

## GROUNDFISH MANAGEMENT TEAM REPORT ON FINAL APPROVAL OF EXEMPTED FISHING PERMITS FOR 2017-2018

The Groundfish Management Team (GMT) reviewed the two exempted fishing permit (EFP) applications that were forwarded for public review in November 2015 and March 2016, and Council Operating Procedure 19 (COP-19) and offer the following thoughts.

### **The Nature Conservancy**

The goal of this EFP is to test the efficacy of collapsible-wing pots for selective harvest of lingcod, while avoiding rebuilding stocks. The applicants hypothesize the pots will reduce bycatch of Pacific halibut and yelloweye rockfish while increasing the utilization of lingcod.

While the pots were relatively ineffective for catching lingcod during preliminary testing (although clean for yelloweye rockfish), the applicants believe the low catch rates of lingcod were the result of not having access to prime lingcod habitat, and that testing within the shallower depths within the non-trawl Rockfish Conservation Area (RCA) may increase catch rates. In November, the Council recommended that this EFP move forward with the provision that fishing be restricted to waters seaward of the 75 fathom line off Washington, to reduce gear conflicts. The GMT reviewed Washington commercial Dungeness crab logbook data and confirmed the seaward extent of the majority of the Washington commercial Dungeness crab fishery is at 75 fathoms. The GMT looked at the distribution of lingcod in the limited entry daily trip limit (LE DTL) and open access fixed gear (OA FG) sectors from the West Coast Groundfish Observer Program (WCGOP; 2002-2013) which shows that lingcod are caught in waters deeper than 75 fathoms. Based on this exploration, the GMT believes that restricting EFP activities to seaward of 75 fathoms should not have undue influence on this project's outcome. The GMT notes there could be some regulatory complexity added to this EFP with the depth restriction being specific to the area off the Washington coast only. Enforcement staff in Washington and Oregon have been able to address similar issues with recreational fisheries but the GMT will defer to the Enforcement Consultants as to whether this issue would be a problem.

This EFP is not requesting off the top deductions from the annual catch limit (ACL), and intends to prosecute the EFP using their existing individual fishing quota (IFQ) quota pounds for IFQ species and within the shorebased IFQ program trip limits for non-IFQ species. Whether or not the gear proposed under this EFP proves effective for catching lingcod in shallower depths, the GMT thinks that since the EFP will be conducted using the applicant's IFQ quota pounds, particularly for overfished species such as yelloweye rockfish, it will be prosecuted in a manner consistent with individual accountability standards of the IFQ fishery.

The applicants are also proposing that the vessels participating in this EFP be allowed set and retrieve the EFP gear on the way to and from conducting their normal fishing operations, to allow for efficiencies. The catch and data from the EFP and normal fishing activities would be kept separated. The GMT believes that this will be acceptable as long as it is specified in the terms of the EFP, and the catch and data are kept separated.

The GMT notes that results from this EFP may also inform a proposal to reduce the seaward extent of the non-trawl RCA for vessels using pot gears (#75 [Agenda Item F.6, Attachment 4, November 2015](#)); for example, changing the seaward boundary from 100 fathoms to 75 fathoms. Results from this EFP could inform whether this proposed measure may be able to provide greater access to target species while minimizing bycatch.

Therefore, **the GMT continues to see the value of the data that could be gathered from this EFP and based on its technical merits, supports Council approval for 2017-2018.**

### **San Francisco Community Fishing (Platt/Emley)**

This EFP ([Agenda Item G.3., Attachment 2](#)) is intended to test commercial jig gear that is configured to selectively target yellowtail rockfish at depths between 35 and 150 fathoms in areas of the RCA from the Oregon/California (42° N. latitude) to Point Conception (34°27' N. latitude), in California while avoiding harvest of overfished species. In response to concerns expressed by the applicants that the 100 percent observer coverage required for EFPs was overly constraining, the Council requested that potential approval of this EFP include consideration of three different monitoring options. In addition, the applicants have requested an increase in the chilipepper set aside from 10 mt to 30 mt in response to the expansion of area from Point San Pedro (37°35' N. latitude) to Point Conception (34°27' N. latitude).

### **Set-Asides**

In March 2016, the Council preliminarily approved the set-asides for this EFP contained in the GMT Report ([Agenda Item G.2.a., Supplemental GMT Report, March 2016](#)), with 0.03 mt of yelloweye rockfish being moved from the Oregon research set-aside to accommodate this EFP. Additionally, the Council adopted a move of the southern boundary to Point Conception to increase the number of participants. With the expanded area, the applicants are now requesting a total set-aside of 30 mt of chilipepper south of 40°10' N lat. In 2013 and 2014, total mortality of chilipepper was 20-25 percent of the approximately 1,700 mt ACL. Additionally, during discussions at this meeting the applicants have indicated that an additional 7 mt, for a total of 10 mt, of bocaccio may be necessary. Total mortality of bocaccio was 47 percent of the 320 mt ACL in 2013 and 35 percent of the 337 mt ACL in 2014. Overall, the risk to exceeding the ACL or there being a conservation risk appears minimal for both species.

However, while both the trawl and non-trawl sectors have underutilized their allocation of these species in recent years, the GMT thought some exploration of the trawl sector impacts for overfished species regarding impacts to individual IFQ participants would be important. For the area South of 40°10' N lat., IFQ quota is issued for bocaccio and therefore the reduction in the trawl allocations due to the increased set aside will have a corresponding impact on those with quota share (QS) for either species.

The GMT examined impacts of reduced IFQ trawl allocations in both 2017 and 2018 for bocaccio, assuming that QS account holders would receive the QS percentage they had at the start of January 1, 2016. For those QS account holders with bocaccio QS percentage, there would be a reduction of 0.88 percent in 2017, resulting in decreases in allocated quota pounds (QPs) ranging from 0 to 786 pounds to individual accounts. In 2018, there would be a 0.94 percent reduction but still a range of 0 to 786 pounds of deductions in QPs to individual accounts as the total metric tonnage proposed to be removed (i.e. 7 mt) is the same both years. The GMT also notes that the Council has recommended that the two-year IFQ trawl allocation percentage

for bocaccio be increased by 15 percent for 2017 and 2018, and further the ACL for 2017 and 2018 will be increasing to 790 mt and 741 mt, respectively, compared to the ACL in 2016 of 362 mt. This increase in the ACL for 2017 and 2018 provides some additional flexibility to utilize bocaccio in this EFP with minimal impacts to the IFQ trawl fishery.

**Therefore, the GMT recommends that the Council should consider the potential impacts to fisheries of increasing the set-asides for bocaccio and chilipepper.**

### **Observer Coverage**

The purpose of EFPs is to evaluate if new fishing methods could become viable fisheries in the future. For this EFP to be successful, bycatch rates of overfished species must be low (i.e., yelloweye rockfish and cowcod). The applicants have indicated that observer costs required for the 100 percent observer coverage that has been required for this EFP to date are cost prohibitive for the small vessels that are participating. In March, the Council forwarded for public review three options to address observer coverage, 1) 30 percent observer coverage, 2) 100 percent observer coverage, and 3) 30 percent observer coverage augmented by electronic monitoring (EM).

The GMT discussed the monitoring options including the additional option suggested by the applicants that federal observers would monitor 30 percent of the EFP trips and the EFP participants collecting the information on the remainder of the trips. This approach was also supported by NOAA's Cordell Bank and Greater Farallons National Marine Sanctuaries (NMS) ([Agenda Item G.3.a, June 2016](#)). There are three full years of 100 percent observer coverage from this EFP; therefore having only 30 percent observer coverage supplemented with 70 percent industry data collection may provide an acceptable alternative that would allow expansion of the EFP to more vessels and potentially more information on bycatch. If something less than 100 percent observer coverage is approved for this EFP, the GMT recommends that monitoring by federal observers be assigned randomly, consistent with how observers are assigned in the fishery. The GMT notes that requiring an observer coverage rate of 30 percent is greater than the coverage rate in non-trawl fisheries operating in the area of the EFP during recent years; for example, the highest coverage rate in the open access fleet in this area was nine percent. Because the majority of the vessels that would be participating in this EFP are likely to be open access vessels, this EFP would have greater observer coverage than is currently occurring. The GMT also notes that the species composition in the area into which the EFP is being extended is very similar to the area in which the EFP has operated. As suggested by the Cordell Bank NMS, the GMT supports this alternative with a dedicated scientist to evaluate any significant differences in the data that is collected by federal observers compared to industry collected data.

While only trips that are monitored by observers, or EM, could be used to evaluate bycatch, allowing the EFP to operate with reduced observer coverage would allow the EFP to continue and would give the Council and industry some indication of whether or not this gear type might be economically viable. The GMT thinks this information would help the Council evaluate if this gear type should be adopted into regulation in the future. The EFP participants would need to use the same methods and data forms, etc. as the observers, and the GMT recommends that this be written into the terms of the EFP permit. By recommending a lower observer coverage rate for this EFP, the GMT does not want to give the impression that other EFPs will be approved with less than 100 percent observers coverage. The observer coverage alternative (less than 100 percent) supported by the GMT in this situation is unique in that the EFP has been in place for

four years with very little bycatch. If approved by the Council, the GMT recommends that the applicants work closely with NMFS and the WCGOP staff to specify the sampling requirements for the industry collected data so that it is comparable to the observer collected data.

The GMT believes that having both observed and industry data collected trips could be useful to evaluate both bycatch and economic viability. Therefore, **the GMT recommends 30 percent observer coverage supplemented by the EFP participants collecting the data on the remaining trips, as outlined in the letter from the Marine Sanctuaries ([Agenda Item G.3.a. NMS Letter, June 2016](#)).**

### **State Permits**

For 2013-2014, 2015-2016, and again for 2017-2018, the applicants requested 1.0 mt of black rockfish to cover any catches that may occur while fishing in the shallower depths. The GMT notes that black rockfish are covered under a state-issued deeper nearshore species permit and cannot be landed without this permit. In order to provide consistency with state licensing and regulatory requirements the applicants should either remove black rockfish from the list of species to be retained or reminds individuals that they need to have the proper state permit to be allowed to take black rockfish. The issuance of a federal EFP does not supersede any state licensing requirements pertaining to landing species. It should also be noted that the take, retention, and landing of any nearshore species requires the appropriate state issued permit.

Therefore, **the GMT continues to see the value of the data that could be gathered from this EFP and based on its technical merits, supports Council approval for 2017-2018.**

### **Evaluating EFPs**

As we stated in March ([Agenda Item G.2.a. Supplemental GMT Report](#)), the GMT would like to discuss the issue of how EFPs are evaluated once they've been underway for a period of time. Currently, there is no mechanism for determining when EFP results are adequate for evaluating whether or not the project is ready to move to the regulatory process. The issues with the San Francisco Community Fishing Association last November highlighted this issue in that the applicants thought there was enough data and therefore did not apply for a renewal. However, they were informed in November that that was not the case. Therefore, we again suggest the need for performance metrics that could be added to COP-19 that might address how many times an EFP should be renewed before either moving into the regulatory process or ending. There would be benefit to following up on the development of performance metrics, and also who or through what process the decision is made. The GMT could discuss possible metrics at future meetings, such as one of our work sessions (i.e. January 2017). Additionally, the discussion on performance metrics may also benefit from input by the Scientific and Statistical Committee. The Council would need to schedule this issue at a future time (i.e. omnibus), which the GMT does not currently have a recommendation for that timeline.

### **Recommendations:**

- **The Council approve The Nature Conservancy EFP for 2017-2018;**
- **The Council approve the San Francisco Community Association EFP with the following modifications:**
  - **consider the potential impacts to fisheries of increasing the bocaccio and chilipepper rockfish set-asides;**

- **30 percent observer coverage, supplemented by the EFP participants collecting data on the remaining trips;**
- **Include a discussion on performance metrics and evaluation of EFPs in future discussions on COP-19 and EFPs.**