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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648-BJ02

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod Management in the Groundfish Fisheries of the Bering Sea and Aleutian Islands

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 submitted Amendment 120 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands (BSAI) Management Area (BSAI FMP) and Amendment 108 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA) (GOA FMP; collectively Amendments 120/108) to the Secretary of Commerce for review. If approved, Amendment 120 would limit the number of catcher/processors (C/Ps) acting as motherships receiving and processing Pacific cod from catcher vessels (CVs) directed fishing for Pacific cod in the BSAI non-Community Development Quota (CDQ) Program trawl fishery. If approved, Amendments 120/108 would prohibit replaced Amendment 80 C/Ps from receiving and processing Pacific cod harvested and delivered by CVs directed fishing for Pacific cod in the BSAI and GOA.

DATES: Comments must be received no later than *[INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2019-0060, 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-2019-0060*, 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. 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 Amendment 120 to the BSAI FMP, Amendment 108 to the GOA FMP, the Regulatory Impact Review (RIR; referred to as the “Analysis”) and the

draft National Environmental Policy Act (NEPA) Categorical Exclusion evaluation document may be obtained from www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Bridget Mansfield, (907) 586-7228.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that each regional fishery management council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. 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 120 to the BSAI FMP and Amendment 108 to the GOA FMP are available for public review and comment.

NMFS manages the groundfish fisheries in the exclusive economic zone under the BSAI and GOA FMPs. The North Pacific Fishery Management Council (Council) prepared the BSAI and GOA FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the BSAI and GOA FMPs appear at 50 CFR parts 600 and 679.

Amendments 120/108 would 1) establish eligibility criteria, based on historical participation, for an endorsement to groundfish License Limitation Program (LLP) licenses for a C/P to operate as a mothership in the BSAI non-CDQ Pacific cod trawl CV directed fishery; 2) issue an endorsement to those groundfish LLP licenses that meet the eligibility criteria; 3) authorize receipt and processing of Pacific cod deliveries from directed fishing in the BSAI non-CDQ Pacific cod trawl CV fishery by only those C/Ps

designated on a groundfish LLP license with a BSAI Pacific cod trawl mothership endorsement; and 4) prohibit Amendment 80 sector C/Ps not designated on an Amendment 80 Quota Share (QS) permit and an Amendment 80 LLP license or not designated on an Amendment 80 LLP/QS license from receiving and processing Pacific cod harvested from directed fishing in the Pacific cod fisheries in the BSAI and GOA.

Amendments 120/108 are necessary to prevent increased participation by C/Ps operating as motherships from reducing the benefits the fishery provides to C/Ps and shoreside processors with long term, sustained participation in the BSAI non-CDQ trawl fishery in which CVs are directed fishing for Pacific cod, help to stabilize the fishing season duration in that fishery, and prevent replaced Amendment 80 C/Ps from operating as motherships.

Amendment 120 to the BSAI FMP would amend the species and gear endorsements on groundfish LLP licenses. The LLP was implemented under Amendments 39 and 41 to the FMP, and NMFS published the final rule to implement these amendments on October 1, 1998 (63 FR 52642). The LLP limits access to the groundfish, crab, and scallop fisheries in the BSAI and the GOA, by requiring that persons hold and assign a license to each vessel that is used to fish in federally managed fisheries, with some limited exemptions. The LLP is intended to prevent unlimited entry into federally managed fisheries and to limit the ability of a person to assign an LLP license derived from the historic landing activity of a vessel in one area, using a specific fishing gear or operational type, to be used in other areas, with other gears, or for other operational types in a manner that could expand fishing capacity. Licenses issued under

the LLP authorize, through individual endorsements, fishing activities in specific fishing areas, gear types, and vessel operations as CVs or C/Ps. Once issued, the components of the LLP license cannot be transferred independently.

Amendment 120 would implement a new groundfish LLP license endorsement to authorize a C/P to operate as a mothership, as defined at § 679.2, to receive and process Pacific cod from CVs directed fishing in the BSAI non-CDQ Pacific cod trawl CV fishery. C/Ps without this endorsement would not be authorized to receive and process Pacific cod from CVs directed fishing in the BSAI non-CDQ Pacific cod trawl CV fishery. For purposes of this notice, that fishery will be referred to as the BSAI non-CDQ Pacific cod trawl CV directed fishery. The Council determined, and NMFS agrees, that this action is an appropriate response to a sharp increase in C/P participation operating as motherships in the BSAI non-CDQ Pacific cod trawl CV directed fishery beginning in 2016. This increase shifted historical patterns of harvest processing from shoreside plants to offshore C/Ps, which has caused concern over the reduced benefits to C/Ps and shoreside processors with long term, sustained participation in the fishery. This shift has also resulted in a shorter fishing season from 2016 through 2019, causing vessel crowding on the fishing grounds and raising concerns for vessel safety and increased PSC rates.

In April 2019, the Council adopted Amendment 120 to the BSAI FMP, which would limit the number of C/Ps operating as motherships receiving and processing Pacific cod in the BSAI non-CDQ Pacific cod trawl CV directed fishery. If approved, Amendment 120 would amend the BSAI FMP to require a C/P be designated on a

groundfish LLP license with a BSAI Pacific cod trawl mothership endorsement to receive and process Pacific cod delivered by CVs in the BSAI non-CDQ Pacific cod trawl CV directed fishery. A groundfish LLP license would receive the endorsement if a vessel designated on it is credited with receiving and processing at least one legal mothership trip target of Pacific cod in the BSAI non-CDQ Pacific cod trawl CV directed fishery each year from 2015 through 2017. Under BSAI Amendment 120, “mothership trip target” would mean, in the aggregate, the groundfish species that is delivered by a CV to a given C/P operating as a mothership in an amount greater than the retained amount of any other groundfish species delivered by the same CV to the same C/P for a given week.

In April 2019, the Council also adopted GOA Amendment 108. Amendments 120/108 would prohibit Amendment 80 sector C/Ps from receiving and processing Pacific cod harvested by vessels directed fishing for Pacific cod in the BSAI and GOA, if the C/P was not designated on an Amendment 80 QS permit and an Amendment 80 LLP license or not designated on an Amendment 80 LLP/QS license.

Amendment 120 would amend four sections of the BSAI FMP. First, in Table ES-2 in the Executive Summary, row “License and Permits” would have a sentence added to read, “Catcher/processor vessels receiving and processing Pacific cod harvested by catcher vessels directed fishing using trawl gear in the BSAI non-Community Development Quota Program Pacific cod fishery must qualify for a BSAI Pacific cod trawl mothership endorsement.” The same row, “License and Permits,” would have a second sentence added to read, “All Amendment 80 vessels not designated on an Amendment 80 QS permit and an Amendment 80 LLP license or on an Amendment 80

LLP/QS license are prohibited from receiving and processing Pacific cod harvested by a vessel directed fishing for Pacific cod in the BSAI.”

Second, BSAI FMP Section “3.3.1.3 Species and Gear Endorsements for Vessels Using Trawl Gear” would have a sentence added to read that “A catcher/processor vessel receiving and processing Pacific cod harvested by catcher vessels directed fishing using trawl gear in the BSAI non-Community Development Quota Program Pacific cod fishery must hold an area endorsement and general license with a BSAI Pacific cod trawl mothership endorsement.” A second sentence would be added to read, “BSAI non-Community Development Quota Program Pacific cod. An LLP license must be credited with receiving and processing at least one mothership trip target delivered by a catcher vessel directed fishing using trawl gear in the BSAI non-Community Development Quota Program Pacific cod fishery in each year from 2015 through 2017.”

Third, a new BSAI FMP Section “3.7.5.8.4 Limitations on Replaced Amendment 80 Vessels” would have a sentence added to read, “All Amendment 80 vessels not designated on an Amendment 80 QS permit and an Amendment 80 LLP license or on an Amendment 80 LLP/QS license is prohibited from receiving and processing Pacific cod harvested by a vessel directed fishing for Pacific cod in the BSAI.”

Finally, a section would be added to Appendix A of the BSAI FMP that summarizes the main provisions of Amendment 120, and the Table of Contents would be revised accordingly.

Amendment 108 to the GOA FMP would amend two sections of the GOA FMP. First, in Table ES-2 in the Executive Summary, row “Participation Restrictions” would

have a sentence added to read, “All Amendment 80 vessels not designated on an Amendment 80 QS permit and an Amendment 80 LLP license or on an Amendment 80 LLP/QS license are prohibited from receiving and processing Pacific cod harvested by a vessel directed fishing for Pacific cod in the GOA.”

Second, GOA FMP Section 3.3.3, “Access Limitations” would add a new sentence that reads, “All Amendment 80 vessels not designated on an Amendment 80 QS permit and an Amendment 80 LLP license or on an Amendment 80 LLP/QS license are prohibited from receiving and processing Pacific cod harvested by a vessel directed fishing for Pacific cod in the GOA.”

Finally, a section would be added to Appendix A of the GOA FMP that summarizes the main provisions of Amendment 108, and the Table of Contents would be revised.

The proposed rule to implement proposed Amendments 120/108 provides the details of the eligibility criteria for a BSAI Pacific cod trawl mothership endorsement to a groundfish LLP license, the process to establish eligibility of individual groundfish LLP licenses based on historical participation in the fishery, and issuance of the endorsements. The specific groundfish LLP licenses eligible for such an endorsement will be named in the proposed rule and in the regulations implementing the rule. The proposed rule also provides details on the prohibition of replaced Amendment 80 C/Ps operating as a mothership in the BSAI and GOA Pacific cod fisheries.

Before adopting its preferred alternatives for Amendment 120, the Council considered a range of historical participation levels to qualify for an endorsement

authorizing a C/P to operate as a mothership in the fishery, as well as a range of limits on the amount of Pacific cod that could be received and processed by C/Ps operating as a mothership in the fishery. The Council determined, and NMFS agrees, that the eligibility requirements for a BSAI Pacific cod trawl mothership endorsement under Amendment 120 would balance the need to limit entry of additional C/Ps operating as motherships in the BSAI directed, non-CDQ Pacific cod trawl CV fishery with the need to continue to provide processing opportunities for C/Ps with long term, sustained participation operating as motherships and shoreside processors in the fishery consistent with historical patterns of Pacific cod deliveries. The Council also determined, and NMFS agrees, a prohibition on allowing replaced Amendment 80 C/Ps to operate as a mothership in the BSAI and GOA Pacific cod fisheries is necessary to implement the Council's intent to prevent replaced Amendment 80 C/Ps from operating as motherships once they leave the Amendment 80 Program.

NMFS is soliciting public comments on proposed Amendments 120/108 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on the proposed rule that would implement Amendments 120/108 following NMFS's evaluation of the proposed rule under the Magnuson-Stevens Act.

Respondents do not need to submit the same comments on Amendments 120/108 and the proposed rule. All relevant written comments received by the end of the applicable comment period, whether specifically directed at the FMP amendments or the proposed rule will be considered by NMFS in the approval/disapproval decision for

Amendments 120/108 and addressed in the response to comments in the final decision. Comments received after the end of the applicable comment period will not be considered in the approval/disapproval decision on Amendments 120/108. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the last day of the comment period (see **DATES**).

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

Dated: August 15, 2019.

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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