of a biennial management cycle (“green light” policy) using the following guidance:

- No action (Status Quo),
- Overfished species only, and
- Overfished species or species currently scheduled for assessment that are constraining on the fisheries. Scoping of applying the framework in the upcoming assessment

biennial cycle should be limited to the four overfished species scheduled for assessment.

The Council is scheduled to adopt a range of alternatives and a preliminary preferred alternative at their November meeting in Garden Grove, California.

### **Rebuilding Harvest Rate Adjustment Policy**

In June 2016, the Groundfish Advisory Panel (GAP) recommended consideration of a default rebuilding revision rule that would automatically implement the 40-10 or 25-5 harvest control rule for an overfished groundfish stock managed under a rebuilding plan when the stock rebuilds to the precautionary zone (i.e., depletion is between the MSST and the biomass target (i.e., BMSY) (the GAP termed this a harvest rate “ramp up” policy). Ms. Chantel Wetzel and Dr. Owen Hamel of the National Marine Fisheries Service Northwest Fisheries Science Center provided simulation results of predicted rebuilding times and cumulative removals under the current rebuilding plans for yelloweye rockfish and POP compared to an implementation of the harvest rate “ramp-up” revision rule recommended by the GAP. Their results indicate the harvest rate “ramp-up” policy would extend rebuilding by 98 years and 79 years for yelloweye and POP, respectively. While the harvest rate “ramp-up” strategy or 25-5 rule was the control rule decided for the now completed petrale sole rebuilding plan, this strategy may not meet the Magnuson-Stevens Act mandate to rebuild an overfished stock in the shortest time possible while taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem (Section 304(e)) in all cases. Therefore, the harvest rate “ramp-up” strategy may be suitable for some overfished stocks, especially relatively productive stocks like petrale sole, but may not be a suitable default strategy for revising rebuilding plans of all our overfished stocks.

The Council decided to take no action at this time on the proposed rebuilding harvest rate adjustment strategy for rebuilding stocks.

## **HIGHLY MIGRATORY SPECIES**

### ***J.2. Exempted Fishing Permits***

At its June 2016 meeting, the Council decided that rather than adopting a range of alternatives for authorizing a deep-set buoy gear (DSBG) fishery, in September, it would encourage more participation in the fishery through Exempted Fishing Permits (EFPs). This was intended to facilitate development of alternatives for gear authorization. To support this objective, the Council decided to accept applications for EFPs to test DSBG at any Council meeting where Highly Migratory Species (HMS) items are on the agenda. An announcement to this effect was posted on the Council website and distributed by email on Friday, July 8th, 2016.

Also in June, the Council received an EFP application from Mr. David Stephens, a commercial fisherman/educator fishing primarily Southern California waters based out of San Diego. He proposes to test deep-set buoy gear. The Council requested that the EFP applicant revise the application in order to address issues identified by the HMS Management Team, and the HMS Advisory Subpanel. Additionally, the EFP application should contain clarifications on tending

and monitoring gear as discussed in the Supplemental Enforcement Consultants (EC) Report. The applicant amended and resubmitted the application for consideration in September.

The Council recommended NMFS approve the revised EFP application as submitted, with a requirement of observer coverage as low as 30% consistent with requirements for the ongoing EFP issued to the Pflegler Institute of Environmental Research (PIER), to test deep set buoy gear.

### ***J.3. Biennial Harvest Specifications and Management Measures***

The HMS Fishery Management Plan (FMP) specifies a biennial management cycle during which Council decision-making occurs at its June, September, and November meetings. The Council started this process at the June meeting for management changes in the next biennial period, beginning April 1, 2017. In June, the Council tasked the HMS Management Team to produce a draft HMS Stock Assessment Fisheries Evaluation (SAFE) Report, mark-ups to the HMS FMP, a plan for aligning the biennial management process and NMFS' status determination process, and draft recommendations for a Council response to the Center for Biological Diversity's Pacific bluefin tuna petition, for initial consideration at the September Council meeting.

The Council concluded that these tasks are broader in scope than could be taken up under the biennial management process; therefore, the Council initiated an FMP amendment to change the framework and process for selecting stock status determination criteria (maximum fishing mortality rate and minimum stock size threshold). The Council directed the HMS Management Team to meet with the HMS Advisory Subpanel at the November Council meeting to review and discuss proposed amendments to the text of the HMS FMP. Public review of proposed changes and Council final action would occur in 2017.

The Council was briefed on the Southwest Fisheries Science Center's proposed peer review process for a March 2016 common thresher shark stock assessment, which would employ a panel drawn from the Center for Independent Experts. The Council asked that its SSC be given the opportunity to comment on the terms of reference that will be developed for the peer review.

The Council deferred its final response to the Center for Biological Diversity's petition for rulemaking on Pacific bluefin tuna until the November meeting to allow consideration of the results of the IATTC meeting. In the future, this topic will be addressed under the International Issues agenda topic, along with an update on the thresher shark assessment and a notice that the Western and Central North Pacific Ocean stock of striped marlin is overfished and subject to overfishing.

### ***J.4. Deep-Set Buoy Gear Exempted Fishing Permit Criteria to Advance Gear Authorization***

At its June 2016 meeting, the Council decided to develop special conditions for a deep-set buoy gear (DSBG) EFP program based on a list of key data gaps and research needs with regard to DSBG to be developed by the HMS Management Team. This list would inform recommending terms and conditions for future EFP applications, as well as aid prospective EFP applicants in developing applications. The Council also tasked the HMSMT with identifying incentives for EFP participation including, but not limited to, prioritized eligibility of EFP participants in a potential

future DSBG permit program. As discussed under Agenda Item J.2, the Council also decided to accept DSBG EFP applications at any Council meeting where HMS topics are on the agenda. According to the current Year-at-a-Glance Workload Planner, HMS topics are scheduled on the November 2016, and March, June, and September 2017 meetings. The Council's emphasis on continuing development of a DSBG fishery by issuing EFPs does not replace its intent to develop a range of alternatives to authorize the fishery under the HMS Fishery Management Plan consistent with its guidance in March 2016.

The Council:

- Accepted the recommendations in the HMS Advisory Subpanel and Management Team Reports as useful guidance in considering future EFP applications; [Agenda Item J.4.a, Supplemental HMSMT Report](#), and [Agenda Item J.4.a, Supplemental HMSAS Report](#)
- Tasked the HMS Management Team with crafting a DSBG EFP application template for Council review and approval in November,
- Tasked the HMS Management Team with developing criteria for deciding the appropriate observer coverage levels for all new DSBG EFPs, and
- Directed Council staff, with input from the HMS Management Team and Advisory Subpanel, to continue working on the framework to advance consideration of DSBG authorization under the FMP, building on the initial outline offered in [Agenda Item D.5. Attachment 1, June 2016, Considerations for Developing Alternatives for Deep-Set Buoy Gear and Federal Permitting of the West Coast Swordfish Fishery](#).

#### ***J.5. Federal Drift Gillnet Permit Amendment***

In June 2014, when the Council first discussed a comprehensive approach to managing the West Coast swordfish fishery, one of the potential actions it identified was to implement a Federal limited access permit for the California large-mesh drift gillnet (DGN) fishery for swordfish and shark. Such a permit would be required to use this gear type in Federal waters off the West Coast and would either supplement or replace the current California state permit system for this fishery. The Council established a control date of June 23, 2014 as a reference for allocation decisions when considering potential future management actions to limit the number of participants in the large-mesh DGN fishery (79 FR 64161).

The Council decided to develop a range of alternatives for a Federal large-mesh drift gillnet permit based on the condition that only those persons authorized to fish with large-mesh drift gillnet gear under state law would be entitled to a Federal HMS permit endorsed for drift gillnet. The Council's intent is to implement the Federal permit program relatively rapidly. Subsequent actions could then address potential participation in the fishery, for example by dealing with so-called latent permits – permits with no associated landings over some recent time period. Thus, the scope of the current action is simply to create the conditions and process so that all current California state permit holders qualify for the proposed Federal permit.

The Council approved a Range of Alternatives as follows:

**No Action Alternative: Status Quo.**

The Council would not move forward with creating a Federal DGN permit. DGN permitting would continue under the state of California LE permit program.

**Alternative 1: Federalization of DGN permitting as currently issued by the state of California.**

As soon as possible after Council final action, only those persons authorized to fish with large-mesh drift gillnet gear under state law would be entitled to a NMFS issued commercial HMS permit endorsed for drift gillnet. Only those persons that hold valid state DGN permits on the date of Final Rule publication would be eligible to possess a HMS DGN endorsement. This Alternative includes the state of California's existing DGN transfer requirement; the permit must be held by the individual for three years before being eligible for transfer.

**ADMINISTRATIVE MATTERS**

***F.5. Membership Appointments and Council Operating Procedures***

Council Chair Mr. Herb Pollard appointed the following representatives to the ad hoc Community Advisory Board (CAB) to engage in the 5-Year Catch Share Program review, and appointed Mr. Shems Jud Chair of the CAB.

Shoreside Trawl, IFQ Program Participants

Washington (1)

- Mr. Nate Stone

Oregon (2)

- Mr. Brad Pettinger
- Mr. Mike Retherford

California (2)

- Mr. Chris Kubiak
- Ms. Michelle Norvell

Shoreside Nontrawl, IFQ Program Participant (Gear Switched) (1)

- Ms. Michele Longo-Eder

At-sea Co-op Participants

Catcher-Processor (1)

- Mr. Dan Waldeck

Mothership Processor (1)

- Mr. James Mize

Mothership Catcher Vessel (1)

- Mr. Kurt Cochran

Shoreside Buyers/Processors (3)

- Mr. Andrew Bornstein
- Mr. Jim Caito
- Mr. Mike Okoniewski

At-large (Expanded to 4 seats)

- Mr. Paul Clampitt




- Mr. Robert Dooley
- Mr. Shems Jud
- Mr. Steve Scheiblaue

#### ***F.6. Future Council Meeting Agenda and Workload Planning***

The next meeting of the Pacific Fishery Management Council is scheduled for November 13 - 21, 2016, at the Hyatt Regency Orange County, 11999 Harbor Blvd., Garden Grove, California. Advisory bodies will start Sunday, November 13, and the Council session will start on Wednesday, November 16, 2016.

There are two Briefing Book deadlines for every Council meeting. The first (and main) deadline is two and a half weeks before the Council meeting. Public comments and reports that are supplied before this deadline are included in the advance Briefing Book. The second deadline, known as the supplemental deadline, is four days prior to the start of the Council meeting. Public comments and reports provided by this deadline are given to Council members on the first day of the Council meeting. Comments can be emailed, mailed, or faxed to the Council.

- ⊗ This report is provided to the Central Coast Community in 2016 via a grant from the Central California Joint Cable Fisheries Liaison Committee. Any interested parties may request an email copy of future reports (as long as funding continues) by contacting Christopher Kubiak at, [ckub@sbcglobal.net](mailto:ckub@sbcglobal.net) 



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Innovation*