



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XY117]

Fisheries of the Exclusive Economic Zone off Alaska; Application for an Exempted Fishing Permit

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

ACTION: Notice; receipt of application for exempted fishing permit.

SUMMARY: This notice announces NMFS' receipt of an application and the public comment period for an exempted fishing permit (EFP) from the Alaska Seafood Cooperative. If issued, this permit would allow the applicant to test methods to minimize bycatch of halibut using an excluder device in the North Pacific's Amendment 80 flatfish fishery. The objective of this EFP, if issued, would be to develop a halibut excluder design that avoids high target species losses with more significant reductions in halibut bycatch. Field testing would be conducted between August 2021 and December 2022. This experiment would have the potential to promote the objectives of the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Comments on this EFP application must be submitted to NMFS on or before February 12, 2021. The North Pacific Fishery Management Council (Council) will consider the application at its meeting from February 1, 2021 through February 12, 2021.

ADDRESSES: The Council meeting will be held virtually. The agenda for the Council meeting is available at <http://www.npfmc.org>. In addition to submitting public comments during the Council meeting through the Council website, you may submit your comments, identified by NOAA-NMFS-2020-0156, by either 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-2020-0156, 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: Records Office. 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. 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) 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 EFP application and the basis for a categorical exclusion under the National Environmental Policy Act may be obtained from www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Megan Mackey, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the domestic groundfish fisheries in the Bering Sea and Aleutian Islands (BSAI) management area under the Fishery Management Plan for Groundfish of the BSAI Management Area (FMP), which the Council prepared under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing the BSAI groundfish fisheries appear at 50 CFR parts 600 and 679. The FMP and the implementing regulations at §§ 600.745(b) and 679.6 allow the NMFS Regional Administrator to authorize, for limited testing and experimental purposes, fishing or target or incidental

harvest of species managed under an FMP that would otherwise be prohibited.

Procedures for issuing EFPs are contained in the implementing regulations.

Background and Need for Exempted Fishing Permit

Flatfish fishing is a significant component of the Bering Sea groundfish fishery, annually producing approximately 200,000 metric tons of sole, founders, and plaice.

Amendment 80, implemented in 2008, allocates BSAI yellowfin sole, flathead sole, rock sole, Atka mackerel, and Aleutian Islands Pacific ocean perch to trawl catcher processor sector, and allows qualified vessels to form cooperatives. Prior to 2008, halibut prohibited species catch bycatch tended to constrain harvest of much of the total allowable flatfish catches. Bycatch or incidental catch include fish species that are not targeted but are caught and discarded. Certain species taken incidentally in Alaska's groundfish fisheries are called Prohibited Species Catch (PSC). Since 2008, the Amendment 80 sector has been able to make significant improvements to reduce halibut and other bycatch and has increased target fish yields. This has been achieved because the new management program allows fishermen to fish when and where it makes most sense and to make better use of bycatch reduction tools like sharing information to avoid bycatch “hot spots,” bycatch avoidance agreements, and gear modifications.

In 2015, following the sector’s success under Amendment 80 and in response to a decline in halibut biomass in the Bering Sea, the Council approved a 25 percent reduction in the sector’s halibut bycatch mortality cap, which is the total amount of permitted halibut bycatch. To help prevent a return to leaving a large fraction of flatfish unharvested, the Council approved and NMFS implemented halibut deck sorting on November 14, 2019 (84 FR 55044; October 15, 2019). Through this new program, savings in halibut mortality from deck sorting have been significant. However, over the last two fishing years (possibly due to warming sea temperatures and lack of the cold pool thermal front that tended to spatially separate flatfish from halibut), encounter rates

for halibut by the Amendment 80 fleet have increased. The sector is concerned that its ability to continue to fish for flatfish and other groundfish could be impacted by increasing rates of halibut bycatch.

Over the last two decades, Bering Sea flatfish trawlers have been developing and using halibut excluders, which are modifications to the intermediate section of the trawl intended to allow halibut to escape while retaining sufficient levels of target species for operational efficiency. The design of these excluders has been refined over time, but now that halibut bycatch rates have increased in recent years, the sector is interested in further refinement and testing of excluder design.

An initial analysis by the EFP applicant of current halibut excluder designs indicates current excluders are resulting in high loss rates of target fish and less reduction in halibut bycatch than what might be achieved through an improved design. This includes results from a 2006 EFP that was issued to evaluate the effectiveness of a halibut excluder in the Gulf of Alaska trawl cod fishery, which noted higher than desirable escapement rates of the target species. Therefore, an excluder design that avoids high target species losses with more significant reduction in halibut bycatch would be an improvement and could foster wider adoption of these devices among the fleet. This EFP proposes a collaborative study with the Alaska Seafood Cooperative and Amendment 80 fishermen of halibut excluders in the Bering Sea flatfish trawl fishery to conduct field testing to explore improved designs.

Exempted Fishing Permit

On June 2, 2020, Mr. John Gauvin of the Alaska Seafood Cooperative submitted an application for an EFP to develop and test a halibut excluder in the Amendment 80 flatfish fishery. The objectives of this proposed EFP are as follows:

- Collect escapement rate data on a halibut excluder design.

- Employ appropriate data collections methods to statistically estimate excluder performance.
- Conduct excluder testing in two different target flatfish fisheries (yellowfin sole and flathead/mid-shelf flatfish) to get a broader range of results versus testing in just one fishery.
- Collect caudal fin clips from a sample of halibut encountered during field testing for a pilot study of sex ratios of bycaught halibut.
- Draft EFP reports to effectively communicate key results for excluder testing and pilot study of sex ratios.
- Conduct outreach meetings of key results on halibut excluder performance tailored to the information needs of flatfish fishermen and gear manufacturers interested in the improvement of halibut excluders.

Field testing would be conducted on the 261-foot (79.5 meter) factory trawler, The North Star, using twin trawl nets in the yellowfin sole and flathead sole fisheries. This would involve one trip with 60 to 70 total tows, occurring sometime between August 2021 and December 2022. To address potential differences in catch rates, the excluder device would be switched from one side to the other at the half way point for each part of the EFP testing (*i.e.* halfway through the tows in the yellowfin target; same for the tows in the flathead target). This would allow a separate analysis of excluder performance in each net, which would help to identify differences in catch rates for halibut and target species between sides.

To understand the effects of the excluder, halibut catch and groundfish total catch data would be collected from each side of the twin trawl separately. Catch would be brought on board from the two nets separately and in conjunction with usual observer deck sorting, after which the contents of each net would be placed into separate tanks.

Crew members would collect all halibut that make it to the factory (*i.e.* are not sorted on deck) for purposes of measuring each of these fish and recording the length data before discarding them using the same conveyor belt pathway that is normally used.

The project manager for the field testing trip would collect up to 100 caudal fins from a random sample of halibut from both the deck and the factory, storing them for later testing to determine sex ratios. This should not disturb the normal workflow of observer desk sorting and data collection. Testing would be done in conjunction with researchers from the International Pacific Halibut Commission (IPHC). This will help to provide data on the sex ratio of halibut taken as bycatch, which is a data gap identified by the IPHC.

Exemptions

Two exemptions are necessary to conduct this experiment. First, an exemption would be necessary from the requirement to minimize catch of prohibited species at § 679.21(a)(2)(i) in the event higher than average catch of halibut is encountered during field testing.

Second would be an exemption from § 679.21(a)(2)(ii) regarding careful handling and immediate release of prohibited species catch. This will allow the collection of caudal fin clips from a sample of the halibut encountered. This will also allow crew members to collect and measure the halibut that make it to the factory, recording length data before releasing the fish via the standard conveyor belt pathway.

Permit Conditions, Review, and Effects

The applicant would be required to submit to NMFS a report of the EFP results six months after completion of field testing. The report would include the halibut excluder device designs tested in the experiment; how the tests were conducted, including operational variables tested (such as towing speeds, water conditions, target catch rates); performance of the device in terms of halibut bycatch reduction, target catch escapement,

handling, and maintenance; and the total catch of each groundfish species and Pacific halibut in metric tons during EFP fishing. The activities that would be conducted under this EFP are not expected to have a significant impact on the human environment, as detailed in the categorical exclusion prepared for this action (see **ADDRESSES**).

In accordance with §§ 679.6 and 600.745, NMFS has determined that the application warrants further consideration and has forwarded the application to the Council to initiate consultation. The Council is scheduled to consider the EFP application during its February 2021 meeting, which will be held virtually. The EFP application will also be provided to the Council's Scientific and Statistical Committee for review at the February Council meeting. The applicant has been invited to speak in support of the application.

Public Comments

Interested persons may comment on the application during the February 2021 Council meeting during public testimony or the Federal e-Rulemaking Portal (see **ADDRESSES**) until February 12, 2021 when the comment period ends. Information regarding the meeting is available at the Council's website at <http://www.npfmc.org>. Copies of the application and categorical exclusion are available for review from NMFS (see **ADDRESSES**). Comments may also be submitted directly to NMFS (see **ADDRESSES**) by the end of the comment period (see **DATES**).

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

Dated: January 12, 2021.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.