

**ADVISORY PANEL
Motions and Rationale
February 6-9, 2024 - Seattle, WA**

D1 Pelagic Trawl Gear Definition Changes

Motion 1

The AP recommends initiating a regulatory amendment package for initial review based on the following three recommendations from NMFS:

1. Remove paragraph (14)(iii)(B) of the definition of pelagic trawl gear contained within the definition of Authorized fishing gear at § 679.2 that prohibits parallel lines spaced closer than 64 inches (162.6 cm) from all points on the fishing line, headrope, and breast lines and extending aft to a section of mesh, with no stretched mesh size of less than 60 inches (152.4 cm) extending aft for a distance equal to or greater than one-half the vessel's LOA.
2. Revise the definition of Trawl gear to explicitly exclude the definitions of pelagic and nonpelagic trawl gear in § 679.2 from limiting the codend design and should read as follows (new language is shown in bold and underlined):

Trawl gear means a cone or funnel-shaped net that is towed through the water by one or more vessels. For purposes of this part, this definition includes, but is not limited to, beam trawls (trawl with a fixed net opening utilizing a wood or metal beam), otter trawls (trawl with a net opening controlled by devices commonly called otter doors), and pair trawls (trawl dragged between two vessels) and is further described as pelagic or nonpelagic trawl. **Definitions of trawl gear within part 679 do not apply to the codend.**

3. Remove or revise paragraph § 679.2(14)(vi) of the definition of pelagic trawl gear to clearly allow the use of flotation in a codend and excluder devices.

The AP also recommends the following change to the pelagic trawl gear definition.

1. Include in paragraph (14)(viii) **allowance for hardware needed to secure technology, i.e., live-feed cameras, flow sensors, etc. that doesn't appreciably change the intended performance of the trawl.**

Motion Passed: 20/1

Rationale in support for Motion 1

- *The proposed recommendations by NMFS were the result of collaborative discussions between NMFS and Industry.*
- *The proposed recommendations fit within the scope of the action and fulfill 1) clarifying that the codend is not intended to be regulated, 2) resolve inconsistencies in current regulations and some outdated regulations, and 3) begin to allow for gear innovation.*
- *The proposed revisions at Sec 679.2 to explicitly exclude the codend from the definition of pelagic trawl could increase regulatory compliance or enforceability via clear language.*
- *The proposed revisions update what have been recognized as outdated and or obsolete regulatory language.*
- *Rope trawls are obsolete in North Pacific trawl fisheries, therefore the removal of paragraph (14)(iii)(B) from the definition of pelagic trawl gear is appropriate.*
- *The proposed provision would align the 679 pelagic trawl definition more closely with other pelagic trawl definitions and reduce inconsistencies.*
- *The proposed revisions remove specific limitations from within the pelagic trawl gear definition to allow for other regulatory requirements such as the use of salmon excluders to minimize salmon bycatch to the extent practicable.*
- *As noted by the agency staff, the codend was never intended to be included within the restrictive definition of pelagic trawl gear. The staff mentioned that it's practicable to revise the 679 definition.*
- *The codend definition that was added later to the 600 language was not intended to be a substantive change to fishing operations.*
- *As stated in the discussion paper, "this recommended change would not conflict with existing limitations contained in the pelagic trawl gear definition (or nonpelagic trawl gear definition) applying to the trawl net and would be consistent with NMFS interpretation of the regulatory history of the existing gear definitions." Therefore, a non-substantive clarification or change.*
- *The AP felt that it is important that trawl nets include salmon excluders as a tool to reduce salmon bycatch, which are also required within incentive plan agreements. Allowing for flotation allows for the continued inclusion of salmon excluders and has the potential to promote further gear innovation.*
- *The additional request, not provided by NMFS, for the allowance of the use of hardware to attach current technology to the trawl net is imperative to vessels to use currently available technology. This allows vessel operators to monitor their net. It is in a vessel operator's best interest to fish the most efficiently and as heard via public testimony technology is extremely helpful for that.*

Rationale in opposition to Motion 1

- *One AP member felt that deregulating a portion of the net may help innovation but could also have unintended consequences where the net could be morphed into anything. Giving unlimited ability to make the codend to look like whatever you want it to look like without a known performance standard that is enforceable gives a lot of people hesitation in supporting this action.*

Motion 2:

The AP recommends that the Council task staff with a discussion paper analyzing the effects of modifying the pelagic gear definition with the following objectives:

- improving or maintaining fishing efficiency,
- adapting new technologies,
- minimizing bycatch,
- and minimizing seafloor and habitat disturbance

The discussion paper should detail:

- the current limitations to gear innovation and modification (e.g., technological or enforcement constraints),
- the process for such gear revisions (e.g., EFP),
- examples of how past changes to gear definitions have been moved through the Council process (e.g., elevated sweeps in the bottom trawl fishery),
- management tools that could be used to inform metrics to achieve these objectives (e.g., EFH and Fishing Effects model),
- and the downstream impacts to the management objectives of the various regulatory provisions that use the current definition of pelagic trawl gear and have been built upon the previous actions (if applicable),
- potential displacement and spillover impacts from any potential changes (e.g., PSC or target species catch)

Motion 2 Passed: 21/0

Rationale in support of Motion 2:

- *Trawl gear innovation is important to users of pelagic trawl gear as it allows for adaptation to issues brought up in the management process regarding, but not limited to, efficiency, bycatch reduction, and seafloor contact.*
- *The trawl industry generally supports gear innovation and have historically as well as currently are often the first to initiate gear innovation.*
- *There is ongoing research focusing on trawl gear and innovations and in order to adapt to changing environments and challenges, it's important to allow not only a path but a streamlined path forward.*
- *The AP heard information from the Agency that the AP should signal intention that more complicated aspects of redefining the pelagic gear definition to allow for innovation should be further explored. An expanded discussion paper with the revised elements will provide more information so that the Council can figure out how to proceed further.*

Motion 3:

The AP recommends the Council identify ~~that~~ **whether or not** an operational management objective for pelagic trawl gear is to limit contact with the seafloor. The AP further requests that the Council initiate a discussion paper to define acceptable levels of seafloor contact, identify tools or mechanisms to enforce Council defined limits, and consider the efficacy of existing bottom trawl closures in the context of this management objective. The action is intended to address both BSAI and GOA.

Amendment passed: 20/0

Amended main motion passed: 13/8

Rationale in support of Motion 3:

- *Page 3 of the staff document highlights the growing concern among various fishery stakeholders in regards to sea floor contact by pelagic trawl gear and recommends the Council considers the intended management objectives of the pelagic trawl gear definition. If the intended management objective is to limit seafloor contact then that signal from the*
- *Council could provide an important framework by which to move forward in making changes to the definition.*
- *Existing Bottom trawl closure areas are intended to protect habitat, reduce bycatch, or meet other management objectives associated with limiting seafloor contact. The current definition of pelagic trawl gear allows significant contact with the seafloor and may be compromising management objectives.*
- *There is a common misconception in the public eye that pelagic trawl is true to the definition of pelagic, off the bottom, in the water column. This ambiguity in the definition creates uncertainty and confusion within stakeholder conversations. Defining the management objective of pelagic trawl gear will improve this uncertainty*
- *The AP recognizes that clarifying operational management objectives for pelagic or mobile trawl gear will improve management efficacy and assist the council in evaluating the effectiveness of existing bottom trawl closures. Over 50% of the Exclusive Economic Zone (EEZ) managed by the NPFMC is closed to the use of non-pelagic trawl gear. If the definition of pelagic trawl assumes bottom contact then the management objectives of some of these closures may not be being met.*
- *The definition of pelagic trawl gear as developed in 1991, and amended in 1993, was intended to help reduce bycatch of halibut and crab, discourage bottom contact while fishing and distinguish pelagic trawls from bottom trawls. With recent Council documents outlining the extent of bottom contact in pelagic trawls is within 20%-100% of the time, it seems that bottom trawls are distinguished from pelagic trawls purely on the basis of mesh size, flotation, metallic parts, chafing gear or presence of discs, bobbars or rollers.*
- *As written, it seems that the intent of the pelagic trawl gear definition was to create a net with elements such as large mesh and spacing in the opening for escapement of crab and halibut, both seafloor dwelling species, rather than actually discouraging contact with the seafloor.*
- *The definition of pelagic trawl, as written, assumes bottom contact will regularly occur therefore sea floor contact defines pelagic trawling.*
- *The definition of non-pelagic trawl is simply "...a trawl other than a pelagic trawl." If both pelagic and non-pelagic trawl have allowable bottom contact, then there is no management objective difference other than net construction.*

- *Any further direction from the Council as to the intended management objective of this definition would inform whether or not a follow up discussion paper would need to be done regarding acceptable levels of seafloor contact, identify tools or mechanisms to enforce Council defined limits, and consider the efficacy of existing bottom trawl closures in the context of this management objective. If the Council were to decide that a management object is not to limit seafloor contact, then the discussion paper may not be necessary.*

Rationale in opposition to Motion 3:

- *This second motion that was passed under this agenda item requests a discussion paper that, in part, includes an analysis of the substantive portions of this motion, rendering this motion duplicative.*
- *This is a housekeeping agenda item and narrowly focused in the Action Memo on what the Council action is. The first two motions are responsive to Council direction, the third motion does not belong under this agenda item.*
- *Redundant and reiterates the request for a discussion paper and topics that are included in Motion 2.*
- *The request to identify an operation management objective is beyond the scope. Concerns that it would likely be a long term task since multiple fisheries use pelagic trawls and have specific management objectives, as well as each paragraph within the pelagic trawl definition likely having specific management objectives.*
- *There are already multiple tools that address bottom contact and will likely be used to develop a discussion paper for Motion 2 passed prior to Motion 3. The EFH analysis and the FE model are two tools that already assess contact and impacts short and long term.*
- *Rationale supporting Amendment 1 to Motion 3*
- *Rationale spoken to the main motion was worded as such as the added amendment language.*
- *Given that motion 3 requests a discussion paper and the council has not yet identified the management objective, it removes presuppositional language that the maker of the motion confirmed was not the intent.*