

## **NMFS Report on Select Items in Groundfish Workload and New Management Measures List**

This report provides information relative to specific items on the workload and new management measures list as well as recommended additions to the list.

### *A3: Stock Definitions/Stock Complexes*

Based on a recommendation from NMFS, the Council previously prioritized the stock definitions agenda item and has made progress on an action creating stock definitions for select species (phase one - Amendment 31) which is slated to be completed in time for the development of the 2025-2026 biennial specifications. We strongly encourage the Council to maintain momentum on this issue for the remainder of the action (phase two). The issues still needing to be addressed in phase two are detailed in the NMFS Report from March 2022 ([Agenda Item E.3.a, NMFS Report 1, March 2022](#)). Specifically, the Council still needs to define the remaining stocks, or otherwise determine that they are not in need of conservation and management or they are not predominantly caught in the exclusive economic zone.

As part of this, the NMFS West Coast Regional Office has developed a methodology for differentiating commercial catch in federal waters from state waters. We request review by the Scientific and Statistical Committee and the Groundfish Management Team (GMT) as an early step in this process. We expect this information will shed light on what species may not be predominantly caught in federal waters. Further work would need to be done to address recreational activity, and we would seek additional expertise from the States. Additionally, the Council must address the long-standing issues with the composition of stock complexes as well as discrepancies in how status determinations are made for stocks in complexes and for the stock complexes as a whole.

We recommend initiating phase two in November 2023 and seeking action development/completion in 2024. This would allow NMFS to complete rulemaking by the start of the next specifications development cycle (September 2025 for the 2027-2028 biennial specifications).

### *B2: Removal of Selective Flatfish Trawl Requirement between 40°10' and 42° N. lat.*

Since 2019, participants in the trawl gear exempted fishing permit (EFP) using bottom trawl gear have been exempt from the requirement to use selective flatfish trawl gear while fishing between 42° N. lat. and 40° 10' N. lat. and shoreward of the boundary line approximating the 100 (fathoms) fm depth contour and have been exempt from the prohibition on the use of small footrope trawl gear other than selective flatfish trawl gear to fish for groundfish or have small footrope trawl gear onboard while fishing between 42° N. lat. and 40° 10' N. lat. (§660.130(c)(2)(i) and (c)(2)(ii)). These provisions were originally contemplated in the Trawl Gear Rule ([83 FR 62269](#); December 3, 2018) but were not moved forward due to EFP requirements and salmon concerns around the Klamath River.

In order to evaluate this component of the EFP, we would need to determine the bycatch impacts by environmentally significant unit (ESU) and evaluate whether the ESU-level impacts are different from those contemplated in the salmon Biological Opinion. We are currently looking into the data availability of the ESU-level information of the Chinook bycatch from this EFP. Given the small sample size of Chinook in general in this portion of the EFP, there may not be substantial genetic information to evaluate differential impacts to ESUs (Table 1).

**Table 1. Number of bottom trawl trips and Chinook salmon bycatch with selective flatfish trawl gear (SFFT) . from the bottom trawl EFP in years 2018-2022.**

	<b>Metric</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>Total</b>
Bottom trawl (SFFT exemption)	Number of trips	N/A	27	10	1	21	59
	Number of Chinook	N/A	24	0	0	7	31

*B5: Remove Certain Time and Area-Management Restrictions for Midwater Trawl Gear Targeting Non-whiting.*

**Time Closures:** Since 2018, vessels fishing on an EFP trip with midwater trawl gear are exempt from regulations at §660.112(b)(1)(x) and §660.130(c)(3)(i), which prohibit the use of midwater groundfish trawl gear outside of the Pacific whiting primary season dates for the Shorebased IFQ Fishery. Under the EFP, vessels fishing on an EFP trip using midwater groundfish trawl gear are permitted to fish in all areas outside of the primary Pacific whiting season dates. The salmon Biological Opinion required at least three years of an EFP to evaluate this provision, which has been satisfied.

**Area Closures:** Since 2018, vessels fishing on an EFP trip with midwater trawl gear are exempt from the depth restrictions south of 40°10' N. lat. shoreward of the boundary line approximating 150 fm as described at §660.130(c)(3)(ii) and (c)(4)(ii)(B). The Biological Opinion required at least three years of an EFP to evaluate this provision, which has been satisfied.

In order to evaluate this EFP, we would need to determine the environmentally significant unit (ESU) impacts and evaluate whether the ESU-level impacts are different from those contemplated in the Biological Opinion. We are currently looking into the data availability of the ESU-level information from Chinook bycatch from this EFP. Table 2 summarizes the number of trips and the number of Chinook bycaught in the EFP. Given the small sample size of Chinook, there may not be substantial genetic information to evaluate differential impacts to ESUs for both midwater parts of the EFP.

**Table 2. Number of midwater rockfish EFP trips north and south of 42° N. lat. and Chinook salmon bycatch from years 2018-2022.**

	<b>Metric</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>Total</b>
Midwater N 42° N. lat. (year-round midwater rockfish)	Number of trips	132	174	136	199	119	760
	Number of Chinook	9	80	30	40	44	203
Midwater rockfish S 42° N. lat. (depth exemption)	Number of trips	13	12	4	4	10	43
	Number of Chinook	4	9	3	1	1	18

*B15: LEFG follow on: including cost recovery, removal of base permit, allow use of slinky pots, add 4th permit per vessel, allow cumulative non-sablefish landing limit for each permit.*

For Item B15 in this list, we anticipate the overall workload if all these actions remain bundled would be medium. We recommend the Council consider this item for prioritization in 2023 because of the need to develop a cost recovery program to meet MSA mandates. We provide some information relative to cost recovery and slinky pots below.

### **Sablefish Primary Fishery Cost Recovery Options**

To aid the Council in evaluating the potential workload of the limited entry fixed gear catch share review follow-on package, we offer some preliminary design thoughts for a cost recovery program for the sablefish primary fishery. We previously provided an initial evaluation of potential incremental tasks ([Agenda Item E.4.a., NMFS Report, March 2022](#)). Here we provide a brief breakdown of key design considerations and some pro and con input.

The key design considerations of cost recovery programs are: who pays, how payment is collected, the frequency of payments, what catch is subject to fees, how fishery value is calculated, and how and when the fee percentage is announced.

We recommend the Council consider vessels registered to a limited entry sablefish endorsed permit that make sablefish landings accruing to a tier during the primary season as the entity responsible for cost recovery fees. For payment collection, as the Council is aware, the Trawl Rationalization Program Shorebased IFQ sector requires the first receiver to collect the cost recovery payments from vessels making landings, and to remit those fees monthly through pay.gov. This structure was created to mirror the buyback program. For the sablefish primary fishery, the Council could consider having vessels directly pay fees on a yearly basis, which would reduce the administrative burden compared to monthly payments and would not involve first receivers in the payment process, as is done in other cost recovery programs around the nation. Alternatively, the Council could choose to mirror the Trawl Rationalization Program Shorebased IFQ Program structure with monthly payments through First Receivers.

We recommend only the sablefish caught and landed under a tier permit be subject to fees, with careful consideration of trips that cross both the primary fishery and the limited entry trip limit fishery sectors, following the requirements at (50 CFR 660.232(a)(2)). Fishery value could be calculated based on PacFIN fishery landings and value, similar to how fishery value is calculated in the Shorebased IFQ Program. The cost recovery fee percentage would be calculated similar to the Trawl Program, and consistent with other programs around the nation, (fee percentage = direct program costs ÷ fishery value; not to exceed three percent) and could be announced in the first quarter of the year prior to the start of the season on April 1. Fee payments would be made through pay.gov, similar to other cost recovery programs.

### **Slinky pots**

This measure in the limited entry fixed gear (LEFG) follow-on package would allow the use of lightweight, collapsible pots (slinky pots) by vessels in the limited entry sablefish tier fishery permitted for longlines. In recommending this measure, the Groundfish Advisory Panel (GAP) cited the use of slinky pots in Alaska in order to avoid toothed whale, shark, and sea lion depredation, and the potential for whale depredation on the West Coast ([Agenda Item E.4.a Supplemental GAP Report 1, March 2022](#)).

NMFS supports prioritizing consideration of this item, as proactive efforts could facilitate more timely implementation if depredation on longline catch or gear becomes a concern in our region. All LEFG permits have a gear endorsement, while only some LEFG permits have a sablefish endorsement. Sablefish-endorsed permits fish in the “primary” or “tier” sablefish fishery, while permits without a sablefish endorsement may fish in the trip limit fishery. NMFS recommends that if the Council moves forward with considering this item, the analysis include all LEFG permits that only have longline endorsements. This broader scope of analysis would allow the Council to consider applying the measure to all LEFG permits that are currently able to use longline gear only. In addition, it would be helpful during scoping to discuss other constraints such as whether mixing slinky pots with traditional pots and/or longline gear types on the same trip, or even the same set, would be allowed.

The measure could increase pot gear use on the West Coast. While this could offer conservation benefits if it reduced interactions with sablefish longline gear by toothed whales or other species, other potential impacts of an increase in pot gear use would need to be evaluated. Any Endangered Species Act consultations that focus on pot gear, such as for humpback whales and for leatherback sea turtles, would need to be evaluated in terms of whether the proposed action would be within the scope of the effects considered in those consultations. In other words, would continued operation of the Pacific Coast Groundfish Fishery, specifically the LEFG sablefish tier sector, be modified in a manner that would cause an effect to listed species or designated critical habitat in a manner or to an extent that was not previously considered?

If the Council schedules work on this item, the analysis should include an exploration of differences and similarities between slinky pots, traditional pots, and longline gear, including configuration and operational factors that could affect entanglement risk.

## **New measures for consideration**

### *Gear marking*

On November 16, 2022, Oregon Sea Grant hosted a workshop on gear and line marking in the sablefish pot fishery on behalf of NMFS. This workshop successfully engaged with the industry and other management partners, providing NMFS with valuable input as it developed a feasibility report on additional gear and/or line marking. The feasibility report is required by the Terms and Conditions of the 2020 Biological Opinion (BiOp) on the Effects of the On-Going Operation of the Pacific Coast Groundfish Fishery on Humpback Whales. The feasibility report is provided under Agenda Item F.3 at this meeting. Per the Terms and Conditions of the BiOp, “[...] the findings [shall be] given consideration by the PFMC for potential changes to the pot gear marking regulations by March 2024.” There were ideas brought forward in the workshop and described in the feasibility report that merit further consideration towards the goals of improving gear identification in entanglements and reducing the risk of entanglement. While the workshop focused on pot gear, the [letter of concurrence](#) that NMFS issued for Southern Resident Killer Whales and the groundfish fishery in December 2022 similarly recommends evaluating gear and/or line marking for longline gear. We recommend the Council prioritize this action and schedule a scoping agenda item for groundfish fixed gear marking by the March 2024 meeting. This agenda item could also include measures to reduce the risk of entanglement that were also brought forward during the workshop.

### *Open Access Fishery Registration*

NMFS has experienced on-going challenges related to managing the open access groundfish fisheries. There are three primary types of difficulties encountered, including:

1. Lack of differentiation between the “directed” groundfish open access participants and participants that harvest groundfish “incidentally” to other target species;
2. Lack of contact information for communicating with the sector’s participants; and
3. Lack of reliable predictive metrics to estimate future participation for modeling purposes.

The lack of pre-season participant information complicates our ability to alert participating vessels and appropriately relay changes in regulations, an issue we ran across recently with the non-trawl logbook rulemaking. It also complicates our ability to select vessels for observer coverage, and to predict effort in the sector, which is also relevant for Endangered Species Act purposes. This measure could help better delineate directed versus incidental open access participation depending on how registration is designed, an issue that has come up in recent management measure actions such as the non-bottom contact fishing in the non-trawl RCA and the non-trawl logbook.

We request the Council create a new item on the workload and new management measure list to consider creation of a registration program or simple federal permit (not limited access) for the open access sector. We would expect this action would have a low analytical workload, and a medium rulemaking and implementation workload due to the need to develop a new information collection under the Paperwork Reduction Act and the need to develop a new permit type as well as the on-going burden of issuing permits. However, we think the administrative burden is outweighed by the benefits of having a registration or federal permit.