



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648-BF05

Fisheries of the Exclusive Economic Zone Off Alaska; Western Alaska Community Development Quota Program

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

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

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 109 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) to the Secretary of Commerce (Secretary) for review. If approved, Amendment 109 would amend the FMP to support increased participation in local small-scale groundfish fisheries managed under the Western Alaska Community Development Quota (CDQ) Program. Specifically, Amendment 109 would amend the description of observer coverage requirements in the FMP to allow catcher vessels less than or equal to 46 feet (ft) (14.0 meters (m)) length overall (LOA) using hook-and-line gear to be placed in the partial observer coverage category when groundfish CDQ fishing. In addition, Amendment 109 would exempt operators of registered catcher vessels greater than 32 ft (9.8 m) LOA and less than or equal to 46 ft LOA using hook-and-line gear from the requirement to obtain and carry a License Limitation Program (LLP) license when conducting groundfish CDQ fishing.

Amendment 109 also would update descriptive information about the CDQ Program in the FMP and make several editorial revisions. The objective of Amendment 109 is to facilitate increased participation by residents of CDQ communities in the groundfish CDQ fisheries in the Bering Sea and Aleutian Islands Management Area (BSAI), and to support economic development in western Alaska. This action would benefit the six CDQ groups and the operators of local small hook-and-line catcher vessels that the CDQ groups authorize to participate in the groundfish CDQ fisheries by reducing the costs of participating in those fisheries.

DATES: Submit comments on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2015-0060, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov*/#!docketDetail;D=NOAA-NMFS-2015-0060, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P. O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal

identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis/Environmental Assessment prepared for this action (collectively the "Analysis") are available from <http://www.regulations.gov> or from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Sally Bibb, 907-586-7389.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery and Conservation Act (Magnuson-Stevens Act) in section 304(a) requires that each regional fishery management council submit an amendment to a fishery management plan for review and approval, disapproval, or partial approval by the Secretary. The Magnuson-Stevens Act in section 304(a) also requires that the Secretary, upon receiving an amendment to a fishery management plan, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. The Council has submitted Amendment 109 to the Secretary for review. This notice announces that proposed Amendment 109 to the FMP is available for public review and comment.

Amendment 109 to the FMP was adopted by the Council in February 2015. The objective of Amendment 109 is to facilitate increased participation by residents of CDQ communities in the groundfish CDQ fisheries in the BSAI, thereby supporting economic development in western Alaska. This action would benefit the six CDQ groups and the

operators of local small hook-and-line catcher vessels that the CDQ groups authorize to participate in the groundfish CDQ fisheries by reducing the costs of participating in those fisheries.

If approved by the Secretary, Amendment 109 would amend Section 3.2.4.1 of the FMP to revise the description of observer coverage requirements to allow catcher vessels less than or equal to 46 ft LOA using hook-and-line gear to be placed in the partial observer coverage category when groundfish CDQ fishing, and make several editorial revisions. The editorial revisions to Section 3.2.4.1 would replace the terms “<100% observer coverage” and “≥100% observer coverage” with the more accurate terms “partial observer coverage category” and “full observer coverage category,” and correct capitalization and grammatical errors. In addition, Amendment 109 would amend Section 3.3.1 of the FMP to add registered catcher vessels greater than 32 ft LOA and less than or equal to 46 ft LOA using hook-and-line gear when groundfish CDQ fishing to the list of exemptions from the LLP license requirements. Amendment 109 also would update descriptive information about the CDQ Program in Section 4.5.4 of the FMP, and make other miscellaneous revisions to the FMP consistent with these amendments.

Background

The CDQ Program is an economic development program associated with federally managed fisheries in the BSAI. The purpose of the CDQ Program is to provide western Alaska communities with the opportunity to participate and invest in BSAI fisheries, to support economic development in western Alaska, to alleviate poverty and provide economic and social benefits for residents of western Alaska, and to achieve sustainable and diversified local economies in western Alaska. Regulations establishing

the CDQ Program were first implemented in 1992. Congress amended the Magnuson-Stevens Act in 1996 through the Sustainable Fisheries Act (Public Law 104-297) to include specific provisions governing the CDQ Program.

The CDQ Program also is a catch share program that allocates a portion of the BSAI total allowable catch limits for specific target crab and groundfish species, a portion of the commercial catch limits for halibut assigned by the International Pacific Halibut Commission, and portions of certain prohibited species catch (PSC) limits to the CDQ Program, referred to as prohibited species quota (PSQ). These amounts are then further allocated among the six CDQ groups as allocations that may be transferred among the CDQ groups (with the exception of Chinook salmon PSQ, which may be transferred to other authorized American Fisheries Act entities). The primary focus of Amendment 109 is on the halibut CDQ allocations, the Pacific cod CDQ allocations, and allocations of the halibut PSQ needed to support the Pacific cod CDQ fisheries.

There are 65 communities eligible to participate in the CDQ Program. Each community is represented by one of the six CDQ groups. The 65 eligible communities and the CDQ groups are identified in the Magnuson-Stevens Act at section 305(i)(1)(D) and in Table 7 to 50 CFR part 679. CDQ groups use the revenue derived from the harvest of their fisheries allocations as a basis for funding economic development activities and for providing employment opportunities. The successful harvest of CDQ Program allocations is integral to achieving the goals of the CDQ Program and the community development plans of each CDQ group. One of the most effective ways the CDQ groups provide benefits to residents of their CDQ communities is to use the CDQ allocations to create local small-scale commercial fisheries. For purposes of this notice, “local small-

scale” means CDQ fisheries prosecuted by catcher vessels that are less than or equal to 46 ft LOA, using hook-and-line gear, and homeported or operated from CDQ communities. These local small-scale CDQ fisheries provide opportunities for residents of the CDQ communities to earn income from the sale of the commercially harvested fish.

In October 2013, the Council received a proposal from the representatives of all six of the CDQ groups to revise certain Federal regulations that restrict the ability of fishermen in CDQ communities to harvest allocations of Pacific cod CDQ with small hook-and-line catcher vessels. In particular, representatives for the CDQ groups identified full observer coverage and LLP license requirements as limitations on the ability of CDQ community fishermen to retain Pacific cod CDQ when participating in the halibut CDQ fisheries or to develop separate local small-scale directed fisheries for Pacific cod CDQ. In addition, the representatives reported that recent declines in halibut CDQ allocations could prevent the CDQ Program from meeting its economic development objectives, and the ability to develop a local small-scale Pacific cod CDQ fishery would help to offset the lost halibut harvesting and processing opportunities in the CDQ communities.

The Council considered the CDQ groups’ proposal and examined several alternative ways to implement it, ultimately adopting its preferred alternative in February 2015. The Council’s preferred alternative would 1) place catcher vessels less than or equal to 46 ft LOA using hook-and-line gear in the partial observer coverage category when they are groundfish CDQ fishing; 2) exempt operators of registered catcher vessels greater than 32 ft LOA and less than or equal to 46 ft LOA using hook-and-line gear from

the requirement to obtain and carry an LLP license when groundfish CDQ fishing (catcher vessels less than or equal to 32 ft LOA already are exempt from the LLP requirements in the BSAI); 3) allow halibut caught by operators of catcher vessels less than or equal to 46 ft LOA using hook-and-line gear when groundfish CDQ fishing to accrue as either halibut CDQ, halibut individual fishing quota, or halibut PSC, on a trip-by-trip basis; and 4) implement new in-season management and catch accounting procedures to properly account for the harvest of groundfish and halibut and the accrual of halibut PSC by operators of catcher vessels less than or equal to 46 ft LOA using hook-and-line gear when halibut or groundfish CDQ fishing.

The Council's proposed revisions to the observer coverage and LLP license requirements require both an FMP amendment (Amendment 109) and regulatory amendments to regulations implementing the FMP at 50 CFR part 679. The remaining elements of the Council's preferred alternative require only regulatory amendments for implementation. The forthcoming proposed rule to implement Amendment 109 and the regulatory amendments recommended by the Council also would revise regulations at 50 CFR part 679 to make miscellaneous editorial revisions to 50 CFR part 679. All of the proposed changes to the regulations will be described in detail in the proposed rule.

The Council's preferred alternative is intended to provide a regulatory structure for the harvest of groundfish CDQ that provides opportunities for the small catcher vessels that fish on behalf of a CDQ group to retain additional Pacific cod and other groundfish in the halibut CDQ fishery, or to develop separate Pacific cod or other groundfish CDQ fisheries without triggering LLP and full observer coverage requirements. The Council's preferred alternative also is intended to provide additional

fishing opportunities to small catcher vessel operators in CDQ communities who have had reduced harvest opportunities due to lower halibut abundance and the resulting lower CDQ allocations, and to provide the regulatory flexibility necessary for the CDQ groups to develop diversified local small-scale halibut and groundfish fisheries. The following provides additional information on the two main provisions of Amendment 109.

Observer Coverage

Amendment 109 would place hook-and-line catcher vessels less than or equal to 46 ft LOA that are groundfish CDQ fishing in the partial observer coverage category. This proposed change would remove a significant financial and operational barrier to further development of the small vessel groundfish CDQ fisheries. In making this recommendation, the Council recognized that it is likely that few CDQ small vessels would be required to carry an observer under the existing partial observer coverage deployment strategy and deployment rates for vessels within the partial observer coverage category. To establish effective catch accounting for hook-and-line catcher vessels less than or equal to 46 ft LOA that are groundfish CDQ fishing, the Council recommended that NMFS modify its catch accounting procedures and use estimates of halibut PSC and other at-sea discards for these small vessels based on the best available observer data collected from observed vessels. These recommended revisions are described in more detail in the Analysis and the forthcoming proposed rule for Amendment 109.

LLP Exemption

The Council determined that a new LLP exemption for registered hook-and-line catcher vessels greater than 32 ft LOA and less than or equal to 46 ft LOA when

groundfish CDQ fishing was necessary to encourage the retention and sale of groundfish CDQ in the halibut fisheries and to encourage the development of directed fisheries for groundfish CDQ by vessel operators delivering catch to processors located in CDQ communities. Exemption from the LLP would remove a barrier created by the limited number of LLP licenses available for small hook-and-line catcher vessels fishing on behalf of a CDQ group. The Council determined that this limited exemption to the LLP license requirements would not undermine the objectives of the LLP because it would apply only to registered small catcher vessels when groundfish CDQ fishing. Because the CDQ groups receive specific harvest allocations, the Council determined that providing a limited exemption to registered catcher vessels greater than 32 ft LOA and less than or equal to 46 ft LOA when groundfish CDQ fishing would not result in increased harvests overall in the BSAI groundfish fisheries, or contribute to a “race for fish” among fishery participants.

NMFS is soliciting public comments on proposed Amendment 109 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 109, 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 109 to be considered in the approval/disapproval decision on Amendment 109. NMFS will consider all comments received by the end of the comment period on Amendment 109, whether specifically directed to the FMP amendment or the proposed rule, in the approval/disapproval decision on Amendment 109. Comments received after that date may not be considered in the approval/disapproval decision on

Amendment 109. To be certain of consideration, comments must be received, not just postmarked or otherwise transmitted, by the last day of the comment period.

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

Dated: January 14, 2016.

Emily H. Menashes,

Acting Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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