

## Errata: Coordinating state and federal management of proposed GOA trawl bycatch cooperatives *November 29, 2016*

This paper provides a discussion of options under Alternative 2 and Alternative 3 for coordination between state and federal jurisdictions under GOA Trawl Bycatch Cooperatives that differ from those presented in State Waters section of the main document. Options presented here focus on potential management structures that would not involve newly created GHF fisheries for either pollock or Pacific cod. The intent of the program is to mimic the current parallel fisheries management structure to the extent possible.

The proposed management options are intended to facilitate coordination between management agencies when creating a program to manage trawl bycatch in both State and federal waters groundfish fisheries. This would include components to address accounting for PSC usage by deploying parallel observer coverage in both State and Federal waters. Catch accounting methods are also addressed to ensure that catch is deducted from the appropriate TAC pool or PSC limit. The management options would allow trawl vessel operators to continue operating in both State and Federal waters (0 – 200 nm) when the parallel fisheries are open. For the program to be effective, it will require coordination between Federal and State fisheries managers in terms of agreed upon rules and management actions that will be taken when the thresholds are met.

### **Alternative 2: Proposed Approach**

#### *1. Pacific cod and other Federally allocated GOA groundfish species*

The State would prohibit non-pelagic trawling in state waters. All state-waters in Cook Inlet, Kodiak, and Chignik are currently closed to non-pelagic trawl (NPT) gear. In the South Alaska Peninsula Area east of Scotch Cap Light most state-waters are closed except two areas that remain open to NPT. In the South Alaska Peninsula Area west of Scotch Cap Light most state waters are open to NPT; since 2007 NPT effort in this area has been minimal, when it existed. The exact number of vessels are less than 4 and the catch information is confidential given the small number of participants. Implementing a closure of all State waters to NPT when targeting any groundfish species other than pollock is not expected to have substantial negative impacts on most vessel operators. Those that are limited could continue to fish in Federal waters based on their cooperative allocations or the status of the limited access fishery.

#### *2. GOA Trawl Pollock*

A management structure very similar to the current parallel fishery configuration would be maintained with some new conditions to allow the program to function as intended under the proposed cooperatives. The management components that would not change include:

- Parallel pollock fisheries<sup>1</sup> currently in place would open at the same time that federal waters open (status quo).<sup>2</sup> The State could consider the fishery as open if any cooperative possesses the quota necessary for directed fishing. It is assumed that NMFS would not close the directed fishery for cooperatives, since the cooperatives are required to manage their own allocations. In the Rockfish Program vessels are allowed to check out of fisheries by notifying NMFS of their intent not to fish

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<sup>1</sup> South Alaska Peninsula, Chignik, Kodiak, and Cook Inlet.

<sup>2</sup> Commissioner of the Alaska Department of Fish and Game (ADF&G) opens parallel fisheries through emergency order under the Parallel Groundfish Fishery Emergency Order Authority at 5 AAC 28.086. These emergency orders establish parallel fishing seasons that allow vessels to fish for groundfish within State waters with the same season as the Federal seasons. In addition, the Commissioner is authorized to open or close the fisheries under emergency order to adapt to unanticipated openings or closures of the Federal fisheries.

under the cooperative program for the remainder to the season. A similar structure could be used for vessels to move from the Rockfish Program to the Trawl Bycatch Program cooperatives or vice versa, if the programs are not combined as part of this proposed action. NMFS would close the Limited Access fishery when the TAC is expected to be reached, or NMFS may not open the fishery at all if the TAC is too small relative to the anticipated effort in the fishery. This means that a parallel closure for State waters may not be issued when the Federal Limited Access pollock fishery in the adjacent Federal waters is closed for vessels that registered for the Federal limited access fishery.

- All vessels fishing for pollock in Federal waters must have a Federal Fishing Permit (FFP). Although not required by State regulation, all vessels currently fishing for pollock in the State parallel fishery also have an FFP as those vessels fish Federal waters during at least some part of each year. FFPs are currently issued on a 3-year cycle; each permit is in effect from the date of issuance through the end of the cycle and cannot be surrendered and reissued more than one time in the 3-year cycle. Since these vessels are also dependent on Federal fisheries, it is unlikely they would be willing to surrender their FFP and fish only State waters.
- All pollock catch accrues to the Federal TAC regardless of whether it is caught in state or Federal waters.
  - If a **Federally licensed vessel chooses to join a cooperative**, their harvest/PSC accrues to their cooperative quota/PSC limit.
  - If a **Federally licensed vessel chooses to be in the Federal limited access fishery** that is established under this proposed action, its harvest/PSC accrues to the limits for the limited access pool.
  - A **non-Federally licensed vessel** could only trawl in state waters for pollock during the parallel pollock fishery (status quo). No trawl vessels have operated solely in the parallel fishery to-date. The cost to operate in this fishery may be prohibitive in the future and will depend on the increased costs associated with fishing in the parallel fishery (e.g. 100% observer coverage) and the amount of fish available to participants.
- Similar to status quo, NMFS would set an incidental catch allowance (ICA) for pollock to account for incidental catch of pollock in other fisheries<sup>3</sup>. NMFS could choose to set the ICA to also account for any potential unallocated harvest by non-Federally licensed vessels in state waters during the parallel fishery, as informed by the parallel fishery registration process.
- Parallel waters would close to all vessels by emergency order when the directed pollock TAC for that area (610, 620, 630 or 640) is achieved, or if the ICA is taken, in order to avoid exceeding an annual catch limit (ACL) for pollock. Because the ICA is set for all fisheries, State and Federal fisheries managers would need to define what portion of the ICA is needed to support other Federal fisheries later in the year; the parallel fisheries closure would consider those needs.
- The risk of non-Federally licensed vessels fishing in state waters is relatively low because:
  - no vessels have operated this way in the past;
  - a vessel would need 100% observer coverage to participate in the parallel fishery;
  - a vessel operator must surrender his or her vessel's FFP to fish only in state waters and attempt to create a business plan around the parallel pollock fishery and other state fisheries;<sup>4</sup> and

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<sup>3</sup> The ICA would need to cover persons that are directed fishing for pollock in the parallel fishery if they do not hold an FFP. As stated earlier no vessels have operated in this manner in the past and are not expected to in the future, given existing fishery conditions. However, the regulations as envisioned would not prevent vessel operators from entering the fishery if they met the registration and other requirements for the fishery, and the vessels operator determines that there are sufficient economic incentives to fish the parallel pollock fishery.

<sup>4</sup> If a federally licensed vessel chooses to fish inside state waters after using its federal cooperative quota, it would have to surrender its FFP. This is very unlikely for trawl vessels operating in multiple federal fisheries (Pacific cod, flatfish, rockfish), as FFPs are issued on a 3-year cycle and cannot be surrendered and reissued more than one time in the cycle.

- a vessel must have an FFP assigned to it to participate in the Federal program even if the vessel operator only wants to lease quota to other cooperative members.

### **Actions required by for this approach to function as intended**

- Vessels would need to register with the State for the parallel fishery prior to December 1 of the year prior to fishing<sup>5</sup>. The BOF would require registration before harvest specifications are set at the December Council meeting, so the responsible management agencies will know the maximum number of vessels that may participate and whether or not their harvest will accrue to a cooperative allocation, the limited access fishery allocation, or the ICA.
- The Council would need to approve and NMFS must implement regulatory language that prohibits FFP holders from harvesting beyond the cooperative allocation amounts or the limited access pool amount in the parallel fishery. This is necessary to prevent Federally permitted vessels that have already used their Federal quota from fishing inside 3 miles with essentially no limit (and risk exceeding the ACL or PSC limits).
- The BOF would need to implement regulations for the parallel GOA trawl pollock fisheries that align observer requirements in state and Federal waters, and allow for comprehensive monitoring of PSC.
- The BOF would need to prohibit non-pelagic trawling for Pacific cod and other federally allocated species in all state waters (this would extend the closure to the areas in the South Alaska Peninsula that are currently open).
- The BOF would need to add provisions for 100% observer coverage<sup>6</sup> by NMFS-permitted observer providers and full retention of Chinook salmon PSC for any vessel registered to fish trawl pollock in the parallel fishery.
- The BOF would need to amend 5 AAC 28.086 to provide the Commissioner explicit emergency order authority to close state waters in order to avoid exceeding a pollock ACL.
- The BOF would need to determine how PSC caught by vessels that do not hold an FFP would be accounted. This issue is described in greater detail under the Alternative 3 proposal.

### **Alternative 3: Proposed Approach**

As described for Alternative 2, the proposed approach would retain many of the current parallel fishery management components, but would also add some new conditions. Because Alternative 3 does not allocate target and secondary species to cooperatives or the limited access fishery, the primary differences between the two approaches include the following:

1. There is no need to close state waters areas that open to non-pelagic trawling because both state and Federal waters would close to fishing by all trawl vessels when the Federal TAC is projected to be taken;
2. NMFS will not need to account separately for directed pollock catches that are taken by vessels fishing in cooperatives, the limited access fishery, or the ICA (state waters directed fishery by vessels not assigned an FFP). Separate accounting is not necessary because all catch in state and Federal waters would be deducted from the pollock TAC.

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<sup>5</sup> This date could be modified to correspond to the November 1, program date for submitting cooperative, limited access fishery applications.

<sup>6</sup> Note: VMS is already required for all vessels (except jig gear) targeting Pacific cod, pollock, or Atka mackerel during parallel fisheries west of 144 W long (5 AAC 28.087(c) and (d)). Parallel groundfish registration and Federal reporting are also already required under 5 AAC 28.020.

The proposed approach would allow parallel fisheries<sup>7</sup> to open at the same time as Federal waters (status quo).<sup>8</sup> Vessels would need to register for the parallel fishery prior to December 1 of the year prior to fishing. All vessels fishing in federal waters must have a FFP.

- Target species catch accounting: All harvest accrues to the Federal TAC whether in state or Federal waters. Parallel (state) waters would close to all vessels by emergency order when the TACs are achieved (on the date listed in the closure notice published in Federal Register - status quo). The ICAs set by NMFS would cover bycatch in other groundfish fisheries in both State and Federal waters.
- Chinook salmon and halibut PSC accounting: PSC taken by a *vessel holding a FFP* would accrue to either its cooperative's PSC allocation or to the limited access fishery PSC limit (whichever the vessel has selected to participate in for that year, regardless of whether it is fishing in Federal or state waters). State and Federal waters would close to vessels when their PSC limit is reached, even if TAC of primary and secondary species is still available.

Vessels that are not assigned a FFP may only trawl in state waters during the parallel season (status quo). NMFS would only count Chinook PSC against the existing limits if a vessel was assigned to a FFP. The PSC would be counted against the vessel's (cooperative's or limited access fishery) limit regardless of whether it was fishing in state or Federal waters. Chinook PSC accounting for vessels that are not assigned a FFP would be based on the BOF selecting one of the options below<sup>9</sup>:

- Option 1. Chinook salmon PSC would not accrue to a limit. A separate PSC limit would not be established for vessels that do not hold a FFP. Parallel/state waters (and Federal waters) would close to all vessels when the TAC is reached (status quo).
- Option 2. A separate Chinook salmon PSC cap established by the Board of Fisheries for vessels not holding a FFP in addition to the existing PSC caps for the trawl CV sectors.
- Option 3. A separate Chinook salmon PSC cap established by the BOF for vessels that do not hold a FFP that is an amount within the existing PSC caps for the trawl CV sectors<sup>10</sup>. The amount must be established by the BOF prior to the cooperative and limited access fishery allocations being calculated by NMFS. If zero vessels that do not hold a FFP register for the parallel fishery by December 1, the separate cap could be rolled over to NMFS and apportioned to the cooperatives/limited access fishery in proportion to their initial allocation.

Under Options 2 and 3, if the PSC limit for vessels not holding a FFP is reached, state waters would close to all trawl vessels. This would require vessels that have PSC available through their cooperative to also stop fishing in state waters.

Option 1 may be appropriate if the risk of vessels that do not hold a FFP fishing in state waters is relatively low. Under existing conditions, as stated before, there are no such vessels fishing with trawl gear in state waters. The BOF could monitor PSC by vessels that are not assigned to a FFP that are fishing in state waters, and could then determine if a separate PSC cap(s) is necessary.

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<sup>7</sup> South Alaska Peninsula, Chignik, Kodiak, and Cook Inlet.

<sup>8</sup> Commissioner of the Alaska Department of Fish and Game (ADF&G) opens parallel fisheries through emergency order under the Parallel Groundfish Fishery Emergency Order Authority at 5 AAC 28.086. These emergency orders establish parallel fishing seasons that allow vessels to fish for groundfish within State waters with the same season as the Federal seasons. In addition, the Commissioner is authorized to open or close the fisheries under emergency order to adapt to unanticipated openings or closures of the Federal fisheries.

<sup>9</sup> It is assumed that the BOF would not consider options that would provide the potential for the fleet to exceed the 40,000 fish threshold in the GOA.

<sup>10</sup> The intent is that the BOF would determine a PSC limit for the vessels that do not hold an FFP. Those fish would be deducted from the 25,000 fish limit for pollock. The PSC limit for the vessels with an FFP would be 25,000 Chinook salmon minus the limit set by the BOF.

A separate state water PSC cap for halibut would not be necessary in the Pacific cod or flatfish fisheries. The cap is assumed to be unnecessary because:

1. All state waters are closed to non-pelagic trawl gear in the CG;
2. Very little Pacific cod is harvested in the WG by non-pelagic trawl gear in state waters and no flatfish are harvested; and
3. All trawl harvest in the WG is currently taken by Federally permitted vessels.

**Actions required by for this approach to function as intended:**

- The Council would need to approve and NMFS must implement regulatory language that prohibits FFP holders from harvesting beyond the cooperative PSC limits or the limited access pool PSC limit in the parallel fishery. This is necessary to prevent Federally permitted vessels that have already used their Federal PSC limit from fishing inside 3 miles.
- The BOF would need to require registration for the parallel trawl season prior to December 1 of the year prior fishing so that the agencies will know the maximum number of non-Federally licensed vessels that may participate in state waters.
- If either option 2 or 3 is selected above, the BOF would need to establish a Chinook salmon PSC limit to account for non-Federally licensed vessels' PSC in state waters. That limit must be established by the BOF prior to the cooperative and limited access fishery allocations being calculated by NMFS.
- The BOF would need to establish regulations for 100% observer coverage<sup>11</sup> by NMFS-permitted observer providers for any vessel registered to trawl in the parallel fishery, similar to the requirement for Federal waters.
- The BOF would need to amend 5 AAC 28.086 to provide the Commissioner explicit emergency order authority to close state waters when the TACs are achieved.

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<sup>11</sup> Note: VMS is already required for all vessels (except jig gear) targeting Pacific cod, pollock, or Atka mackerel during parallel fisheries west of 144 W long (5 AAC 28.087(c) and (d)). Parallel groundfish registration and Federal reporting are also already required under 28.020.