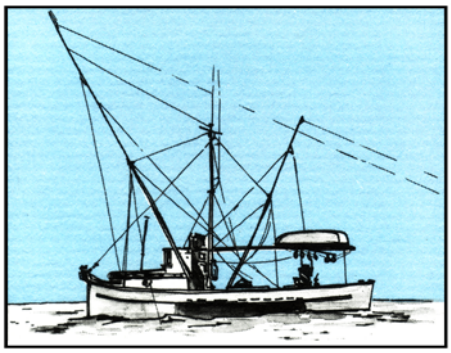


Alaska Trollers Association
130 Seward #205
Juneau, AK 99801
(907)586-9400 phone
(907) 586-4473 fax
ata@gci.net

April 4, 2010

Water Docket
Mailcode: 2822T
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

RE: Docket ID No. EPA-HQ- OW-2009-0828

The Alaska Trollers Association (ATA) appreciates the opportunity to comment on the draft Study of Discharges Incidental to Normal Operation of Commercial Fishing Vessels and Other Non-Recreational Vessels Less than 79 feet, as required by Public Law 110-299.

General Comments

Alaska Trollers Association (ATA) represents hook and line salmon fishermen operating in both state and federal waters off Southeast Alaska. A troll crew is usually made up of a skipper and 1-2 deckhands. Many trollers also participate in longline and dinglebar fisheries for halibut and cod. ATA is a member group of both United Fishermen of Alaska and Commercial Fishermen of America.

The troll fleet is 87% resident and a large percentage of permit holders live in small, rural communities. The largest town in our region is Juneau, with a population of less than 30,000.

Cost to the troll fleet, and other small vessel owners, stemming from any increased regulation of vessel discharges that were the focus of this study would likely be substantial. It would also seem impractical and cost prohibitive for both industry and the agencies, which would be faced with the administrative, monitoring, enforcement and fiscal burdens of an additional 140,000 new permits nationally. Importantly, we do not believe that the benefits from new regulations would outweigh the negative impacts to the fleet and nation.

ATA is hopeful that EPA will ultimately work with Congress to reinstate the previous exemption for commercial fishing vessels under 79' and protect thousands of small business owners from unnecessary discharge regulations.

In the near term, we remind EPA and Congress that summer is peak fishing time for all of the nation's fisheries, which will make it impossible to adequately inform fishermen, who will have no time to deal with any new regulations promulgated if the moratorium is lifted July 31. If the small boat

commercial fishing fleets are not immediately exempted - *as were many similar recreational vessels under the Clean Boating Act of 2008* - then the current moratorium must be extended for a substantial period of time, so that the issues surrounding vessel discharge can be fully and appropriately analyzed and vetted with the affected public. **A moratorium extension should last through at least December 31, 2015** and consider any ongoing or anticipated state or federal regulations, so as to avoid duplicity, and confusion.

Charter Vessels

Congress exempted roughly 16 million recreational vessels from discharge requirements. EPA discussed sampling charter vessels, but provides no comparative data for that sector. It is a fact that many of those vessels are similar in structure and size to the vessels our industry represents. Many of those vessels operate in the nearshore areas and in far greater concentrations than commercial fishing boats. This is not to suggest a problem with those vessels, but merely to point out that the nation's 70,000 fishing boats total less than 0.5% of the recreational craft already exempted, and many of our discharges occur in ports and offshore areas with a low concentration of vessels and a good tidal flush. Here in Alaska, where commercial fishing, processing, and recreational activity has taken place for more than 100 years, our waters and marine resources are healthy and abundant.

The Study

ATA appreciates that the EPA had limited time to conduct this study. However, that doesn't take away from the substantial concerns we have about the report's failure to provide congress and the public a complete picture of vessel discharges relative to a highly diverse industry, which spans a wide array of ocean and nearshore conditions from Maine to Alaska.

The federal register notice emphasizes that:

> The objective of the draft report is to provide a scientifically informative, policy neutral document to inform Congress about discharge characteristics from the types of vessels studied.

With that in mind, ATA is concerned about a number of mischaracterizations embodied in the draft report of our fleet and its operations. Further, sample size – both number of vessels (61 total; 6 troll) and effluent samples (no more than 32 per pollutant) – was small, as EPA itself noted. This makes the data tenuous and conclusions speculative. We do not think the data adequately reflects the true conduct of our fishery, nor the nature of our vessel discharges, nor the areas where discharges occur. Our concerns extend to other vessels tested in Alaska and throughout the US.

The State of Alaska manages 68 fisheries under unique limited entry programs. Several other state-run open access fisheries and a variety of federal fisheries also occur in our waters. 19,983 people hold Alaska limited entry permits - 11,072 (77%) of them are residents of our state and half live in rural Alaskan communities. Those individuals fish a total of 9,645 vessels, which makes up 14% of the 70,000 commercial fishing vessels subject to EPA's discharge study. 95% (9,146) of those vessels are less than 76 feet; 87% (8,393) are less than 50 feet.

We believe that a better understanding of how commercial fishing vessels operate - fishery by fishery and region by region - would help both EPA and congress see that potentially onerous and punitive regulations for small boat commercial fishermen is not where the nation will secure significant health protections for humans and wildlife, or improvements in water quality. This is particularly true in

Alaska, where our fleets work large, mostly remote areas, in some of the coldest and most dynamic seas off the US coast.

ATA had hoped to work with EPA staff while they were sampling in Alaska, to assist in their understanding of how the troll fishery is conducted and the particulars of vessel discharges associated with our operations. Since that did not happen, I offer the following overview of the Alaska troll fishery, followed by our specific responses to questions found in the federal register notice.

Alaska Salmon Troll Fleet

The Basics

The troll fleet is highly mobile. Small vessels are fished in state and federal waters from Dixon Entrance on the south, to Cape Suckling on the north. Trolling occurs in waters up to 50 miles offshore. It is common for trollers to fish and deliver product far from their home port.

There are both handtroll and powertroll operations. Handtrollers fish fewer lines and bring fish aboard with hand operated gurdies or rod and real. Power trollers use hydraulic gurdies to land their catch.

Trollers are known for producing the highest quality salmon in the industry, in part because of the care taken of the product while still at sea. Fish caught in the troll fishery are landed one at a time and most are gilled, gutted, and iced in short order. Some fish are landed in the round and held in slush ice. A small component of the harvest is frozen at sea by approximately 50 vessels each year.

The troll fishery occurs nearly year-round, with winter, spring and summer components. Due to weather, particularly in the winter and spring, the participation can vary greatly and many weeks are simply not fishable throughout most of the region.

The winter fishery occurs in state waters and while extremely important for our rural communities, has always seen low level harvests and participation, mostly due to weather. Only 300 trollers have made winter landings so far this season (October 11, 2009 through April 2, 2010), for less than 20,000 fish weighing in at about 250,000 pounds. Typically, about 400 trollers fish the winter fishery.

Roughly 500 trollers fish the spring fishery each year, which occurs in state waters from late April through June and targets specific fish in small, select areas that are separately managed. In 2009, those areas were open anywhere from 14 to 61 days.

The heart of the annual troll season, in both state and federal waters, lasts only three months, July 1 – September 30, with about 1000 trollers participating. Each year, the troll fleet delivers to market roughly 2 million fish on average.[1]

Vessel Length

According to Alaska Commercial Fisheries Entry Commission[2], 2123 vessels were licensed to operate hand and power troll permits issued by the State of Alaska in 2009. About half of those vessels made landings. Troll permit holders are listed as owning vessels that vary greatly in size, from 12 foot skiffs to vessels up to 95 feet, but the average vessel, across both fleets, measures 33 feet. Powertroll vessels

[1] Alaska Department of Fish and Game (ADFG) http://www.cf.adfg.state.ak.us/region1/finfish/salmon/troll/trolinfo.php
[2] Alaska Commercial Fisheries Entry Commission (CFEC) http://www.cfec.state.ak.us

average 41 feet and handtroll vessels 27 feet. These lengths are what would be considered 'typical' in terms of size and scale for our fleet, with a variety of configurations, depending on the nature of their operation. Trollers who freeze their catch at sea tend to have larger boats, but most of those vessels are still less than 50 feet. In fact, 99.3% of the troll fleet is made up of vessels under 60 feet.

Hold and Fuel Capacity[3]
90% of powertroll vessels have a hold capacity of less than 1000 cubic feet, with an average of 595 cf. 97% of handtroll vessels and 75% of powertroll vessels have a fuel capacity of less than 1000 gallons; handtroll vessels average 259 gallons, and powertroll vessels average 882 gallons.

Most trollers take on 0 to 3 tons of ice per trip, not 5.5 tons as the study suggests.

Trip Length and Harvest
Trollers are at sea for extended periods of time, which is why their catch is iced or frozen. Most of the fishery occurs far from urban centers, without city harbors and services. Due to the distance to the fishing grounds and the low volume of daily harvest, very few trollers can deliver their catch daily. Those that do are often the smallest vessels in the fleet, or fishing for a specialty market.

According to Alaska Department of Fish and Game, between 2005 and 2009, powertrollers averaged 15,230 pounds of salmon landed each year, and handtrollers averaged 2,420 pounds of salmon landed each year. Depending on the individual, type of operation, and time and areas fished, those figures likely ranged from 10 to 40,000 pounds of fish landed on an annual basis. However, the mean averages appear typical for most trollers.

It's also important to note that while the troll fleet has a longer season than most salmon fisheries, every day is not a fishing day, so simplistic calculations made to represent a 'year' of impacts must be avoided. Salmon run timing and regulation, other fisheries, availability of buyers, and weather are significant factors that reduce the number of trollers operating at any given time.

Comparisons between fishing fleets can also be tricky, since each one operates under different management formats, in various areas and weather conditions. Plus, the same boat working two different fisheries can be set up in a totally different manner depending on the target species.

Offloading and Clean Up
Trollers who ice their fish deliver every 3-7 days either to a tender or a shoreside processor. Once per week is the norm. Those who freeze their catch generally offload shoreside when the boat is full, every 10-25 days.

While fishing, most trollers use a deck hose and seawater to quickly rinse the deck several times a day, with a more thorough clean up in the evenings and after offloading. Most vessels do not have room onboard for pressure washers.

The fish holds are cleaned when fish are delivered to the processor, certainly not daily, and not always when delivered to a tender on the grounds. Some, of our local processors recommend and/or provide access to bio-safe detergents for clean up, most likely for food safety and in an attempt to keep

[3] Alaska Commercial Fisheries Entry Commission (CFEC) http://www.cfec.state.ak.us

discharges at their plants within permitted levels. **This in itself suggests that the bulk of fish hold discharges from commercial fishing vessels are already being accounted for under existing permits.**

Federal Register Questions

(1) Are there additional existing data or data sources which EPA should incorporate into or analyze in the final report? If so, please provide the specific data sets, papers, and/or citations EPA should consider.

EPA does not appear to have reviewed current individual or general NPDES permit information for seafood processing or other discharges regulated under state law. It is likely that some of our vessel discharges are already accounted for under shoreside processing permits, both state and federal. Also, vessels that process at sea have relevant permit information on file with the agencies. Our freezer vessels are the smallest of that type, but are already heavily regulated by EPA and the State of Alaska.

(2) Did EPA accurately summarize how these vessels generate these discharges, and accurately summarize how mariners and fishermen manage the discharges (e.g., fishermen in the Northeast holding bilge water discharges until they are more than 3 nm from shore)?

Not in all cases. One of the biggest problems EPA faces with this analysis is that one size does not fit all whether you are talking about conduct between fisheries and even within a fishery, like the Southeast Alaska troll fishery. There is a wide array of vessels, engines, and configurations. Sampling 61 vessels of various types in just nine regions nationwide, and claiming that's reflective of the entire US fishing fleet, is wholly inadequate.

EPA could also have done a much better job of working with gear group representatives while on the ground in Alaska. We appreciate that outreach was made prior to the EPA sampling trip and we were able to inform our fleet and request their compliance. However, our organization was not taken up on its offer to spend time with the EPA crew and answer specific questions about the fishery. If that had happened, we could have helped them to better understand the conduct of our fishery and the diversity that exists within the fleet, and important differences between our fleet and others.

For instance, the EPA study states that trollers deliver product to processors every day and therefore reasoned that fish holds were cleaned on a daily basis. This would lead to an assumption of far more nearshore impact than is accurate. Not true. In fact, a more accurate average estimate for deliveries would have ranged from every 3-7 days for ice vessels and every 10-25 days for freezer vessels.

EPA also claims that when offloading product trollers dump 5.5 tons of ice – every day. Again, most trollers do not offload every day and while I can think of a few vessels in our fleet that can take 5.5 tons of ice, they probably couldn't hold both fish and that volume of ice.

On average, a troller takes 2 tons of ice, with a likely range of 0-3 tons. A gillnet vessel that actually does deliver every day or two might take just a half ton of ice, or even none if they have refrigerated saltwater systems.

There are also significant problems with the study results and discussion about bilge and engine effluents, quantities of water used in deck washdowns, and greywater.

In brief, bilge water often includes discharges that you have analyzed separately and many engines are cooled in a manner that results in no effluent being discharged at sea. Fishing vessels usually use a deck hose for most washdowns, not a pressure washer, and wash up during a fishing trip is relatively short in duration. Finally, most vessels work to conserve water throughout a trip, some don't even have a shower onboard. Again, every boat is different, but it is extremely rare to find a fishing vessel in our fleet with a washing machine.

(3) Did EPA present the information clearly and concisely? Do you have suggestions to better present these data for both technical and non-technical audiences?

Generally the report is easy to read. However, I found some of the information disjointed to the point that it is difficult for readers to find pieces of information that, collectively, provides a more complete picture of EPA findings and conclusions. That said, we also question many of EPA's findings and conclusions.

An example of what would have been important to put together involves test results and ambient water levels of chemicals and metals in question, in particular, arsenic and copper - not only current ambient levels, but any historic baseline data. Here in Alaska, arsenic and copper are found to be naturally occurring at significant levels. Local water is used for ice. Both freshwater and saltwater are used for clean up, engine cooling, and a variety of other purposes both nearshore and offshore. Vessels take on ice and water and travel between ports. And the recreational fleet in many areas far outnumbers commercial fishing vessels and has similar discharges. This makes it difficult to pinpoint the precise source of any additional arsenic or copper loads, and whether or not there are issues of concern, much less develop prescriptive actions to reduce those levels.

If EPA is looking long term at this study to under-pin regulation of the small boat fleet, is it essential that more data be collected with regard to specific vessel types and operations, including the actual conditions under which discharges occur. Real-time problems associated with discharges in the mix of areas, not broad, hypothetical ones, should be identified. Costs and benefits of various recommended solutions must be discussed with the public in clear, concise terms.

(5) Are there additional data sources that identify specific environmental impacts that result from discharges incidental to normal operation of commercial fishing vessels and other non-recreational vessels less than 79 feet in length (other than ballast water)? If so, please provide the specific data sets, papers, and/or citations EPA should consider.

We do not know of any other specific data of this nature, nor have we seen evidence in our region of problems arising as a result of discharges from vessels of our size and type. The EPA study didn't identify or highlight any known issues in Alaska, which begs the question whether we need new policies and regulation.

In the study, the authors often reference or cite existing literature, which is understandable, but in some cases might not be pertinent to circumstances in Alaska and/or other regions of the country. This is important given EPA's stated conclusion that much of the potential impact relies on vessel density,

physical conditions of an area, pollutant loadings, and other environmental stressors. Such problems with crowding, large development, and degraded nearshore environments are rare in Alaska. Falling back on the literature may not be appropriate given those differences. Neither would citing literature on human health considerations for drinking water, when discharges occur in waters not used for human consumption.

There is apparently no analysis available of the feasibility of managing discharges for commercial fishing vessels under 79', nor the costs or practical benefits of doing so. This should be of concern to both EPA and industry, and must be addressed before proposing and/or implementing any new rules.

(6) Are there any additional existing data sources outlining usage patterns and discharge locations of commercial fishing vessels and other non-recreational vessels less than 79 feet in length that EPA should consider? If so, please provide specific data sets, papers, and or citations for EPA review.

Aside from the information referenced at (1), we are not aware of other existing data of this nature, and certainly no uniform information that will adequately and accurately describe all of the commercial fishing vessels in the USA. However, information on the wide array of commercial fishing fleets and vessels can be better developed and interpreted by working more closely with state management agencies, commercial and recreational fishermen and their gear group representatives. This study was not designed in such a way as to adequately review regional differences - it was not comprehensive enough and the sample size was small. For instance, there are likely many significant differences between a salmon troller operating out of Sitka, AK and a shrimp trawler landing product in Kemah, TX.

EPA describes its sampling program as follows:

EPA's sampling program was designed to provide information to achieve the first two objectives of the study mandated by P.L. 110-299:

- *A characterization of the nature, type, and composition of discharges for representative single vessels, and for each class of vessel.*

- *A determination of the volumes of those discharges, including the average volumes for representative single vessels, and for each class of vessel.*

While a start was made, it appears that EPA did not fully meet these objectives, most likely due to a lack of time and budget. EPA has not gathered enough baseline data or essential information on the conduct of US fisheries that would allow them to design an adequate sampling program on which to make meaningful assumptions about the nature and impact of small commercial fishing vessel discharges. Further, Congress and the public are provided no information regarding the cost: benefit of regulating those discharges.

In reality, low volume discharges from 70,000 commercial fishing boats - distributed along 12,383 miles of coastline, many operating in uncongested areas with good tidal flow - are more than likely not the source of significant threats to 'human health, welfare, and the environment'. This is particularly true when juxtaposed against large tanker and transport vessels and about 16 million recreational vessels that ply US waters each year.

Ironic is that fact that P.L. 110-299 was written in response to a court order grown out of a lawsuit leveled at concerns about aquatic nuisance species (ANS) and oil discharges in ballast water from large tanker and shipping vessels, which transit international waters before entering our ports. The lawsuit had nothing to do with commercial fishing vessels or recreational craft, until the court's ruling broadened the focus and scope. This is extremely unfortunate, particularly given EPA's statements regarding concerns about the transport of aquatic nuisance species. ANS is a significant and costly issue for the nation. Hopefully EPA will take upon itself to study the matter more fully, so that the public can be better informed about any potential issues in need of mitigation and the range of ideas to do so.

The federal register points to this conclusion from EPA:

> EPA determined that the incidental discharges from study vessels are not likely to solely cause an exceedance of any National Recommended Water Quality criteria (NRWQC) to a relatively large water body. This finding suggests that these discharges are unlikely to pose acute or chronic exceedances of the NRWQC across an entire large water body.

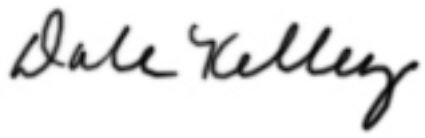
In Alaska, and other places in the US, our harbors and surrounding waters are not congested and our water bodies are large and mostly unimpaired. Hopefully EPA will emphasize these findings in their report to congress. In short, regulation of small boat commercial fishing discharges would be premature based on the data gathered thus far, and is likely unnecessary as there would be no substantial gain realized.

We anticipate the nation would be better served if the agency and congress focused on solving real problems with regulations that could lead to significant improvements in water quality. Simply focusing on the discharges of 70,000 commercial fishing vessels would be off the mark, missing the point of regulating an activity to provide human and environmental benefit. Discharge regulations for our fleet would do nothing more than further burden state and federal agencies, thousands of small businesses, local communities, and American families.

Please note that in Section 2.1.2 Industry Participation, our organization's name is misspelled (no 'n' in Alaska). Also, United Fishermen of Alaska is not properly portrayed. UFA's board of directors is made up of 37 member organizations, each representing many other fishing businesses. ATA is a member group of both United Fishermen of Alaska and Commercial Fishermen of Alaska.

Feel free to contact me if I can clarify our remarks or provide additional information on this or other issues of concern to commercial fishermen.

Best regards,



Dale Kelley
Executive Director

Cc:

Governor Sean Parnell
Alaska Congressional Delegation
Alaska Legislature
United Fishermen of Alaska
Commercial Fishermen of America