



**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration**

*National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668*

December 10, 2014

Mr. John Gauvin
Gauvin and Associates, LLC.
2104 SW 170th St.
Burien, WA 98166

Re: Exempted Fishing Permit No. 15-01

Dear Mr. Gauvin:

We have approved your request for exempted fishing permit (EFP) #15-01 to develop and test a salmon excluder device for pollock trawl gear used in the eastern Bering Sea. This permit allows exemptions from certain regulations under 50 CFR part 679 to facilitate harvest of pollock and salmon necessary for meeting the scientific requirements of the study. The work under the EFP is in cooperation with the Alaska Fisheries Science Center and has been approved by the North Pacific Fishery Management Council.

Enclosed is a copy of the EFP #2015-01. A copy of this EFP must be onboard the permitted vessel when fishing under the EFP, and as long as groundfish from exempted fishing are retained onboard the vessel. The permit holder and permitted vessel operator must comply with all provisions of the EFP, the Magnuson-Stevens Fishery Conservation and Management Act, and 50 CFR 679, except as provided in the terms and conditions of the EFP. If you have any questions regarding this permit, please contact Jeff Hartman of the Sustainable Fisheries Division at (907) 586-7442 or email at jeff.hartman@noaa.gov.

Sincerely,

James W. Balsiger, Ph.D.
Administrator, Alaska Region

Enclosure



BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA (BSAI)
GROUNDFISH FISHERY
EXEMPTED FISHING PERMIT
AUTHORITY: 50 CFR 600.745(b) AND 50 CFR 679.6

PERMIT #2015-01
12-6-2014

The Administrator, Alaska Region, National Marine Fisheries Service (NMFS), authorizes vessel(s) acting under the direction of the permit holder, Mr. John Gauvin, Gauvin and Associates, LLC, to conduct experimental fishing in the Bering Sea to test a salmon excluder device for trawl gear used to fish for pollock between January 20, 2015, and June 30, 2016. The excluder device is designed to release salmon from trawl gear.

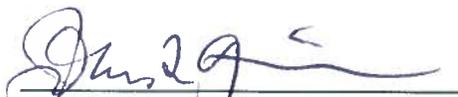
Gauvin and the owners and operators of all authorized vessels must comply with the terms of this Exempted Fishing Permit (EFP), and the Magnuson-Stevens Act and 50 CFR parts 600 and 679, except as provided in this permit. This permit is valid from January 20, 2015, through June 30, 2016. The permit may be terminated under the permit's terms, by regulatory action under 50 CFR parts 600 and 679, or revoked, suspended, or modified, under 15 CFR part 904.



James W. Balsiger, Ph.D.
Administrator,
Alaska Region, NMFS


12/10/14

Date Signed



John Gauvin,
Gauvin and Associates, LLC

12/8/2014

Date Signed

BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA
GROUNDFISH FISHERY
EXEMPTED FISHING PERMIT #11-01
TERMS AND CONDITIONS

AUTHORITY: 50 CFR 600.745(b) AND 50 CFR 679.6

TESTING A SALMON EXCLUDER DEVICE IN THE BERING SEA POLLOCK TRAWL FISHERY

A. Permit Holder

John Gauvin,
Gauvin and Associates, LLC
2104 SW 170th St.
Burien, WA 98166
(206) 660-0359

B. Permitted Vessels

The vessels authorized to participate in this Exempted Fishing Permit (EFP) experiment will be selected for the fieldwork through an application process administered by Gauvin. Two catcher vessels and one catcher/processor will be used for each stage of fieldwork. In addition to the EFP, each vessel owner and operator will be required to hold all permits and License Limitation Program endorsements otherwise authorizing participation in the Bering Sea pollock trawl fishery. If any selected vessel(s) is unable to complete the fieldwork under the EFP, such as due to a mechanical breakdown, Gauvin will inform NMFS and submit the required information on a replacement vessel(s) to NMFS before resuming the EFP work. All vessels participating in the EFP will use pelagic trawl gear as defined by 50 CFR 679.2 and must comply with the trawl performance standard at 50 CFR 679.7(a)(14)(i).

Gauvin must provide information about permitted vessels to NMFS within 5 days of contracting the vessel for the work. Information that must be provided to NMFS is specified in Appendix A.

A copy of this EFP must be on board the permitted vessels during the course of the fieldwork and as long as any groundfish or salmon retained under this permit are on board the vessels.

C. 1. Timing of the Experiment

Fieldwork under the terms of this permit is authorized for the A and B pollock seasons between January 20, 2015, and June 30, 2016.

2. Notification of Timing of the Experiment.

Gauvin must notify NMFS and the NOAA Office of Law Enforcement (OLE) (by email) within 24 hours of the starting and ending date of the field season for each vessel permitted under the EFP. Should EFP fishing be concluded prior to the end of the field season, Gauvin must notify both NMFS and NOAA OLE within 24 hours of the end of EFP Fishing. EFP fishing may be temporarily terminated during a field season, and then restarted through the following procedure. If EFP fishing is to begin again after being concluded during the field season, EFP fishing may not commence until the permit holder has notified NMFS and NOAA OLE by email 24 hours prior to the start of EFP fishing.

NMFS email contact is jeff.hartman@noaa.gov, and the NOAA OLE email contact is ronald.antya@noaa.gov.

D. Exemptions from Prohibitions, General Limitations, Prohibited Species Bycatch and Observer Requirements

During an EFP fishing trip, a permitted vessel and its operator are exempt from the applicability of the following regulations:

§ 679.7(a)(2): prohibits the conduct of fishing contrary to notification of inseason action, closure, or adjustment, as applied to the specific regulations detailed below for § 679.20 and § 679.7(a)(2)¹.

§ 679.7(a)(3)(i): prohibits fishing for groundfish except in compliance with the terms of the Groundfish and Halibut Observer Program. See exemptions at § 679.51 and § 679.55 for additional exemptions from the Observer Program.²

§ 679.7(a)(16): prohibits retention of groundfish bycatch that exceeds the maximum retainable amount.³

§ 679.20(d)(1)(iii)(B): states “Except as described in § 679.20(e)(3)(iii), if directed fishing for a target species or species group is prohibited, a vessel may not retain that incidental species in an amount that exceeds the maximum retainable amount, as calculated under paragraphs (e) and (f) of this section, at any time during a fishing trip.” an exemption related to the previous exemption at § 679.7(a)(16). During an EFP fishing trip, the permit holder and participating vessels are exempt from § 679.20(d)(1)(iii)(B) for pollock and other groundfish caught as an incidental species⁴

§ 679.21(b)(2)(i): requirement to minimize catch of prohibited species.⁵

§ 679.21(f): The exempted fishing under the terms of this permit is exempted from the Bering Sea Chinook salmon bycatch management program.⁶

¹ This exemption is necessary to allow Gauvin to fish in a manner that would encounter higher concentrations of Chinook salmon for testing the excluder device.

² This exemption is necessary to allow Gauvin to provide independent accounting of groundfish and salmon through the use of sea samplers, and to avoid confusion with catch accounting by observers.

³ This exemption is necessary to allow Gauvin and permitted vessels to account for and weigh all groundfish catch under the EFP, consistent with the experimental design for this EFP.

⁴ This exemption will allow a permitted vessel to exceed the maximum retainable amount for species listed in Table 10 to Part 679 during EFP fishing.

⁵ This project will, by implication, require vessel operators to conduct EFP testing in areas and modes of fishing that otherwise increase the chances of Chinook salmon encountering the trawl net and salmon excluder device. This exemption will only apply during EFP fishing.

⁶ The program includes a Chinook salmon prohibited species catch limit of 60,000 Chinook salmon and a performance standard of 47,591 Chinook salmon. NMFS annually allocates the prohibited species catch limit to sectors, cooperatives, and Community Development Quota groups that participate in an industry-developed incentive plan agreement, which provides incentives for each vessel to avoid Chinook salmon bycatch. During the period that the vessels authorized under this permit and are engaged in exempted fishing, these provisions of the program at paragraphs (f)(1) through (f)(12) do not apply. This exemption is

§§ 679.21(e) and 679.22(a): Experimental fishing under the terms of this permit is authorized in the Bering Sea subarea, including the following areas that are otherwise closed to fishing with trawl gear under 50 CFR part 679: the Chum Salmon Savings Area, and Catcher Vessel Operating Area (Figure 9 of 50 CFR part 679; §§ 679.21(e)(1)(vii), (e)(7)(vii); 679.22(a)(5)(ii), (a)(7)(ii), and (a)(10)).⁷

§ 679.50: except as described in this permit, observer requirements at § 679.50 while conducting activities under this EFP.⁸

§ 679.51(a)(1)(ii)(C): EFP fishing trips will be exempted from the requirements for trip selection under the Declare and Deploy System ODDS at § 679.51(a)(1)(ii). However, as described further at section E. below, during each EFP fishing trip, the vessel owners or operators conducting fieldwork are required to report catch, discard, and other data to Gauvin through the use of sea samplers.⁹

§ 679.55: Fee collection: Each of the vessels approved to participate under this permit would be exempt from the fee collection at § 679.55, for all groundfish caught while EFP fishing.¹⁰

E. Other Requirements.

Reporting Requirements, Sea Sampling, and Observer Requirements

Gauvin is required to work with the vessel owners retaining fish under this EFP to comply with the federal record keeping and reporting requirements at § 679.5 and ensure that records of all groundfish and Prohibited Species Catch (PSC) species caught under the EFP are kept separate and identifiable in the following manner:

Catcher Vessel Reporting Requirements: When a catcher vessel makes a landing to a shoreside processor, Gauvin is required to work with the vessel owner and the shoreside processor to ensure

necessary to allow for a sufficient number of Chinook salmon to enter the trawl net and encounter the salmon excluder during the testing of the salmon excluder device to meet the sampling design requirements of the EFP.

⁷ Exempted fishing must be conducted outside Steller sea lion protection areas closed to pollock trawl fishing, as described at § 679.22(a)(7), except the sector closure of the Steller Sea Lion Conservation Area (SCA) under § 679.22 (a)(7)(vii)(C)(2). The SCA exemption will only apply as long as the combined amount of pollock taken from the SCA does not exceed the 28 percent annual total allowable catch limit (TAC) before April 1, as specified in the Steller sea lion protection measures (§§ 679.20(a)(5)(i)(C) and 679.22(a)(7)(vii)).

⁸ The vessel owners or operators are exempt from selected observer requirements at §§ 679.50, 679.51, and 679.55, while conducting activities under this EFP. Instead, the catch and discards will be monitored by “sea samplers” who are NMFS-qualified observers hired to provide the data collection and sampling support for the experiment. However, the sea samplers will be considered NMFS observers for purposes of §§ 679.53 and 679.7(g), and the permit holder is required to comply with these provisions for their sea samplers.

⁹ This exemption is necessary to avoid confusion with observer monitoring requirements for a vessel that is not EFP fishing, and those monitoring requirements for a vessel that is engaged in EFP fishing.

¹⁰ This exemption is necessary to avoid accounting issues for EFP catch that is not sampled by observers, and would not normally be included in estimates for fee collection.

that all the catch and discard information from the EFP fishing activity is entered for each groundfish delivery. This information must be marked as research by using the “RES” management program code on the groundfish landing report completed in eLandings.

Catcher/Processor Reporting Requirements: Each haul taken during exempted fishing must be reported using eLandings or seaLandings as research¹¹ by using “RES” as the management program code on the Catcher Processor Electronic Logbook (ELB). The permitted vessel will not conduct EFP fishing and non-EFP fishing in the same day. The permitted vessel is not required to offload groundfish when EFP fishing has ended.¹²

In addition, the owner or operator of a catcher/processor must use eLandings or seaLandings to submit a production report to record and report daily processor groundfish production data and groundfish and prohibited species discard or disposition data. Each day of exempted fishing activity must be reported as research by using “RES” as the management program code on the groundfish daily production report.

Catcher Vessel and Catcher/Processor Observer and Sea Sampler Requirements: The vessel owners or operators of the vessels authorized to participate in this EFP are exempt from selected observer requirements at § 679.50, § 679.51, and § 679.55 (see D. of this Permit), while conducting activities under this EFP. Instead, the catch and any discarding of species will be monitored, accounted for, and recorded by “sea samplers” who are NMFS-qualified observers (or have equivalent training) hired to provide the data collection and sampling support for exempted fishing.

F. Area of the Experiment

Experimental fishing is authorized in the Bering Sea subarea (see definitions § 679.2), including the following areas that are otherwise closed to fishing with trawl gear under 50 CFR part 679: the Chum Salmon Savings Area (Figure 9 of 50 CFR part 679), and Catcher Vessel Operating Area (Figure 2 of 50 CFR part 679). Exempted fishing must be conducted outside Steller sea lion protection areas closed to pollock trawl fishing. The specific exemptions associated with each of these areas are listed above in D.

G. Total Allowable Groundfish Harvest

The overall groundfish catch for the effective period January 20, 2015, through June 30, 2016, is not counted against the TAC limits specified in the annual harvest specifications (§ 679.20(a)) and must not exceed 7,500 metric tons (mt). Any additional groundfish taken as part of the EFP activities will be counted against the TACs.

If groundfish catch limits of 7,500 mt in the EFP are exceeded, the exempted fishing may be terminated by the Regional Administrator.

H. Prohibited Species Catch (PSC)

Existing regulations governing retention and release of PSC species, as defined at § 679.21(b),

¹¹ The “RES” designation is a flag for catch accounting, and does not indicate that the activity under this permit is designated as any activity other than EFP fishing.

¹² No exemption from regulation is required in the EFP to allow a catcher/processor to continue EFP fishing without an offload, however, the EFP applicant has requested this clarification to support sub-contracts with catcher/processors.

will apply to the vessels when exempted fishing. The maximum of 36 mt of halibut that may be taken during EFP fishing is not expected to exceed (combined with the remaining trawl fishery) the PSC limit of 3,675 mt at § 679.21(e)(1)(iv). Vessels that take salmon during EFP fishing are exempt from several PSC requirements listed in D.

The total authorized salmon bycatch is up to 1,450 Chinook salmon (250 in the 2015 B season and 600 in each of the 2015 and 2016 A seasons) and 3,000 non-Chinook salmon (2,500 in the 2015 B season and 250 in each of the 2015 and 2016 A seasons). The pollock A and B seasons are specified in § 679.23. These amounts are based on the estimated amount of salmon needed by the applicant to meet the experimental design without constraining fishing under the EFP.

Gauvin is required to participate in the Prohibited Species Donation Program (PSDP) under § 679.26. If salmon quality standards in the PSDP are met, salmon must be provided to a NMFS-approved donation program processor and food distributor. Salmon that cannot be used in the PSDP, must be discarded, as required by § 679.21(b). After all sampling of Chinook salmon is completed, except for any Chinook salmon that are donated through the PSDP, all Chinook salmon must be discarded, as required by § 679.21(b).

The Bering Sea pollock fishery is currently exempted from fishery closures due to reaching a halibut PSC limit. Regulations at 50 CFR 679.21(e)(7)(i) exempt vessels using pelagic trawl gear and targeting pollock from being closed due to reaching their bycatch allowance or seasonal apportionment. Vessels participating in this EFP are limited to no more than 12 mt of halibut PSC during exempted fishing.

I. Vessel Selection

Catcher vessel and catcher/processors previously selected to perform the duties of this project may have contracts extended or renewed to perform duties under this EFP. If different vessels are used, Gauvin will follow the following procedures for the selection of the EFP vessels.

1. When a vessel selection process is used for the EFP fieldwork, Gauvin will disseminate application materials to trade associations for pollock vessel companies. Materials describing the fieldwork and results will detail the purpose of the EFP, application information required, groundfish catch and PSC limits consistent with the experimental design, and a description of the review process.

2. Vessel applicants will have approximately four weeks to complete and submit applications from the time application materials are made available. Submitted materials must describe the suitability of their vessel as a platform for exempted fishing, including a description of the vessel's observer sampling facilities and a statement of their fishing plan for the EFP, including the number of tows expected per day and describing the proposed coordination of sea sampler activities and deck crew duties during field work under this EFP. The application also must describe the pelagic pollock net that they intend to use for the EFP and other information critical to the determination of the suitability of the vessel and trawl gear for fieldwork, as detailed in the request for proposals.

3. The review of applications and selection of a vessel for the EFP will be conducted by Gauvin. Scientists from Resource Assessment and Conservation Engineering (RACE) Division of the Alaska Fisheries Science Center will evaluate applications and recommend the most appropriate

vessel(s) for this EFP. The application review process will gauge the feasibility of obtaining valid data on the applicant's vessel and will examine the suitability of the vessel(s). In the event that two or more vessels are considered equally suitable, the choice will be made through a random drawing.

J. Requirements for Participating Vessels

The participants in any fieldwork under this EFP must comply with the following provisions:

1. Supply facilities for sea samplers to conduct expanded species and size composition sampling; deck space for testing the device; and facilities for sorting salmon, as detailed in the fishing plan prepared during the selection process.
2. Follow all procedures and requirements of the fieldwork stated in the application for this EFP, and this EFP. This will include installing and using an excluder built to the specification of the selected design and installing camera devices on the net for the measurement of excluder performance. The vessels selected for the EFP work also will conduct fishing operations in accordance with the requirements of the EFP, as detailed in the application materials described in the application for this EFP.
3. Take up to two sea samplers who will be aboard at all times while fishing pursuant to this EFP. EFP personnel will be provided to the EFP vessels, and all costs will be paid for by the North Pacific Fisheries Research Foundation. Sea samplers must be NMFS-certified observers or have equivalent training, and will have the ability to perform the sampling duties required for any fieldwork under this EFP.
4. Make available one or more crew members to assist sea samplers as needed. Crew members assigned to this role will work as assistants to the sea samplers so that expanded catch composition, biological sampling, and size distribution sampling required for any fieldwork under this EFP can be carried out.
5. Provide all catch data needed for the analysis, including fish tickets and other information on retained and discarded catch. Participants must submit all data from the EFP activities to the permit holder and NMFS personnel associated with this project. All data collected under this permit is discloseable to the public and is not confidential once vessel identifiers have been removed.
6. Stay within the groundfish catch and PSC limitations of the EFP as closely as possible. Keep catches as close as possible to the target quantity of catch per tow so that the limits on catch and PSC are not met or exceeded prior to accomplishing the number of tows required for the experimental design.
7. Perform onboard sorting of salmon to achieve an accurate estimate of salmon catches. Otherwise, sorting must be done at the processor for the accurate estimate.
8. Abide by any adjustments in the experimental design deemed necessary by EFP and NMFS personnel.
9. If a flow scale is used, perform periodic tests to verify flow scale performance, according to directions of NMFS scientists involved with the EFP. For the EFP fieldwork of a catcher/processor, the NMFS approved flow scale will be tested, as required by 50 CFR 679.28.
10. Agree to participate in the fieldwork under this EFP until its conclusion or termination in 2016, unless released from participation by the permit holder.
11. Participants in the fieldwork under this EFP will be allowed to sell all groundfish that would be legally authorized for sale under 50 CFR 679.
12. To ensure compliance with the experimental design for this EFP, data from each day's

fishing will be reviewed by the permit holder's onboard project manager(s). Gauvin will notify NMFS and the vessel if there are indications that a vessel is not meeting the requirements for participation in this EFP.

13. Have a valid Commercial Fishing Vessel Safety Decal issued within the past 2 years that certifies compliance with regulations found in 33 CFR Chapter I and 46 CFR Chapter I for the duration of participation in this project.
14. Once notification is provided under C2. of this permit, conduct only EFP fishing allowed by this permit during the fishing trip, following all provisions in this EFP.
15. Agree to not commence EFP fishing in 2015 unless the acceptable biological catch(ABC) for Bering Sea pollock exceeds the TAC by at least 5,000 mt, and for 2016, unless the ABC for Bering Sea pollock exceeds the TAC by at least 2,500 mt.

K. Administration of the Experiment

1. Gauvin will provide at least one project manager on board each vessel participating in this EFP to facilitate communication between participants in the EFP, sea samplers, and NMFS personnel involved in monitoring any fieldwork under this EFP. The project managers will be responsible for making sure unanticipated occurrences and problems are resolved in a manner that does not jeopardize the conduct or validity of the experimental design for this EFP.

2. Gauvin will be responsible for contacting NMFS if unanticipated problems arise that require adjustments to the experiment design. The project manager(s) will be responsible for making sure that NMFS personnel who have agreed to provide assistance (such as with flow scale performance or underwater camera gear) are able to perform such duties.

3. Gauvin, through the interaction of his project manager(s), is responsible for making sure each vessel permitted to participate in this EFP follows the protocol and other requirements of this EFP. Should Gauvin determine that a vessel is not abiding by the protocols and other requirements, he must notify the vessel's operator and explain the problem. If this action does not result in the resolution of the problem, Gauvin will notify the vessel and NMFS that the vessel is no longer a participant under the EFP, and the vessel will be removed from the attached list of approved vessels.

4. Gauvin will:

4.1 Prepare written materials describing the purpose of the EFP project and the elements needed for incorporation into participant vessel applications. Set deadlines for and collect all application materials, including informing applicants of the completeness of his application (provided materials are received in a timely manner). Provide informational assistance before and during review of applications. Provide NMFS reviewers with copies of completed applications.

4.2 Provide paper and electronic forms as necessary for fieldwork data collection.

4.3 Transcribe EFP data to electronic format, create working data set for the analysis, perform spot checks, and run standard diagnostics to locate outliers in the data and otherwise check for data entry errors.

4.4 Prepare the technical analysis and prepare a draft and final EFP report.

4.5 Coordinate the collection, preservation, and shipment of salmon tissue samples and any coded-wire tagged snouts for analysis by the NMFS Auke Bay Lab personnel.

4.6 Ensure the project manager(s) follow the sampling plans and protocols provided by NMFS.

L. Analysis of Results

Gauvin will conduct an analysis of the data after completion of EFP fishing in 2016. A draft report will be prepared within four months after the conclusion of this EFP. The report will describe the following: the device(s) tested in the experiment, how the test was conducted, placement and other factors (such as towing speeds, water conditions, target catch rates), and performance of the device in terms of salmon bycatch reduction, target catch escapement, handling, and maintenance. The report will also include the total catch of each groundfish species and Pacific halibut in metric tons and the total number of each salmon species caught during EFP fishing. The report will be revised after initial review by the Scientific and Statistical Committee of the Council and any other technical review. The final written report will be prepared by Gauvin, will be provided for review and comment by NMFS, and will be made available to the Council for distribution to interested public.

M. Distribution of Study Results of Final Report

1. Gauvin will prepare a final report for the trawl industry explaining the results and basic statistical confidence in those results.¹³
2. This industry final report will be available free of charge to the public upon request and presented upon request to the Council. Data will be made available to researchers.

N. Violations

Gauvin's failure and/or the permitted vessel owners' or operators' failure to comply with the terms and conditions of this permit and all applicable provisions of 50 CFR parts 600 and 679, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), or any other applicable law are grounds for revocation, suspension, or modification of this permit as well as civil or criminal penalties under the Magnuson-Stevens Act.

O. Waiver

Gauvin, on his own behalf, and on behalf of all persons conducting activities authorized by the permit under his direction, waive any and all claims against the United States, and its agents and employees, for any liability whatsoever for personal injury, death, sickness, or damage to property directly or indirectly due to activities under this permit.

¹³ The purpose of this report is to make interested industry participants aware of the performance of the salmon excluder device so that, if the device decreases salmon bycatch rates with minimal or justifiable losses in target species, this information can be adapted for industry use or further modification of the approaches developed in the EFP fieldwork.

Appendix A. Vessel Information Form for EFP 2015-01

EXEMPTED FISHING PERMIT: #15-01
PERMITTED VESSEL

Vessel Name:

Federal Fisheries Permit Number:

USCG Official Number:

Owner Name:

Owner Address:

Phone:

Fax:

Length Overall (LOA):

Gross Tonnage:

Type of Vessel:

Homeport:

Signature(s) of Authorized Representative(s):

Date signed

Date signed

The signature(s) above confirm this information, but do not constitute a final commitment to participate in the test operation.

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Jhartman: 11/7/14,11/17/14, 12/4/14

Jgauvin: 11/13/14

Bgerke: 11/26/14

Tmeyer: 11/13/14, 12/4/14

Jmondragon: 11/25/14

Gaberle: 11/21/2014

Jpollard: 12/5/14