

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

RIN 0648–AY42

Fisheries of the Exclusive Economic Zone Off Alaska; Central Gulf of Alaska License Limitation Program; Amendment 86

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of availability of fishery management plan amendment; request for comments.

SUMMARY: The North Pacific Fishery Management Council submitted Amendment 86 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) to NMFS for review. If approved, Amendment 86 would add a Pacific cod endorsement on licenses issued under the license limitation program (LLP) if those licenses have been used on vessels that meet minimum recent landing requirements using non-trawl gear, commonly known as fixed gear. This proposed action would exempt vessels that use jig gear from the requirement to hold an LLP license, modify the maximum length designation on a specific set of fixed gear LLP licenses, and allow entities representing specific communities to receive a limited number of fixed gear licenses with Pacific cod endorsements for use on vessels designated by entities representing the communities. This proposed action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.

DATES: Comments on the amendment must be received on or before August 31, 2010.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by “RIN 0648–AY42,” by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at <http://www.regulations.gov>.
- Mail: P. O. Box 21668, Juneau, AK 99802.
- Fax: 907–586–7557.

- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

Copies of Amendment 86 to the Fishery Management Plan for Groundfish of the Gulf of Alaska, and the Environmental Assessment (EA), Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA) prepared for Amendment 86 are available from the NMFS Alaska website at <http://www.alaskafisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Glenn Merrill, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. This notice announces that proposed Amendment 86 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) is available for public review and comment.

The groundfish fisheries in the exclusive economic zone of the Gulf of Alaska are managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act.

The license limitation program (LLP) for Gulf of Alaska (GOA) groundfish fisheries was recommended by the North Pacific Fishery Management Council (Council) in June 1995 as Amendment 41 to the FMP. NMFS published a final rule to implement the LLP on October 1, 1998 (63 FR 52642),

and the LLP was implemented on January 1, 2000.

The LLP for groundfish established specific criteria that must be met to allow a person to fish in federally managed groundfish fisheries. Under the LLP, NMFS issued LLP licenses to vessel owners based on the catch history of their vessels in federal groundfish fisheries during the mid 1990s. LLP licenses: (1) endorse fishing activities in specific regulatory areas in the GOA; (2) restrict the length of the vessel, the maximum length overall (MLOA), on which the LLP license may be used; (3) designate the fishing gear (trawl or non-trawl gear) that may be used on a vessel; (4) designate the type of vessel operation permitted (catcher vessel or catcher/processor); and (5) are issued so that the endorsements for specific regulatory areas, gear designations, or vessel operational types are non-severable from the LLP license (i.e., once issued, the components of the LLP license cannot be transferred independently). By creating LLP licenses with these characteristics, the Council and NMFS limited the ability of a person to transfer an LLP license that was derived from the historic fishing activity of a vessel and use it on another vessel in a manner that could expand fishing capacity.

In 2000, NMFS issued LLP licenses endorsed for trawl gear, and over 800 licenses for non-trawl gear for use in the GOA. Non-trawl gear is commonly known as “fixed gear” which includes hook-and-line, pot, and jig gear. A vessel owner received an LLP license endorsed for the Southeast Outside District (SEO), Central Gulf of Alaska which includes the West Yakutat District (CG), or Western Gulf of Alaska (WG) regulatory area if that vessel met specific landing requirements in that specific regulatory area. The minimum landing requirements differed depending on the regulatory area, size of the vessel, and the operational type of the vessel.

In late 2007, the Council began a process of reviewing the use of LLP licenses endorsed for fixed gear in the GOA. This review was initiated primarily at the request of active GOA fixed gear fishery participants who were concerned that vessel owners holding fixed gear-endorsed LLP licenses that had not been assigned to vessels actively fishing could resume fishing under the licenses in the future and adversely affect their fishing operations. Specifically, fixed gear participants were concerned about the potential effects of additional effort in the GOA Pacific cod fishery that could increase competition and overcapacity in the

fishery. This overcapacity could have adverse affects on management of the fisheries if additional effort in the fishery made it more difficult for NMFS to close fisheries in a timely manner, thereby exceeding the total allowable catch for a fishery. Pacific cod is the primary species targeted by vessels using fixed gear in the GOA. During the process of developing this proposed action, the Council also received input from the public requesting modification to the LLP to establish minimum landing requirements that must be met to allow a vessel to continue to participate in the Pacific cod fixed gear fisheries in the GOA. In April 2009, after more than a year of review and extensive public comment, the Council recommended modifications to the LLP to revise eligibility criteria for fixed gear endorsements on LLP licenses.

Proposed Amendment 86 would implement four distinct actions. First, a Pacific cod fishery endorsement would be added to LLP licenses based on landings in the directed Pacific cod fishery in the GOA from 2002 through December 8, 2008. NMFS would assign Pacific cod endorsements that are designated for (1) pot, hook-and-line, and jig gear; (2) specific GOA regulatory areas (i.e., CG and WG); (3) specific operational types (i.e., catcher vessels or catcher/processors); and (4) specific landing requirements based on the MLOA designated on the LLP license (e.g., different landing requirements would need to be met for LLP licenses with an MLOA of under 60 feet than those equal to or greater than 60 feet). This proposed action does not include modifications to SEO endorsed licenses because fishing in this regulatory area is currently limited and the risk of additional effort in the fishery from latent fixed gear LLP license holders was deemed to be unlikely by the Council. The landing criteria selected would represent a minimal, but sufficient, amount of participation in the Pacific cod fishery to indicate some level of dependence on the fishery. An exemption from catcher/processor landing requirements would be provided only for LLP licenses that met the following criteria: (1) they have a catcher/processor endorsement; (2) they were assigned to vessels that did not meet minimum landing requirements to qualify for a Pacific cod endorsement for catcher/processors using hook-and-line gear in either regulatory area where those LLP licenses are endorsed; and (3) they were assigned to vessels that participated in industry efforts to reduce halibut prohibited species catch (PSC) in the directed Pacific cod fishery in the

GOA during 2006, 2007, or 2008. This exemption would allow LLP license holders to receive a Pacific cod endorsement if they chose not to use their vessels in the GOA during 2006, 2007, or 2008 to minimize halibut PSC through voluntary private contractual arrangements.

Second, Amendment 86 would exempt vessels using jig gear from the requirement to be assigned an LLP license provided those vessels did not use more than five jigging machines, more than one line per machine, and more than 30 hooks on any one line. This exemption from the requirements of the LLP is intended to provide a limited opportunity for entry level vessel operators to participate in the federal fisheries without incurring the obligations and costs of the LLP. Pacific cod is the species most frequently caught by jig gear vessels, and it represents a small portion of the overall TAC, and few of the vessels using jig gear fish in federal waters.

Third, Amendment 86 would modify the MLOA of an LLP license if it is assigned a Pacific cod endorsement. The first modification would reduce the MLOA of LLP licenses that are greater than 60 feet in length, but that have been consistently assigned to a vessel under 60 feet in length overall from 2002 through December 8, 2008; and (2) the vessel to which that LLP license was assigned did not meet the landing thresholds applicable for an LLP license with an MLOA greater than or equal to 60 feet, but did meet the landing thresholds applicable to LLP licenses with an MLOA under 60 feet. The second modification would allow a small increase in MLOA up to 50 feet for a limited number of LLP licenses that had been assigned to smaller sized vessels during the qualifying period for the proposed action. These modifications would allow owners of smaller vessels to continue to use LLP licenses historically associated with their vessels and would not substantially increase fishing capacity in the fishery.

Fourth, Amendment 86 would allow entities representing specific communities in the WG and CG to request a limited number of non-transferrable Pacific cod endorsed LLP licenses to be endorsed for hook-and-line or pot gear with an MLOA of less than 60 feet. Once the community entity receives an LLP license, the community entity may assign that LLP license for use on a vessel designated by the entity. The number of LLP licenses and the specific gear type of those licenses would be limited for each community to ensure that approximately the same

number of LLP licenses known to be held by community residents would be eligible for a Pacific cod endorsement. LLP licenses issued to a community would have an MLOA of 60 feet to limit the potential that communities could assign those LLP licenses to large vessels with potentially greater harvest capacity than the vessels traditionally used by residents of these communities.

The RIR/IRFA prepared for this action describes the costs and benefits of the proposed amendment (see ADDRESSES for availability). All of the directly regulated entities would be expected to benefit from this action relative to the status quo because the proposed amendment would limit the potential for participants without historic or recent participation to enter the Central and Western GOA Pacific cod fisheries.

Public comments are being solicited on proposed Amendment 86 to the GOA FMP through the end of the comment period (see DATES). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that would implement Amendment 86, following NMFS' evaluation of the proposed rule under the Magnuson-Stevens Act. Public comments on the proposed rule must be received by the end of the comment period on Amendment 86 to be considered in the approval/disapproval decision on Amendment 86. All comments received by the end of the comment period on Amendment 86, whether specifically directed to the GOA FMP amendment or the proposed rule, will be considered in the FMP approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision on the amendment. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the close of business on the last day of the comment period.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 29, 2010.

Carrie Selberg,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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