

ORIGINAL PROPOSALS

PROPOSAL 369 - 5 AAC 39.164(b)(7) Non-pelagic trawl gear restrictions; and 5 AAC 39.165(3) Trawl gear unlawful. This proposal asks the Board to clarify which of the two conflicting regulations is applicable to state waters of Bristol Bay near Dillingham. One regulation allows non-pelagic trawling 5 AAC 39.164(b)(7) and one does not 5 AAC 39.165(3).

Should the board decide to not allow non-pelagic trawl gear to operate in state waters of Bristol Bay the regulation would be as follows:

5 AAC 39.164. Non-pelagic trawl gear restrictions.

(b) Non-pelagic trawl gear may not be operated in waters of Alaska as follows:

.....

(7). **repealed.** [THE WATERS OF ALASKA OF THE BERING SEA EAST OF 162° W. LONG., EXCEPT THAT THE WATERS BOUNDED BY 159° W. LONG. TO 160° W. LONG AND 58° N. LAT. TO 58° 43' N. LAT. ARE OPEN TO FISHING WITH NON-PELAGIC TRAWL GEAR FROM APRIL 1 THROUGH JUNE 15].

Conversely, should the board decide to allow non-pelagic trawl gear in state waters of Bristol Bay the regulation would be as follows:

5 AAC 39.165. Trawl gear unlawful.

...

(3) **repealed.** [THE STATE WATERS OF BRISTOL BAY, DESCRIBED IN 5 AAC 06.100].

Another option for the board to consider under a fishing allowance is as follows:

5 AAC 39.164. Non-pelagic trawl gear restrictions.

(b) Non-pelagic trawl gear may not be operated in waters of Alaska as follows:

(7). **Notwithstanding 5 AAC 39.165,** the waters of Alaska of the Bering Sea east of 162° W. long., except that the waters bounded by 159° w. long. to 160° W. long and 58° N. lat. to 58° 43' N. lat. are open to fishing with non-pelagic trawl gear from April 1 through June 15.

ISSUE: Current state regulations regarding the use of non-pelagic trawl gear in the Bristol Bay area are in conflict. In some years, much of the yellowfin sole harvest within federal waters occurs in the Bristol Bay area. The Board originally opened state waters to compliment the yellowfin sole opening in adjacent federal waters. However, no non-pelagic trawl landings have occurred within state waters in this area since 1991. That year a single operator fished. Therefore landings data is confidential.

WHAT WILL HAPPEN IF NOTHING IS DONE? Regulations addressing fishing with non-pelagic trawl gear in this area will remain in conflict.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? No.

WHO IS LIKELY TO BENEFIT? Fishermen seeking clarity in regulation.

WHO IS LIKELY TO SUFFER? Depending upon the final action of the board, either non-pelagic groundfish fishermen wishing to fish in state waters as described in 5 AAC 39.164 (6), or users wanting to close those waters to the use of that gear.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Alaska Department of Fish and Game

PROPOSAL 370 - 5 AAC 39.167. Commercial fishing gear prohibited in waters of Alaska surrounding essential fish habitat areas. This proposal seeks to add two areas for closure to non-pelagic trawl gear to compliment the recent essential fish habitat closures by the federal government.

The lead in language to 5 AAC 39.167 is amended and 5 AAC 39.167 is further amended by adding two new paragraphs to read:

In the waters of Alaska surrounding essential fish habitat areas, as defined in 50 C.F.R. 679.22, as revised as of **August 25, 2008** [JULY 28, 2006], during state managed fisheries, the following commercial fishing gear is prohibited as follows:

.....

(6) the St. Lawrence Island Habitat Conservation Area is closed to non-pelagic trawl gear;

(7) the Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area is closed to non-pelagic trawl gear.

PROBLEM: The North Pacific Fishery Management Council and the National Marine Fisheries Service (NMFS) have taken action closing several locations in the northern Bering Sea to federally permitted non-pelagic trawl vessels. NMFS has closed these federal waters to protect Essential Fish Habitat under Amendment 89 of the Bering Sea/Aleutian Islands Groundfish FMP. Amendment 89 prohibits non-pelagic trawling in certain federal waters of the Bering Sea subarea to protect bottom habitat from the potential adverse effects of non-pelagic trawling. That action promotes the goals and objectives of the Magnuson-Stevens Fishery Management and Conservation Act, the FMP, and other applicable federal laws.

WHAT WILL HAPPEN IF NOTHING IS DONE? Goals and objectives of the Magnuson-Stevens Act, the FMP, and other applicable federal laws will not be mirrored within state waters, limiting bottom habitat protection from the potential adverse effects of non-pelagic trawling.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Protection of bottom habitat will be improved.

WHO IS LIKELY TO BENEFIT? Flora and fauna found within the bottom habitat and users of fishery resources dependent upon that flora and fauna.

WHO IS LIKELY TO SUFFER? Non-pelagic trawlers wishing to fish inside of state waters.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: National Marine Fisheries Service

PROPOSAL 371 - 5 AAC 28.647(d)(3). Aleutian Islands District Pacific Cod Management Plan. Provide a uniform vessel size limit of 60 feet in the Aleutian Islands District Pacific cod fishery as follows:

Provide a uniform vessel size limit of 60 feet

ISSUE: The lack of a 60' vessel size limit has allowed larger vessels, especially Catcher/Processors, to harvest the Statewater GHJ in very compressed seasons, with little of the benefit flowing to the local areas in the region. Our proposal is to create a uniform size limit of 60' in the AI statewater P. cod fishery for all gear types.

The board previously reduced the size limit for trawl and for longline, but not for pot vessels. Continuing the 125' size limit for pot vessels had the unforeseen effect of encouraging the participation of Catcher Processors, which accelerates the pace of the fishery.

There have also been unforeseen impacts from a number of federal regulatory actions that have made the community of Adak even more dependent on this state water P. cod fishery and on smaller vessels which are more closely tied to shorebased communities.

1- The development of a new Biological Opinion has been repeatedly delayed, which means that the modification of the 100% closure the AI pollock fishery in SSL Critical Habitat can not be modified at least for the next few years.

2- Implementation of Am. 80 without sideboards on at sea processors, has undercut landings of catcher vessel cod for onshore processing in the AI.

3- Implementation of the opilio crab custom processing use cap exemption without sideboards on mobile floating processors has undercut landings of catcher vessel cod for onshore processing in the AI.

While the proposal does not allocate between any classes of vessels, it does put smaller vessels on a more level playing field with the larger vessels, particularly those who are delivering codends at-sea to Catcher Processors. The need to take corrective action flows from the 5AAC 28.089. "Guiding principles for groundfish fishery regulations"

Some of the important goals from the "Guiding Principles" are not being met under the status quo. The fast pace of the fishery means that the local regions in this area of the state are not receiving maximum benefit. Instead most of the benefit is flowing out of state.

"4) maintenance of slower harvest rates by methods and means and time and area restrictions to ensure the adequate reporting and analysis necessary for management of the fishery;"

A 75,000 lb trip limit would slow harvest rates.

"(5) extension of the length of fishing seasons by methods and means and time and area restrictions to provide for the maximum benefit to the state and to regions and local areas of the state;"

Slower harvest rates will lengthen the season and will benefit the local areas of the state in the Aleutian region as originally intended by providing enough fishing time for small vessels to base operations in the local area. Benefits to the local economies will be multiplied to the extent the catch is processed on shore.

The AI statewater P. cod fishery is a new fishery created to benefit the local region and encourage the development of a local fleet. If benefits are going to accrue to the local regions of the state in which the fishery occurs, it is important to fine tune the regulations based on problems now. Delaying needed modifications of the regulations allows large vessels to develop claims of "historic dependence" in this new fishery.

PROPOSED BY: Clem Tillion, Aleut Enterprise LLC

PROPOSAL 372 - (5 AAC 28.647(d)(7)). Aleutian Islands District Pacific Cod Management Plan. Reduce daily catch limit to 75,000 pounds for the Aleutian Islands District Pacific cod fishery as follows:

Our proposal is to reduce the trip limit to 75,000 pounds in the Aleutian Islands state water P. cod fishery.

ISSUE: The Board modified the vessel size limit at its Oct. 2006 meeting in order to deal with the fact that the A season in the 1st year of the AI state water P. cod fishery lasted only one week. The ADF&G had recommended a 75,000 lb trip limit, but the BOF expected that the modifications of vessel size limits would be adequate to slow the fishery. In so doing, the BOF did not foresee the need to reduce the trip limit at that time.

However, given the lack of a prohibition on at-sea cod end transfers to floating processors and the participation of pot catcher processors, the state water fishery has remained a fast pace fishery with the 2007 and 2008 A seasons lasting barely over a week, and the 2008 B season lasting just one month.

There have also been unforeseen impacts from a number of federal regulatory actions that have made the community of Adak even more dependent on this state water P. cod fishery and on smaller vessels which are more closely tied to shorebased communities.

1- The development of a new Biological Opinion has been repeatedly delayed, which means that the modification of the 100% closure the AI pollock fishery in SSL Critical Habitat can not be modified at least for the next few years.

2- Implementation of Am. 80 without sideboards on at sea processors, has undercut landings of catcher vessel cod for onshore processing in the AI.

3- Implementation of the opilio crab custom processing use cap exemption without sideboards on mobile floating processors has undercut landings of catcher vessel cod for onshore processing in the AI.

A change in the trip limit does not prevent any one from participating. It merely slows the fishery and puts all harvesters on a more level playing field.

While the proposal does not allocate between any classes of vessels, it does put smaller vessels on a more level playing field with the larger vessels, particularly those who are delivering codends at-sea to Catcher Processors. The need to take corrective action flows from the 5 AAC 28.089. "Guiding principles for groundfish fishery regulations"

Some of the include important goals from the "Guiding Principles" are not being met under the status quo. The fast pace of the fishery means that the local regions in this area of the state are not receiving maximum benefit. Instead most of the benefit is flowing out of state.

"4) maintenance of slower harvest rates by methods and means and time and area restrictions to ensure the adequate reporting and analysis necessary for management of the fishery;"

A 75,000 lb trip limit would slow harvest rates.

"(5) extension of the length of fishing seasons by methods and means and time and area restrictions to provide for the maximum benefit to the state and to regions and local areas of the state;"

Slower harvest rates will lengthen the season and will benefit the local areas of the state in the Aleutian region as originally intended by providing enough fishing time for small vessels to base operations in the local area. Benefits to the local economies will be multiplied to the extent the catch is processed on shore.

PROPOSED BY: Clem Tillion, Aleut Enterprise LLC

PROPOSAL 373 - 5 AAC 28.087. Management Plan for Parallel Groundfish Fisheries.

Limit longline vessel to 55 feet in the Bering Sea/Aleutian Islands management area Pacific cod fishery as follows:

Limit the size of longline vessels allowed to participate in the state waters parallel fishery to fifty-five feet, LOA.

ISSUE: The combination of the sector allocations under Amendment 85 to the Fishery Management Plan for Groundfish of the Bering Sea/ Aleutian Islands Management Area and existing Alaska State Parallel Fisheries regulations in the Bering Sea and Aleutian Islands have set up an unintended loophole. The combination of the two sets of regulations has created motivation for vessel owners to target the state parallel fishery with larger vessels and add processing equipment including freezers in order to access the Federal Amendment 85 Catcher Processor Hook and Line allocation.

As our group is attempting to form a fishery cooperative and slow down the “race for fish” in the federal fishery, we are requesting the Board of Fish limit the size of longline vessels allowed to participate in the state waters parallel fishery to fifty-five feet, LOA. This will prevent the entrance of existing freezer longline vessels into the state parallel fishery once we have formed a fishery cooperative, as well as eliminate much of the existing motivation for Non-LLP and Non-cod endorsed vessels to enter into the state parallel fishery in the future using larger vessels.

Encouraging larger Catcher /Processor vessels to enter a fishery that was primarily intended for smaller shore side delivery vessels may have unintended consequences to the resource of Pacific cod within 3 miles.

A substantial portion of the desirable and available Pacific cod fishing grounds within Alaska State waters (three miles) is within the Aleutian Islands sub-area. Exploitation rates are currently (2007) estimated to be 22% of the biomass in the AI as opposed to 17% in the EBS (Thompson et al. 2007).

In addition although until recently there has been no separate population model for the AI portion of the Pacific cod population a model has been developed that indicates that the Aleutian Island cod population has been in a general decline since the late 1970’s with the exception of a small peak in the early 1990’s. (Kinzey, D., and A. Punt, in review.)

While 16% of the Pacific cod BSAI stock is estimated to exist in the AI sub area the fishing effort is such that 20% of the overall catch is being taken in the AI area. (Gaichas, S., and Aydin, K. BSAI cod) There is clearly the potential for increased effort in the AI Pacific cod fishery if vessel size is not regulated. This increased effort will add capacity to an already disproportionate catch.

It was unforeseen that the Bering Sea and Aleutian Islands parallel fishery would have participation with CP H&L vessels. The combination of Amendment 85 sector splits in this area and the high run up in cod prices have created a situation where Non-LLP and Non-Pacific cod endorsed catcher processor vessels are encouraged to invest in larger hook and line vessels. The intention of these new entries would be to participate within state waters in the Aleutian Island and Bering Sea areas with that access being provided by the current parallel fishery.

This has created an unforeseen situation where investment is being planned to add freezers to existing larger vessels who have not historically participated in the state waters parallel fishery. This has the potential of creating an unforeseen competitive fleet to those catcher vessels who have historically fished in the state parallel fishery and to those historical participants in the Amendment 85 federal catcher processor hook and line fleet.

Encourages capitalization in a fishery (CP Longline) that has recently gone through a federal government buy-back program to reduce the fleet size. The owners of the BSAI Hook and Line Catcher Processor fleet have recently participated in the Fishing Capacity Reduction Program for the Longline Catcher Processor Subsector of the BSAI and beginning in January 2008 have began repaying a \$35 million Federal loan. The ability to repay this loan was based on average catches on BSAI Pacific cod and this ability could be encroached upon by larger vessels entering the parallel fishery.

This is an entirely allocative neutral request. The fleet that has historically participated in the state parallel fishery will continue to fish in the Bering Sea and Aleutian Islands fishery. This only prevents larger hook and line vessels from becoming reliant on this seasonal fishery.

Leaving the law at status-quo could become an allocative measure as NPFMC A.85 allocates fish to the Catcher Processor fleet and the H&L CP fleet just went through a federally funded buyback to limit the fleet size that access this sectors allocation. The status quo could allowing an unforeseen allocation to Catcher Processors that do not qualify under A. 85

Waiting for the regular cycle will likely result in vessel owners investing in freezers and other processing equipment and becoming established and reliant upon catching and processing pacific cod in the state waters parallel fishery using larger vessels than are currently participating.

PROPOSED BY: Freezer Longline Coalition - Kenny Down, Executive Director

PROPOSAL 374 - 5 AAC 28.087. Management Plan for Parallel Groundfish Fisheries.

This proposal seeks to amend the management plan to allow the commissioner to require additional reporting requirements during the parallel fishery.

Proposed language would read as follows:

5 AAC 28.087. Management Plan for Parallel Groundfish Fisheries. Notwithstanding the provisions of 5 AAC 28.001 – 5 AAC 28.732, in managing the parallel groundfish fisheries, the commissioner may open and close, by emergency order, fishing seasons during which area closures, gear restrictions, vessel size limits, **reporting**, [AND] monitoring and enforcement requirements may be imposed [TO MATCH FEDERAL FISHERY MANAGEMENT MEASURES FOR PROTECTING STELLER SEA LIONS].

ISSUE: Catcher/Processors are not required to report landings until product is offloaded. This can be several weeks after fishing occurs. Timely catch reporting is imperative to management and enforcement of a fishery resource within established catch limits.

WHAT WILL HAPPEN IF NOTHING IS DONE? Catch limits may be exceeded due to untimely catch reporting.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? No.

WHO IS LIKELY TO BENEFIT? All users of the fishery resource, as well as the resource itself.

WHO IS LIKELY TO SUFFER? Catcher/Processors may be inconvenienced, as they will be required to keep a reporting schedule established by the department.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Alaska Board of Fisheries
