Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat
Common name	Scientific name					
Fly, Hawaiian picture-wing	*Drosophila tarphytrichia* ...	U.S.A. (HI)	NA	E	NA	NA
*	*	*	*	*	*	*

Dated: December 15, 2000.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 010301D]

RIN 0648-AL95

Fisheries of the Exclusive Economic Zone Off Alaska; Amendments to Alaska Groundfish and Crab Fishery Management Plans to Revise the License Limitation Program

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

ACTION: Notice of availability of amendments to fishery management plans; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 60 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area, Amendment 58 to the Fishery Management Plan for Groundfish of the Gulf of Alaska and Amendment 10 to the Fishery Management Plan for the Commercial King and Tanner Crab Fisheries in the Bering Sea and the Aleutian Islands (FMPs). These plan amendments are necessary to implement changes to the License Limitation Program (LLP) as recommended by the Council and are intended to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the FMPs.

DATES: Comments on Amendments 60, 58, and 10 must be submitted by March 19, 2001.

ADDRESSES: Comments on the proposed plan amendments should be submitted to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, Alaska, 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Comments may also be sent by facsimile (fax) to 907-586-7465. Comments will not be accepted if submitted via e-mail or Internet. Copies of Amendments 60, 58, and 10 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared for the proposed plan amendments are available from the North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99501-2252; telephone 907-271-2809.

FOR FURTHER INFORMATION CONTACT: Jim Hale, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The Magnuson-Stevens Act requires that each Regional Fishery Management Council submit any fishery management plan or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, after receiving a fishery management plan or plan amendment, immediately publish a notice in the **Federal Register** that the fishery management plan or plan amendment is available for public review and comment. This action constitutes such notice for Amendments 60, 58, and 10 to the FMPs. NMFS will consider public comments received during the comment period in determining whether to approve these proposed plan amendments. To be considered, a comment must be received by the close of business on the last day of the comment period.

In June 1995, the Council recommended that NMFS implement the LLP to address concerns of excess capital in the groundfish and crab fisheries off Alaska. The LLP is the second stage of a multi-staged process to reduce capacity in the affected fisheries. The LLP will replace the Vessel Moratorium Program (VMP), a program implemented by NMFS on January 1, 1996, to impose a temporary moratorium on the entry of new capacity in the groundfish and crab fisheries off Alaska and to define the class of entities that would be eligible for licenses under the LLP. The VMP expired on December 31, 1999 (64 FR 3651). The final rule implementing the LLP specifies that fishing will begin under the LLP on January 1, 2000 (63 FR 52642, October 1, 1998).

If approved, Amendments 60, 58, and 10 would make several changes to the final rule implementing the LLP. First, the Council recommended that recent participation criteria be added to the eligibility requirements for a crab species license. Originally, a person applying for a crab species license had to demonstrate that documented harvests were made from a qualifying vessel during two periods, the general qualification period (GQP) and the endorsement qualification period (EQP). If approved, Amendment 10 would add a third period, the recent participation period (RPP), in which a person would have to demonstrate that documented harvests of crab were made from a qualifying vessel. The RPP was added to the eligibility requirements for a crab species license because of the Council's concern that a crab species license could be issued to a person whose eligibility was based on participation that has been inactive since 1995. These ''latent licenses'' could be transferred to persons who would become active in the fishery. Such transfers would be contrary to the purpose of the LLP because it would create the potential to increase fishing effort above the current levels in the crab fisheries. Except under specific exemptions provided in the FMP amendments, the RPP would require that a person demonstrate that at least one documented harvest of any crab species was made during the period beginning January 1, 1996, through February 7, 1998.

The Council's second recommendation is to require that the vessel designated on the LLP license be transferred with the LLP license, if that LLP license was issued based on documented harvests made from a vessel without a Federal Fisheries Permit. A Federal Fisheries Permit is required for any vessel that participates in a Federal groundfish fishery off Alaska. If a vessel did not participate in Federal groundfish fisheries off Alaska, its qualifying documented harvests must have occurred in waters of the State of

Alaska or other waters shoreward of the exclusive economic zone (EEZ) off Alaska. Groundfish fisheries in state waters or other waters shoreward of the EEZ off Alaska will not be managed under the LLP. The Council reasoned that if a person is licensed to participate in a Federally managed fishery on the basis of participation in a State-managed fishery, certain restrictions should be placed on that license. Therefore, NMFS would restrict the transfer of a license issued to a vessel without a Federal Fishery Permit unless the licensed vessel is transferred with the license. The Council did not consider it a hardship to the license recipient to directly link the transfer of a license to the vessel, whether the recipient decides to keep or to transfer the license and vessel.

Third, the Council recommended that a gear designation be added to a groundfish license. The gear designation is intended to prevent movement between the trawl sector and the non-trawl sector. A license would be issued with a ''trawl,'' ''non-trawl,'' or ''trawl/non-trawl'' gear designation based on gear participation before June 17, 1995, with two exceptions. Under the first exception, a person could exercise a one-time option to switch gear designations if that person used a new gear between June 18, 1995, and February 7, 1998. For example, a person used only trawl gear before June 17, 1995. However, in 1997, that person used pot gear to catch Pacific cod. The use of a new gear in 1997 would allow the person to exercise a one-time option to change the gear designation from trawl gear to non-trawl gear. A person could not qualify for a trawl/non-trawl gear designation by use of this exception. Under the second exception, a person could request a gear designation change based on a significant financial investment. To qualify under the second exception, a person would have to (1) demonstrate that a significant financial investment was made in converting a vessel or purchasing fishing gear on or before February 7, 1998, and (2) demonstrate that a documented harvest was made from the qualifying vessel with the new gear type on or before December 31, 1998. A significant financial investment is defined as at least $100,000 toward vessel conversion or gear to change from a non-trawl to a trawl gear designation, or having acquired groundline, hooks or pots, and hauling equipment to change from a trawl to a non-trawl gear designation.

Fourth, the Council recommended that a community development quota (CDQ) vessel exemption, which originally had no ending date for eligibility, be limited to a specific time period (November 18, 1992, through October 9, 1998). The exemption was intended to facilitate the ability of CDQ organizations to enter and conduct groundfish fisheries through the purchase of new vessels that may not meet eligibility criteria. Concerns over excess capacity in the groundfish fisheries, and acknowledgment that CDQ organizations are integrating into the existing fishing industry at a reasonable pace, prompted the Council's recommendation. Further support for limiting this exemption came from public testimony that CDQ organizations did not use this exemption under the VMP.

Fifth, the Council recommended that limited processing ability, defined as 1 metric ton of round fish per day, be granted to a person deploying a vessel that is less that 60 ft (18.3 m) length overall, based on a groundfish license with a catcher vessel designation. This limited processing exemption is intended to assist small catcher vessels in exploiting niche markets not otherwise available.

Sixth, although not formally part of Amendments 60/58/10, the Council recommended that the name of the vessel to be deployed by the LLP license holder must be designated on the license. The Council recommended this change to address concerns about the movement of license holders among vessels contributing to excess capacity in the fisheries. The ability to move among vessels would have contributed to excess capacity by allowing a license holder to deploy a second vessel to fish while the first vessel was in port, or by allowing a license holder to alternate between vessels in different fisheries in different geographical locations. In both cases, a license holder could engage in uninterrupted fishing because breaks for unloading, vessel repairs, or running time could be eliminated through the use of another vessel. The Council recommended that NMFS make this change as a regulatory amendment.

Public comments will be accepted on these proposed amendments through the end of the comment period specified in this notification. A proposed rule that would implement the amendments may be published in the Federal Register for public comment following NMFS's evaluation under the Magnuson-Stevens Act procedures. All comments received by the end of the comment period specified in this notice, whether specifically directed to the amendments or to the proposed rule, will be considered in the decision to approve, disapprove, or partially approve these amendments.

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

Dated: January 11, 2001.

Bruce C. Morehead,

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

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