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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

**RIN 0648-XD649**

**Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fisheries in the Gulf of Alaska; Reopening of Comment Period**

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

**ACTION:** Notice of intent to prepare an environmental impact statement; reopening of public comment period.

**SUMMARY:** NMFS, in consultation with the North Pacific Fishery Management Council (Council), announces its intent to expand the scope of an Environmental Impact Statement (EIS) for a new bycatch management program for trawl groundfish fisheries in the Gulf of Alaska (GOA). The bycatch management program for the GOA trawl groundfish fisheries would provide participants with incentives to effectively manage and reduce Chinook salmon and Pacific halibut bycatch and promote increased utilization of groundfish harvested in the GOA. NMFS previously published a notice of intent to prepare an EIS for the new bycatch management program on July 14, 2015. In June 2016, NMFS and the Council decided to reopen the comment period on the notice of intent to prepare an EIS because the Council and NMFS expanded scope of the EIS. NMFS will accept written comments from the public to identify issues of concern and assist the Council in determining the appropriate range of management alternatives for the EIS.

**DATES:** The comment period for the notice of intent published on July 14, 2015 (80 FR 40988) is reopened. Written comments will be accepted through [*INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2014-0150, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0150](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0150), 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](http://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).

**FOR FURTHER INFORMATION CONTACT:** Rachel Baker, (907) 586-7228 or email [rachel.baker@noaa.gov](mailto:rachel.baker@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

## **Background**

The Council is considering the establishment of a new bycatch management program for the GOA trawl groundfish fisheries. On July 14, 2015, NMFS announced its intent to prepare an EIS pursuant to the National Environmental Policy Act (NEPA) on the proposed bycatch management program (80 FR 40988). In the notice of intent, NMFS requested input from the public on the scope of the EIS, in addition to seeking comment for a range of reasonable alternatives and impacts to affected resources. NMFS received 36 public comments during the scoping period and provided a scoping report to the Council in October 2015. Based on the comments received on the July 14, 2015, notice of intent and on public input received by the Council at 10 of its meetings between October 2012 and June 2016, NMFS and the Council have decided to seek additional public input to assist them in determining the appropriate range of management alternatives for the EIS. The July 14, 2015, notice of intent provides additional detail on the GOA trawl groundfish fisheries and the proposed EIS (80 FR 40988).

NMFS and the Council have determined the preparation of an EIS may be required for the proposed action because some important aspects of the bycatch management program on target and bycatch species and their users may be uncertain or unknown and may result in significant impacts on the human environment not previously analyzed. NMFS and the Council are seeking information from the public through the EIS scoping process on the range of alternatives to be analyzed, and on the environmental, social, and economic issues to be considered in the analysis. Written comments generated during the previous scoping process and this scoping process will be provided to the Council and incorporated into the EIS for the proposed action.

## **Authority for the Proposed Action**

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the United States has exclusive fishery management authority over all fishery resources found within the exclusive economic zone (EEZ). The management of these fishery resources is vested in the Secretary of Commerce (Secretary). The Council has the responsibility to prepare fishery management plans for the fishery resources that require conservation and management in the EEZ off Alaska. Management of the Federal groundfish fisheries in the GOA is carried out under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The FMP, its amendments, and implementing regulations (found at 50 CFR part 679) are developed in accordance with the requirements of the Magnuson-Stevens Act and other applicable Federal laws and executive orders, notably the NEPA and the Endangered Species Act (ESA).

### **Development of the Proposed Action**

In October 2012, the Council unanimously adopted a purpose and need statement, and goals and objectives, to support the development of a proposed bycatch management program that would allocate exclusive harvest privileges for target groundfish species and prohibited species catch (PSC) to individuals, cooperatives, or other entities. Allocation of allowable harvests in the form of exclusive harvest privileges is a type of management approach that replaces the rigid management structure of a derby fishery with a flexible program that provides vessel-level accountability for harvests and removes disincentives to controlling and reducing bycatch and waste. Allocating exclusive harvest privileges to fishery participants can mitigate the potential negative impacts of a derby fishery on target and prohibited species, and on the operational and economic efficiency of the fisheries. In this type of management approach, a portion of the catch

for a species (the exclusive harvest privilege) is allocated to individual fishermen, cooperatives, or other entities. Each participant in the fishery must have an exclusive harvest privilege, and each holder of harvest privileges must stop fishing when the holder's specific share of the quota is reached. The allocation of exclusive harvest privileges removes incentives for each participant to maximize catch rates to capture a larger share of the available catch before the fishery is closed. As a result, participants can make operational choices to improve fishing practices. These choices could include fishing in a slower and more efficient fashion, using modified gear with a lower harvest rate but which reduces bycatch, coordinating with other vessel operators to avoid areas of high bycatch, and processing fish in ways that yield increased value but which are possible only by slowing the pace of the fishery. This management approach allows fishermen to plan their fishing effort around the weather, markets, or other business considerations and allows other fishery dependent businesses to plan more effectively.

The Council has recommended and NMFS has implemented groundfish management programs in the EEZ off Alaska that allocate exclusive harvest privileges to fishery participants. These programs allocated a long-term exclusive harvest privilege to initially qualified participants for target groundfish species and PSC. The long-term exclusive harvest privilege yields an annual allocation of a portion of the TAC for target groundfish species and a portion of the applicable PSC limit. Based on experience with these programs, the Council and NMFS have determined that allocating exclusive harvest privileges of target groundfish species and PSC creates a structure for fishery participants to efficiently manage harvesting and processing activities that can result in reduced bycatch and improved utilization of groundfish fisheries. Additional information on these management programs is provided in the final rules implementing the American Fisheries Act in

the Bering Sea (67 FR 79692, December 30, 2002), the Amendment 80 Program in the Bering Sea and Aleutian Islands (72 FR 52668, September 14, 2007), and the Rockfish Program in the Central GOA (76 FR 81248, December 27, 2011).

The Council continued to develop and refine its purpose and need and goals and objectives for a proposed bycatch management program for the GOA trawl groundfish fisheries at six of its meetings between October 2012 and October 2014. During this time period, the Council received testimony from stakeholders that the allocation of long-term exclusive harvest privileges can reduce opportunities for new participants to enter the fisheries. These stakeholders noted that the long-term exclusive harvest privileges allocated in previous management programs have acquired a high value as the overall value of the fishery increased. This has created a high cost of entry for new participants because they must purchase long-term exclusive harvest privileges to participate in the fisheries. The stakeholders indicated that the high cost of entry has resulted in economic barriers to new entry in these fisheries and requested that the Council consider measures to minimize these economic barriers in the proposed bycatch management program. The Council also received testimony indicating that the allocation of long-term harvest privileges can adversely impact fishery-dependent communities through fleet consolidation and changes in the distribution of fishery benefits.

In October 2015, the Council stated its intent to address concerns about potential economic barriers for new participants and adverse impacts on communities by including a new type of proposed bycatch management program that would allocate only PSC on an annual basis to individuals or cooperatives rather than allocating long-term exclusive harvest privileges for both target groundfish species and PSC. In June 2016, the Council identified an overarching goal and

objective for the proposed bycatch management program to minimize economic barriers for new participants and maintain opportunities for entry into the trawl groundfish fisheries by limiting the type and duration of exclusive harvest privileges that may be allocated under the proposed bycatch management program. The Council also stated its intent to seek public input on additional mechanisms to limit exclusive harvesting privileges that may be allocated under the proposed bycatch management program to meet the Council's goals and objectives for the program.

### **Purpose and Need for the Proposed Action**

The Council has identified the following purpose and need statement and goals and objectives for the proposed bycatch management program:

#### *Purpose and Need Statement:*

Management of Gulf of Alaska (GOA) groundfish trawl fisheries has grown increasingly complicated in recent years due to the implementation of measures to protect Steller sea lions and reduced Pacific halibut and Chinook salmon Prohibited Species Catch (PSC) limits under variable annual total allowable catch (TACs) limits for target groundfish species. These changes complicate effective management of target and non-target resources, and can have significant adverse social and economic impacts on harvesters, processors, and fishery-dependent GOA coastal communities.

The current management tools in the GOA Groundfish Fishery Management Plan (FMP) do not provide the GOA trawl fleet with the ability to effectively address these challenges, especially with regard to the fleet's ability to best reduce and utilize PSC. As such, the Council has determined that consideration

of a new management regime for the GOA trawl fisheries is warranted.

The purpose of the proposed action is to create a new management structure which allocates prohibited species catch limits and/or allowable harvest to individuals, cooperatives, or other entities, which will mitigate the impacts of a derby-style race for fish. It is expected to improve stock conservation by creating vessel-level and/or cooperative-level incentives to eliminate wasteful fishing practices, provide mechanisms to control and reduce bycatch, and create accountability measures when utilizing PSC and/or target and secondary species. It will also increase at-sea monitoring in the GOA trawl fisheries, have the added benefit of reducing the incentive to fish during unsafe conditions, and improve operational efficiencies.

The Council recognizes that GOA harvesters, processors, and communities all have a stake in the groundfish trawl fisheries. The new program shall be designed to provide tools for the effective management and reduction of PSC and bycatch, and promote increased utilization of both target and secondary species harvested in the GOA. The program is also expected to increase the flexibility and economic efficiency of the GOA groundfish trawl fisheries and support the continued direct and indirect participation of the coastal communities that are dependent upon those fisheries. These management measures could apply to those species, or groups of species, harvested by trawl gear in the GOA, and/or to PSC. This program will not modify the overall management of other sectors in the GOA, or the Central GOA rockfish program, which already operates under a catch share



system.

*Overarching Goal and Objective:*

The overarching goal of the Gulf of Alaska Trawl Bycatch Management program is to provide the fleet tools for the effective management and reduction of PSC and bycatch, and promote increased utilization of both target and secondary species while minimizing economic barriers for new participants by limiting harvest privileges that may be allocated (target species and/or prohibited species) in order to maintain opportunity for entry into the GOA trawl fisheries.

*Goals and Objectives:*

1. Balance the requirements of the National Standards in the Magnuson Stevens Act
2. Increase the ability of the groundfish trawl sector to avoid PSC species and utilize available amounts of PSC more efficiently by allowing groundfish trawl vessels to fish more slowly, strategically, and cooperatively, both amongst the vessels themselves and with shore-based processors
3. Reduce bycatch and regulatory discards by groundfish trawl vessels
4. Authorize fair and equitable access privileges that take into consideration the value of assets and investments in the fishery and dependency on and participation in the fishery for harvesters, processors, and communities
5. Balance interests of all sectors and provide equitable distribution of benefits and similar opportunities for increased value

6. Promote community stability and minimize adverse economic impacts by limiting consolidation, providing employment and entry opportunities, and increasing the economic viability of the groundfish harvesters, processors, and support industries
7. Improve the ability of the groundfish trawl sector to achieve Optimum Yield, including increased product retention, utilization, landings, and value by allowing vessels to choose the time and location of fishing to optimize returns and generate higher yields
8. Increase stability relative to the volume and timing of groundfish trawl landings, allowing processors to better plan operational needs as well as identify and exploit new products and markets
9. Increase safety by allowing trawl vessels to prosecute groundfish fisheries at slower speeds and in better conditions
10. Include measures for improved monitoring and reporting
11. Increase the trawl sector's ability to adapt to applicable Federal law (i.e., Endangered Species Act)
12. Include methods to measure the success and impacts of all program elements
13. Minimize adverse impacts on sectors and areas not included in the program
14. Promote active participation by owners of harvest vessels and fishing privileges

### **Proposed Action**

The proposed action to be analyzed in the EIS is a bycatch management program for the GOA trawl groundfish fisheries that would provide participants with incentives to effectively manage bycatch and reduce PSC, and that would promote increased utilization of groundfish

harvested in the GOA. The proposed action is intended to improve stock conservation by imposing accountability measures for utilizing target and incidental catch and minimizing PSC to the extent practicable, creating incentives to eliminate wasteful fishing practices, providing mechanisms for participants to control and reduce bycatch in the trawl groundfish fisheries, and improving safety of life at sea and operational efficiencies. The proposed action would apply to participants in Federal groundfish fisheries prosecuted with trawl gear in the following areas: 1) the Western GOA Regulatory Area (Western GOA), 2) the Central GOA Regulatory Area (Central GOA), and 3) the West Yakutat District of the Eastern GOA Regulatory Area (West Yakutat District). These areas are defined at § 679.2 and shown in Figure 3 to 50 CFR part 679.

### **Alternatives**

NMFS, in coordination with the Council, will evaluate a range of alternative bycatch management programs for the trawl groundfish fisheries in the Western GOA, Central GOA, and West Yakutat District. NMFS and the Council recognize that implementation of a GOA trawl bycatch management program would result in substantial changes to many of the current management measures for the GOA groundfish fisheries. The EIS will analyze these changes as well as alternative ways to manage target and incidental groundfish species and PSC in the GOA groundfish fisheries. The potential alternatives already identified for the bycatch management program are available on the Council's web site at <http://www.npfmc.org/goa-trawl-bycatch-management/>. The following briefly summarizes the potential alternatives already identified for the EIS:

#### *Alternative 1*

Alternative 1 is the no action alternative (status quo). The Council and NMFS annually

establish biological thresholds and annual total allowable catch limits for groundfish species to sustainably manage the groundfish fisheries in the GOA. The Council and NMFS implemented the license limitation program (LLP), which limits access to the groundfish fisheries in the GOA. The groundfish LLP requires each vessel in the GOA to have an LLP license on board the vessel at all times while directed fishing for license limitation groundfish, with limited exemptions. The preamble to the final rule implementing the groundfish LLP provides a more detailed explanation of the rationale for specific provisions in the LLP (October 1, 1998; 63 FR 52642).

While the LLP limits the total number of vessels that can participate in the GOA groundfish fisheries, it does not limit harvest by individual vessels or assign exclusive harvest privileges to specific vessels or entities. This has led to a competitive derby fishery in the GOA groundfish fisheries, in which fishermen race against each other to harvest as much fish as they can before the annual catch limit or the PSC limit is reached and the fishery is closed for the season. A derby fishery relies on a fairly rigid management structure that is not adaptable to changes in weather, markets, or other operating considerations. Therefore, a derby fishery often results in shorter fishing seasons and unsafe fishing practices. It can also create a substantial disincentive for participants to take actions to reduce bycatch use and waste, particularly if those actions could reduce groundfish catch rates. In a derby fishery, participants who choose not to take actions to reduce bycatch and waste stand to gain additional groundfish catch by continuing to harvest at a higher bycatch rate, at the expense of any vessels engaged in bycatch avoidance.

The Council has designated Pacific salmon and Pacific halibut, along with several other species (Pacific herring, steelhead trout, king crab, and Tanner crab) as prohibited species in the GOA groundfish fisheries. Prohibited species are species taken incidentally in the groundfish trawl

fisheries and designated as “prohibited species” because they are target species in other, fully utilized domestic fisheries. The Council has recommended and NMFS has implemented various measures to control the catch of such prohibited species in GOA groundfish fisheries. Prohibited species incidentally caught while directed fishing for groundfish in the GOA may not be sold or kept for personal use and must be discarded with a minimum of injury. In addition, the GOA groundfish fishery restrictions include PSC limits for Chinook salmon and Pacific halibut to constrain the amount of bycatch of these species in the groundfish fisheries. When harvest of prohibited species in a groundfish fishery reaches the specified PSC limit for that fishery, NMFS closes directed fishing for the target groundfish species, even if the total allowable catch limit for that target groundfish species has not been fully harvested.

#### *Alternative 2*

Alternative 2 is a bycatch management program that would allocate exclusive harvest privileges to participants in the Western GOA, Central GOA, and West Yakutat District trawl groundfish fisheries who voluntarily join a cooperative. Participants who do not choose to join a cooperative would have the opportunity to participate in the current limited access management system under the groundfish LLP. In Alternative 2, the Council is considering allocating exclusive harvest privileges for target groundfish species and Chinook salmon and Pacific halibut PSC to cooperatives. Alternative 2 contains several elements and options for determining eligible participants, groundfish species and PSC to be allocated, and methods for determining allocations to cooperatives and the limited access fishery. Alternative 2 includes elements and options for cooperative formation and membership that are intended to provide incentives for participation by harvesters and processors to improve coordination and operational efficiencies. Alternative 2 also

contains a number of elements that are intended to provide for fishery dependent community stability, such as harvest privilege consolidation limits and area- and port-specific delivery requirements.

#### *Alternative 3*

Alternative 3 is a bycatch management program that would allocate Chinook salmon and Pacific halibut PSC to participants in the Western GOA, Central GOA, and West Yakutat District trawl groundfish fisheries who voluntarily join a cooperative. Participants who do not choose to join a cooperative would have the opportunity to participate in the current limited access management system under the groundfish LLP. Alternative 3 contains several elements and options for determining eligible participants and methods for determining PSC allocations to cooperatives and the limited access management fishery. Alternative 3 also includes elements and options for cooperative formation and membership that are intended to provide incentives for participation by harvesters and processors to improve coordination and operational efficiencies.

#### *Alternative 4*

Alternative 4 is a bycatch management program that would allocate exclusive harvest privileges to fishery participants who voluntarily join a cooperative under Alternative 2 and either 1) a Community Fishing Association as defined in section 303A(c)(3) of the Magnuson-Stevens Act or 2) an Adaptive Management Program. Participants who do not choose to join a cooperative would have the opportunity to participate in the current limited access management system under the groundfish LLP. In Alternative 4, the Council is considering allocating exclusive harvest privileges for target groundfish species and PSC to cooperatives and either a Community Fishing Association or to persons who meet the criteria established for an Adaptive Management Program.

The allocation to a Community Fishing Association or Adaptive Management Program would meet objectives that include providing for sustained participation of fishing communities, promoting conservation measures, and assisting vessel owner-operators, captains, and crew who want to enter and participate in the GOA trawl groundfish fisheries.

### **Public Involvement**

Scoping is an early and open process for determining the scope of issues to be addressed in an EIS and for identifying the significant issues related to the proposed action. A principal objective of the scoping and public involvement process is to identify a range of reasonable management alternatives that, with adequate analysis, will delineate critical issues and provide a clear basis for distinguishing among those alternatives and selecting a preferred alternative. Through this notice, NMFS is reopening the comment period on scoping for the EIS for the proposed bycatch management program so that interested or affected people may participate and contribute to the final decision.

NMFS is reopening the comment period to seek written public comments on the scope of issues, including potential impacts, and alternatives that should be considered for a bycatch management program for the trawl groundfish fisheries in the Western GOA, Central GOA, and West Yakutat District of the GOA. NMFS will consider written public comments received during this scoping process, as well as those received during the scoping process from July 14, 2015, through August 28, 2015 (80 FR 40988), and provide the Council with a summary of all written comments received to assist the Council in determining the appropriate range of management alternatives for the EIS. Written comments should be as specific as possible to be the most helpful. Written comments received during the scoping process, including the names and addresses of

those submitting them, will be considered part of the public record of the proposed action and will be available for public inspection. Written comments will be accepted at the address above (see **ADDRESSES**). Please visit the NMFS Alaska Region Web site at <http://www.alaskafisheries.noaa.gov> for more information on the GOA trawl bycatch management program EIS and for guidance on submitting effective written public comments.

The public is invited to participate and provide input at Council meetings where the latest scientific information regarding the GOA groundfish fisheries is reviewed and alternative bycatch management programs are developed and evaluated. Notice of future Council meetings will be published in the **Federal Register** and on the Internet at <http://www.npfmc.org/>. Please visit this Web site for information and guidance on participating in Council meetings. Additional information on the Council's development of the GOA trawl bycatch management program is available at <http://www.npfmc.org/goa-trawl-bycatch-management/>.

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

Dated: July 25, 2016.

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