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March 28, 2017

Mr. Dan Hull, Chairman
North Pacific Fishery Management Council
605 West 4th, Suite 306
Anchorage, Alaska 99501-2252

RE: C-10: Shortage of Fixed Gear Lead Level 2 Observers

Dear Chairman Hull:

The Freezer Longline Coalition (FLC) appreciates the Council's consideration of the Initial Review of Lead Level 2 (LL2) observers on fixed gear vessels. A long-term, sustainable solution to this problem is needed to resolve this concern for the freezer longline fleet. We appreciate the work by NMFS and Council to develop this analysis and request that this agenda item move forward for public review.

The FLC largely supports the recommendations made by NMFS to the purpose and need statement and the proposed alternatives in this Initial Review – subject to some needed clarifications. We wish to submit the following comments for consideration by the Council.

About FLC

The FLC represents the owners and operators of over 30 U.S.-flag vessels that participate in the freezer longline sector of the Pacific cod fishery in the BSAI. FLC member vessels range in size from approximately 110 to 191 feet with a gross tonnage of approximately 140 to 1400 tons. The mission of the FLC is to promote public policy that facilitates the sustainable and orderly harvest of Pacific cod and other groundfish species.

All members of the FLC who participate in the BSAI Pacific cod fisheries are also members of the Freezer Longline Conservation Cooperative (FLCC), a voluntary cooperative established in 2010. FLCC and its members work collaboratively with NMFS to ensure the efficient and responsible harvest of the Pacific cod quota allocated to the voluntary coop, including maximizing optimum yield in the fishery and minimizing bycatch of other species. FLCC has been a leader in efforts to reduce bycatch and promote more sustainable fishing practices in the BSAI.

Background

Since 2014, the FLC and observer providers have engaged Council and the NMFS Observer Program in efforts to address a shortage of LL2 observers available for deployment on our fleet. As noted in the Initial Review, this shortage has resulted operational and financial challenges

for FLC members, including cases of our vessels being stranded at port awaiting an observer and other interruptions to our vessel operations. These shortages followed the implementation of the 2012 Final Rule initiating the LL2 observer requirement for the freezer longline fleet. In the development of the Final Rule, FLC and observer providers repeatedly raised concerns about the viability of facilitating an adequate pool of non-trawl LL2 endorsed observers under the new requirements. The 2012 Final Rule included specific assurances that there would be a sufficient pool of fixed gear LL2 observers to ensure that freezer longliners would not be stranded in port due to a shortage of observers. NMFS suggested that a key component to facilitating LL2 observers would be the ability to train observers for use on our fleet through the restructured partial observer program. However, these and other measures to prevent a shortage were either never realized or not effective enough to fully address the concern, resulting in a need to develop a long-term solution to this shortage.

At the direction of Council, industry and NMFS have worked collectively to identify and implement measures aimed toward improving the availability of non-trawl LL2 observers. These actions are detailed in the analysis and include measures by NMFS, the observer providers and FLC to each address the problem. As noted, since 2014 our fleet has spent close to \$500K (2014-2016) to voluntarily deploy second observers on our vessels to facilitate observers fulfilling the requirements to secure their non-trawl LL2 endorsement, an action that Council has identified as not more than a temporary measure to address the shortage of LL2s for our fleet. The actions by NMFS and industry have helped to prevent additional instances of our vessels being stranded for lack of an LL2, but the shortage of non-trawl LL2 endorsed observers for deployment remains a major concern for FLC members. Our interest with this action is to develop a long-term solution to ensuring an adequate pool of non-trawl LL2s and to prevent further LL2-related interruptions to our vessel operations in the future.

FLC comments on NMFS recommendations

The FLC appreciates NMFS' analysis of the alternatives put forward in the October 2016 Council motion and their efforts to both provide additional clarification in the analysis and to introduce a new option for consideration in this paper. The following are FLC comments on specific recommendations put forward by NMFS:

- **Expansion of analysis to include pot CPs (when in CDQ groundfish):** Other than CP H&L, CP pot (when in CDQ groundfish) is the only other fixed gear sector that requires a non-trawl LL2 observer. The FLC supports NMFS' proposed addition of this sub-sector (CP pot in CDQ groundfish) to the analysis. Our only comment is that the addition could be made with a bit more clarity in the P&N statement and alternatives. Council may consider revising the proposed language in the P&N statement to clarify that this expansion of the analysis is limited to the inclusion of CP pot vessels in CDQ groundfish fisheries. Our understanding is that this addition may apply to two vessels. FLC would also support NMFS' suggestion to incorporate consideration of these additional vessels into any alternatives and options (as applicable) selected by Council for public review.

- **Alternative 3, Option 3.2: Modify the non-trawl LL2 endorsement requirements:** The FLC supports the addition to the Initial Review of this new option brought forth by NMFS. We are encouraged by the agency's development of a pathway for trawl observers to attribute their trawl experience toward a non-trawl LL2 endorsement and believes it warrants further analysis. That said, as proposed in the paper the option is unclear about many specifics on how this action would be implemented, which could have a significant impact on whether this option will be an effective tool to addressing the shortage of non-trawl LL2s. Some specific comments:
 - **Modify experience and training requirements:** The analysis is ambiguous about what training would be required for different observers seeking a non-trawl LL2 endorsement, including whether observers with fixed gear experience would be required to take a training class under the new requirements. FLC understands NMFS' interest to ensure observers who accrue their experience on trawl vessels have a certain amount of training to work on fixed gear vessels prior to getting their non-trawl LL2 endorsement. On the other hand, FLC believes observers who accrue their experience on a freezer longline vessel do not need additional training to secure their endorsement, and should be precluded. Additional clarity on NMFS' intentions for this training component is needed in further analysis of this option.
 - **Pre-cruise meeting:** The FLC also requests some additional clarification regarding the proposed pre-cruise meeting requirement, including more details on the determinations NMFS would use to make a request, scheduling of meetings, and what NMFS and vessel personnel would be required to be present. FLC is receptive to pre-cruise meetings (as the analysis notes, they are already a voluntary measure), but only if it can be clarified that it would not create the possibility for vessel trips to be delayed due to challenges to completing this requirement.
- **NMFS recommended deletion of Alternative 2: Option 2.2 and Option 2.3 (but retaining Option 2.1).** The FLC concurs. Pending clarification on the new option 3.2, the FLC may support removal of Alternative 2 in its entirety, if it would expedite the analysis and move it forward. The inclusion of Alternative 2 (regulatory exception) appears to require that NMFS develop an *"administrative process that NMFS would use to verify that a non-trawl LL2 observer availability and determine if an exception is approved or denied."* (p. 57). If Alt 2 Option 2.1 is retained, it would then appear that NMFS would have to develop this administrative process for the public review draft. If Alternative 2 is deleted in its entirety, then it would not be necessary for NMFS to do so.
- **NMFS recommended deletion of Alternative 4 in its entirety:** The FLC does not concur. The Observer Advisory Committee (OAC) recommended Alternative 4, Option 1 and NMFS developed Option 2. NMFS now recommends the deletion of Alternative 4 in its entirety.

The FLC can concur with the removal of Option 2 but would like to retain Alternative 4, Option 1 for the following reasons:

- The FLC has been voluntarily paying for a second observer for training purposes (~\$500K). While Option 3.2 may provide a longer-term solution, there are still some clarifications needed, and it is not clear if the additional training opportunity (via the second observer) will be necessary or not. If the training opportunity via the second observer is deemed to still be necessary, then the FLC would like the option for NMFS to defray the cost of that training.
- The OAC recommended consideration of Option1; and
- NEPA requires a reasonable range of alternatives.

At this time, the FLC recommends retaining Alternative 4, Option 1 in the analysis (and deletion of Option 2).

The issue of the shortage of LL2 fixed gear observers has long been a concern by the FLC and we request this analysis move forward. Thank you for your consideration.

Sincerely,



Chad I. See
Executive Director
Freezer Longline Coalition