ADVISORY PANEL
Motions and Rationale
October 1-4, 2024 - Anchorage, AK

C6 Pelagic Trawl Gear Definition

The AP adopts the following purpose and need statement and list of alternatives for analysis.

Purpose and Need

The purpose of this action is to align regulations with the longstanding interpretation of pelagic trawl gear in Alaska and to remove unnecessary outdated text. Pelagic trawl gear is defined within 50 CFR 679.2 and has remained unchanged since 1993. The Council and NMFS did not intend the codend to be included within the restrictive definition of pelagic trawl gear specified at § 679.2. A regulatory change to the trawl gear definition at § 679.2 is needed to exclude the codend to better reflect the Council's original intent and provide for improved regulatory compliance. Revisions are also needed to the pelagic trawl gear definition in paragraph 14 of the definition of authorized fishing gear at § 679.2 to remove outdated text related to parallel line trawls and to allow for flotation within bycatch excluder devices.

Alternatives

Alternative 1: No Action (Status quo).

Alternative 2: Revise regulations that define authorized fishing gear for pelagic trawl gear and trawl gear to:

~~[1]Option 1. Exclude the codend from limitations applicable to the trawl net.~~

[1]Option 1: Change the regulations regarding the codend

[1]Suboption 1:Exclude the codend from limitations applicable to the trawl net;

[1]Suboption 2: Specify which regulations do not apply to the codend.

Option 2. Remove outdated text related to parallel line trawls.

Option 3. Allow the use of flotation and metallic components for bycatch excluder devices.

Option 4. Allow metallic components in the form of observing, monitoring, or sensing technology as well as hardware that secures such technology to the trawl. Observing, monitoring, and sensing technology that may need to be secured to the trawl includes cameras (eg. live feed and recording), sensors (eg. water flow, net shape, fishing environment), etc.

Option 5. Distinguish between the forward and aft sections of the pelagic trawl net to that currently defined in 50 CFR 679.2(14)(iii) and (iv) (large mesh locations). And allow connectors, trawl mounted instruments to observe or monitor, hardware to secure such instruments, and flotation attached to or within 6 feet of such instruments as long as connectors, instruments, hardware, and flotation do not affect the bycatch reduction functions of the forward large meshes. Trawl mounted instruments may need to be secured to the trawl to observe or monitor trawl shape, water flow, fishing environment (including seafloor clearance), organisms being caught, or to manipulate trawl components during fishing (related to bycatch reduction). Flotation shall be capable of providing up to 100lb (45.3kg) of buoyancy.

Options 1-4 are not mutually exclusive, if selected without Option 5. Option 5 is mutually exclusive of Option 3 and Option 4.

Amendment[1]: *strike option 1 and replace with new option 1 and suboptions 1 and 2 (* ***in bold****)*
Amendment 1 passed: 11/9
Amended main motion passed: 17/3

Rationale in Favor of Motion:

- *The motion addresses the issue of outdated and ambiguous regulatory language for the Pelagic Trawl Gear Definition. This is a narrowly focused agenda item specific to the authorized gear definition found in 50 CFR 679.2. This process is separate from any other actions related to gear research, incentivizing innovations, and addressing the performance standard.*
- *This motion is intended to align the pelagic trawl gear definition with current fishing practices that have evolved since 1993 due to NPFMC and NMFS management actions, and align with the Council's intent. These changes are also intended to address enforcement and compliance issues. For example, current national regulations related to mesh smaller than 5.5 inches essentially make all pelagic trawl nets currently used to fish BSAI pollock illegal because the regulations do not allow for the floats that are required for salmon excluders to work effectively.*
- *Specific to Option 2, the text addresses the antiquated regulations referring to parallel line (rope) trawls , which are no longer in use and haven't been for many years*
- *Specific to Option 3:*
    - *Allowing flotation and metallic components would allow for excluders (important conservation management measures) to be used as they currently are in the fishery. Flotation and metallic components (whether that be live feed cameras, recording cameras, sensors, lights, and leadline) are important parts of an excluder design that are necessary for it to function.*
    - *The current definition is contrary to conservation goals and National Standard 9 to reduce bycatch to the extent practicable, since floatation and metallic components are necessary to the excluder design and function.*
    - *Current salmon excluders in the Bering Sea can be installed in the intermediate of the net which is just before the codend, and the mesh sizes vary (both less than and greater than 5.5 in mesh), so the additional clarity in the definition related to excluders is necessary.*
    - *Incentive Plan Agreements (IPAs) to avoid and minimize salmon bycatch to the extent practicable are required by federal regulation to describe certain aspects of salmon avoidance and in that, the fleets are required to use salmon excluders. This change is important to address the inconsistency among regulatory language at this time.*
    - *Option 3 ensures the allowance of salmon excluders is in line with current industry efforts and management goals to reduce PSC bycatch.*

- *Specific to Option 4:*
    - *Option 4 language still refers to the boundaries described in paragraph 14 (vii) (between the 5.5 meshes in the aft of the net and up to the fishing circle), but has been adjusted from the February 2024 version to clarify and correctly capture the intent expressed by pelagic trawl users. New language would provide a necessary exception to use technology for either monitoring, sensing, or observing as well as the hardware needed to secure it to the net, in between 5.5 meshes and the fishing circle.*
        - *Example of why this is necessary and aligns with current practices: When a pelagic trawl fisherman notices fish aren't accumulating like they think it should based on the biomass sign they are fishing on, they use cameras or sensors to take a look at how the net is shaping and what the fishing environment is in their net. This allows for them to identify the issue and make the correct mends and adjustments to the net so that it fishes properly.*
    - *The limited exceptions described in Option 4 are not intended to contradict conservation and management goals, these limited exceptions are intended to help ensure fishermen and pelagic trawl nets are meeting conservation and management goals.*
    - *The allowances in option 4 do not affect the fishing performance(crab and halibut bycatch reduction via large front meshes) of the front end of the trawl as described in paragraph 679.2(14)(iii) and (iv)*
- *Specific to Option 5:*
    - *This option responds to one public comment that suggested an inventive way to respond to the concerns posed by the authors of the analysis in relation to how Options 3 and 4 were originally crafted. Notably:*
        - *Distinguishing the between forward and aft parts of the net to that already defined in 50 CFR 679.2(14)(iii) and (iv) would simplify the boundaries within the net and the rules on what is and isn't restricted. The action to make that distinction would be to remove paragraph (14)(viii), thus lifting restrictions on the aft section of the net.*
        - *Allowing flotation in the aft sections of trawls would not affect the bycatch reduction functions of the large meshes in the front of the trawl. The intent is not to allow for anything that would change the vertical opening of the net.*
        - *Both flotation and metallic components would be allowed aft of the meshes regulated in paragraphs (14)(iii) and (14)(iv). Weights would be disallowed where they could press meshes onto the seafloor. Floats could not be placed anywhere near where they could raise the headrope and vertically open the net mouth.*
        - *Float use for all existing salmon excluders, including active excluders would be allowed because they would be installed aft of the regulated meshes described in (14)(iii) and (14)(iv). The action to allow floats aft of the forward mesh sections would be to remove paragraph (14)(vi).*
        - *The changes described in option 5 would also give exceptions for the listed components to be allowed in the front meshes, when necessitated.*

Rationale in Opposition to Motion:

- *An AP member noted agreement with some public comment that considering adjusting the pelagic trawl gear definition under this action is a distraction from the larger question of how pelagic trawl gear is fished in relation to the environment, and preferred that the Council should prioritize this question. There is confusion regarding the "long-standing interpretation of pelagic trawl gear" definition, thus leading to concerns of defining a pelagic trawl net without first defining its intended performance.*
- *There was concern expressed about deregulating the codend completely.*

Rationale in Support of Amendment 1:

- *The definition for pelagic trawl gear is very specific largely due to the inverse definition of non-pelagic trawl gear being very simple. It is important to maintain the intent and integrity of this definition and not begin to deregulate a portion of the net which is very much part of the gear.*
- *There are concerns around inhibiting innovation or technology but most of these changes are involving metal components and flotation. The use of the language "does not apply to the codend" could be added to the specific elements of the definition that this applies to such as sections 50 CFR 679.2(14)(vi) and 50 CFR 679.2(14)(viii).*
- *[1]This action is responsive to public comment and testimony concerned with fully deregulating the codend, and especially around the concept of separating this integral portion of the gear out of the definition as if it were not a part of the gear. Related to this, AP members referenced a 2015 Scientific paper (1) that questions whether or not the codend influences mesh openings, dimensions, movements, position, or drag of the gear.*
- *Staff indicated in their presentation and in answering AP questions that this idea of adding language to the regulation related to which parts do or do not apply to the cod end is one way in which this issue could be addressed. This idea was also presented in public comment.*

Rationale in Opposition to Amendment 1:

- *The Council's original Purpose and Need Statement for this action is specific in regards to the codend: "The Council and NMFS did not intend the codend to be included within the restrictive definition of pelagic trawl gear specified at § 679.2. A regulatory change to the trawl gear definition at § 679.2 is needed to exclude the codend to better reflect the Council's original intent and provide for improved regulatory compliance."*
- *The original language in Option 1 is in line with the Council's stated intent to not regulate the codend and instead match up and remove contradiction with national regulations by simply removing the codend from the authorized gear definition*
- *Some AP members felt this amendment was introducing unnecessary confusion and that the Council and Agency had both indicated previously that regulating the codend was not their intent when identifying Authorized Gear.*
- *The function and result of the additional suboption does not seem to be different in terms of management goals from the original motion.*
- *The original language of Option 1 is more streamlined, concise, and more easily understood for enforcement and compliance.*
- *No other gear authorized under 50 CFR 679.2 has such a complicated definition or a performance standard associated with it, attempting to change the pelagic trawl gear performance is not appropriate for this agenda item, which is only to adjust regulations defining authorized gear.*

[1] *(1) Madsen et al, Behavior of different trawl codend concepts, Ocean Engineering Volume 108, 2015, Pages 571-577.*