



*Submitted via online portal*

September 27, 2024

Angel Drobnica, Chair  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
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Jon Kurland, Regional Director  
NOAA Fisheries, Alaska Region  
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**Re: C6 Pelagic Trawl Gear Definition**

Dear Chair Drobnica, Director Kurland, and Council Members,

Please accept the following comments from SalmonState. SalmonState thanks the North Pacific Fishery Management Council (“Council”) for the opportunity to comment regarding federal fisheries management in the Bering Sea and Aleutian Islands and Gulf of Alaska. SalmonState encourages this Council to provide an update to the definition of “pelagic trawl gear” that reflects the dictionary and scientific definition of “pelagic.”

SalmonState is an Alaska based and Alaska focused project supporting innovative and effective public interest projects. SalmonState works within Alaska to guarantee Alaska remains a salmon state by protecting and preserving habitat and promoting fish first policies for this irreplaceable resource. SalmonState works alongside other Alaska organizations, commercial fishers, sport and recreational fishing guides and enthusiasts, salmon dependent businesses, and Alaska Native groups to maintain sustainable commercial, sport, and subsistence fisheries.

Prior to the 1990s, when the definition of “pelagic trawl gear” was last revised for application in the Alaska region, the distinction between “pelagic trawl” and “nonpelagic trawl” or “bottom trawl” included a measure that “prohibited [the gear] from making any contact with the seabed.”<sup>1</sup> In 1993, the Council “updated” the definition of “pelagic trawl” to include description of specific gear that is allowed or disallowed, but no limitation or prohibition of bottom contact.<sup>2</sup> The definition of “pelagic trawl” has not been updated since this change in 1993. The use of “pelagic” to describe this fishing method is misleading and this Council should use this opportunity to clearly define “pelagic trawl gear” to reflect the common understanding and dictionary definition of “pelagic,” in the water column, not on the ocean floor.

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<sup>1</sup> 55 FR 33715, August 17, 1990, at 33718

<sup>2</sup> 58 FR 17196, April 1, 1993

## **I. A prohibition on bottom contact from pelagic trawl gear is enforceable**

Prior to amendments in 1990, the definition of “pelagic trawl gear” read as follows: “Pelagic trawl means trawl which neither the net nor the trawl doors (or other trawl-spreading devices) operates in contact with the seabed, and which does not have attached to it protective devices, such as rollers or bobbins, that would make it suitable for fishing in contact with the seabed.”<sup>3</sup> In 1990, the definition of “pelagic” was altered to prevent bottom trawlers that were closed due to hitting the halibut PSC cap from continuing to trawl for pollock and cod with a gear modification.<sup>4</sup> At the time, NMFS was concerned that the “prohibitions on parts of the pelagic trawl contacting the seabed... [were] not enforceable.”<sup>5</sup> The enforceability of such prohibition is no longer an issue. It has been over three decades since this excuse was used to eliminate the prohibition of bottom contact by pelagic trawl gear. Technologies not in use in the early 1990s such as “live feed” cameras attached to trawl nets are now common practice.<sup>6</sup> Newer technologies such as underwater cameras, bottom contact sensors, and advancements in sonar provide trawl fishers with real-time positioning of their nets while fishing. These readily available technologies eliminate the barriers of enforceability of prohibiting pelagic trawl nets to make bottom contact that were at issue in the early 1990s.

Furthermore, a prohibition of gear contact with the seabed is in regulatory definitions for other fishery management bodies. The North Atlantic Fishery Management Council defines mid-water trawl gear as, “designed to fish for, is capable of fishing for, or is being used to fish for pelagic species, no portion of which is designed to be or is operated in contact with the bottom at any time.”<sup>7</sup> The definition of “pelagic trawl” by the State of Alaska reads, “a trawl where the net, or the trawl doors or other trawl-spreading device, do not operate in contact with the seabed.”<sup>8</sup> As such, for consistency with the State of Alaska and because enforceability is no longer at issue, this Council should revert the definition of “pelagic trawl gear” to that a portion of the regulatory definition used prior to 1990s, clarifying that “pelagic trawl means” no portion of the fishing gear or attachments “operates in contact with the seabed.”

## **II. Pelagic trawl gear has significant bycatch**

In 1990, NMFS recognized “although pelagic trawl gear is generally assumed to catch minimal amounts of prohibited species, this gear is often fished on the bottom. If, however, pelagic trawl gear is fished on the bottom but catches insignificant amounts of halibut and crabs, than contact with the bottom becomes less important.”<sup>9</sup> Now, 34 years later, this assumption of “minimal

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<sup>3</sup> 50 CFR 679.2, *See* 55 FR 38347 at 38354, September 18, 1990.

<sup>4</sup> 56 FR 2700, January 24, 1991

<sup>5</sup> *See* 55 FR 38347 at 38354.

<sup>6</sup> Pelagic Trawl Gear Definition, Draft Regulatory Impact Review for Proposed Regulatory Amendment to modify Pelagic Trawl Gear Definition, National Marine Fisheries Service, September 19, 2024, page. 13, <https://meetings.npfmc.org/CommentReview/DownloadFile?p=1cbe7580-4c2b-4b21-81ed-3cacc74353f8.pdf&fileName=C6%20Pelagic%20Trawl%20Gear%20Definition%20Analysis.pdf>

<sup>7</sup> 50 CFR § 648.2

<sup>8</sup> 5 AAC 39.105(d)(1)(C)

<sup>9</sup> *See* 55 FR 38347 at 3835

amounts of prohibited species” and “insignificant amounts of halibut and crabs” are caught by pelagic trawl gear has been soundly debunked. Last year, in 2023 alone, while King crab, snow crab, and halibut were all experiencing significant declines in abundance, pelagic trawlers caught and discarded 51.59 metric tons of halibut and 1,791 crabs. These seabed dwelling species should not be caught by “pelagic” gear, and as such, fishing efforts that result in bycatch of these benthic species should be classified and managed as “bottom” or “non-pelagic” trawl gear.

### **III. The distinction between “pelagic” and “non-pelagic” trawl should be clear and distinguished to protect habitat and benthic species from trawl operations**

As the draft Regulatory Impact Review paper in front of the Council points out, “the pelagic trawl gear definition is necessary as an enforcement mechanism to allow the clear distinction between pelagic trawls and nonpelagic trawls to be able to enforce areas closed to nonpelagic trawls.”<sup>10</sup> The clearest and simplest distinction between “pelagic” and “nonpelagic” trawl gear can be found in dictionary definitions, and understanding of “pelagic” in physical oceanography, marine biology, and fisheries sciences. “Pelagic” describes the location of an object or an organism within the water column, not at the water’s surface or on the ocean floor, but within the water column.<sup>11</sup> This clear distinction between pelagic and nonpelagic trawl gear is important for management of fisheries, and to protect sensitive habitat and species. Over 30 years ago, this Council and NMFS, in an attempt to “reduce halibut and trawl bycatches by discouraging or preventing trawl operations on the seabed when halibut and crab PSC allowances have been reached” and prevent bottom trawl operations in areas closed to nonpelagic trawling altered the definition of pelagic trawl.<sup>12</sup> Today, NMFS estimates that pelagic trawl gear used in the Bering Sea contact the seabed most, and in some cases, all of the time they are fishing.<sup>13</sup>

The Council’s actions to change the definition to “address[] compliance concerns and is separate from Council’s ongoing efforts to better understand the impacts of pelagic gear on the seafloor and to encourage gear innovations”<sup>14</sup> is not only disingenuous but also unrealistic. The regulatory definition of “pelagic trawl gear” and the regulation and management of fisheries that allow for pelagic trawl gear are one and the same and cannot be separated in application. The management of pelagic trawl gear is dependent upon the regulatory definition. While the discussion paper tries to distinguish the two at the request of the Council, the paper recognizes that “to be able to enforce a pelagic trawl gear performance standard, there must first be an enforceable definition of the gear type that allows for clear and consistent identification of legal and compliant gear.”<sup>15</sup> Therefore, while the Council may continue to “better understand” the impacts of pelagic trawl gear on the ocean floor, the reality is that the lack of prohibition of

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<sup>10</sup> Pelagic Trawl Gear Definition, at p.7

<sup>11</sup> See pelagic, Oxford Reference, A Dictionary of Biology, <https://www.oxfordreference.com/display/10.1093/oi/authority.20110803100314294?d=%2F10.1093%2Foi%2Fauthority.20110803100314294&p=emailAEczibT87cnHU>

<sup>12</sup> 58 FR 17196, 17197, April 1, 1993.

<sup>13</sup> Bristol Bay Red King Crab Information, Discussion Paper, NPFMC, April 2022, page 26, <https://meetings.npfmc.org/CommentReview/DownloadFile?p=7608c5c6-d20a-4b3e-a23a-7fb0754d3f71.pdf&fileName=D1%20BBRKC%20Information%20Paper.pdf>

<sup>14</sup> Pelagic Trawl Gear Definition, at p. 3


<sup>15</sup> *Id.* at 9.

contact with the bottom by “pelagic” trawl gear has a direct influence on the implementation of restrictions of gear use in areas closed to bottom trawling and protection of important habitat and living marine species on or near the ocean floor. The trawl gear defined and regulated as “pelagic” are in fact, mostly on the bottom of the ocean floor.<sup>16</sup> This fishing method and gear should not be defined or classified as “pelagic” when it in fact, is not fishing in the pelagic area of the water column. There are extensive studies and research that show trawlers that drag the bottom of the ocean floor are highly destructive contribute to climate change, and are, metaphorically, like clear cutting virgin forests.<sup>17</sup> In recent years, multiple countries highly dependent economically on commercial fishing such as the Chile,<sup>18</sup> Greece,<sup>19</sup> the United Kingdom,<sup>20</sup> and Sweden,<sup>21</sup> have banned or are phasing out bottom trawling in their waters to protect important habitat and species. This Council cannot continue to hide the current pelagic trawl efforts and any pelagic trawling under the proposed definition as anything but allowing bottom trawling by a different name.

#### IV. Conclusion

The reputation of Alaska seafood and sustainable fisheries are dependent upon the Council’s regulation of fisheries in Alaska waters and ignoring the reality of trawl fisheries dragging the bottom of ocean floor compromises both. This Council must come to terms with this reality and revise the definition of “pelagic” trawl gear to be just that, in the water column and not on the ocean floor and regulate fishing gear and efforts accordingly. Please contact Loretta Brown and [loretta@salmonstate.org](mailto:loretta@salmonstate.org) with any questions regarding these comments.

Sincerely,



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<sup>16</sup> Bristol Bay Red King Crab Information, at p. 26.

<sup>17</sup> *Bottom trawling releases as much carbon as air travel, landmark study finds*, The Guardian, March 17, 2021, <https://www.theguardian.com/environment/2021/mar/17/trawling-for-fish-releases-as-much-carbon-as-air-travel-report-finds-climate-crisis>

<sup>18</sup> Moniz, Rhonda, *Chile bans bottom trawling n vulnerable areas*, Marine Technology News, January 29, 2013, <https://www.marinetechologynews.com/blogs/chile-bans-bottom-trawling-in-vulnerable-areas-700331>

<sup>19</sup> *Greece bans bottom trawling in all Marine Protected Areas*, Oceanographic, April 25, 2024, <https://oceanographicmagazine.com/news/greece-bans-bottom-trawling-in-all-marine-protected-areas/>

<sup>20</sup> *Total ban on sandeel fishing and partial ban on bottom trawling announced in the UK*, Oceanographic, January 31, 2024, <https://oceanographicmagazine.com/news/ban-on-sandeel-fishing-announced-in-uk/>

<sup>21</sup> Struna, Hugo, *Sweden bans bottom fishing in territorial waters*, Euractiv, June 4, 2024, <https://www.euractiv.com/section/agriculture-food/news/sweden-to-ban-bottom-trawling-in-territorial-waters/>