

provider or agent for the provider or facility may not impose any additional charge for any services for which payment is made by VA.

(d) In a case where a veteran has paid for emergency treatment for which VA may reimburse the veteran under § 17.120, VA will reimburse the amount that the veteran actually paid. Any amounts due to the provider but unpaid by the veteran will be reimbursed to the provider under paragraphs (a) and (b) of this section.

(Authority: 38 U.S.C. 1703, 1728)

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 600 and 697

RIN 0648-XT83

#### Atlantic Coastal Fisheries Cooperative Management Act Provisions; Application for Exempted Fishing Permits (EFPs)

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

**ACTION:** Notification of a request for an EFP; request for comments.

**SUMMARY:** This EFP application, submitted by the Pemaquid Fishermen's Cooperative Association (PFC), is intended to assist NMFS and the Atlantic Large Whale Take Reduction Team (ALWTRT) in their efforts to address the identified entanglement threat of vertical lines in fixed gear fisheries to Atlantic large whale populations. The EFP application is for testing of fixed fishing gear with no vertical lines on the northern edge of Jeffrey's Ledge in the Gulf of Maine.

The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that the subject EFP application contains all the required information and warrants further consideration and that the activities authorized under the EFP would be consistent with the goals and objectives of federal management of the American lobster (lobster) resource. However, further review and consultation may be necessary before a final determination is made to issue an EFP. NMFS announces that the Assistant Regional Administrator proposes to issue an EFP

and, therefore, invites comments on the issuance of this EFP.

**DATES:** Comments must be received on or before March 5, 2010.

**ADDRESSES:** Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930-2298. Mark the outside of the envelope "Comments - Lobster EFP Proposal." Comments also may be sent via facsimile (fax) to 978-281-9117. Comments may also be submitted by e-mail to [Al lobster@noaa.gov](mailto:Al lobster@noaa.gov). Include in the subject line of the e-mail the following document identifier: "Comments - Lobster EFP Proposal."

**FOR FURTHER INFORMATION CONTACT:** Sarah Towne, Research Associate, (978) 675-2162, fax (978) 281-9117.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations that govern exempted fishing, at § 600.745(b) and § 697.22, allow the Regional Administrator to authorize for limited testing, public display, data collection, exploration, health and safety, environmental clean-up, and/or hazardous removal purposes, and the targeting or incidental harvest of managed species that would otherwise be prohibited. An EFP to authorize such activity may be issued, provided there is adequate opportunity for the public to comment on the EFP application, the conservation goals and objectives of federal management of the lobster resource are not compromised, and issuance of the EFP is beneficial to the management of the species.

The lobster fishery is one of the most valuable fisheries in the northeastern United States. In 2008, approximately 82 million lbs (37,120 mt) of lobster were landed, with an ex-vessel value of approximately \$306 million. Under the Atlantic States Marine Fisheries Commission's interstate management process, lobsters are managed in state waters under Amendment 3 to the American Lobster Interstate Fishery Management Plan (Amendment 3). In federal waters of the Exclusive Economic Zone (EEZ), lobsters are managed under federal regulations at 50 CFR part 697.

The ALWTRP is a program to reduce the risk of serious injury or death of large whales due to incidental entanglement in U.S. commercial fishing gear. The plan is required by the Marine Mammal Protection Act (MMPA), and has been implemented by NMFS. The ALWTRP evolves as NMFS and the ALWTRT learn more about why whales become entangled and how

fishing practices might be modified to reduce the risk of entanglement.

#### Proposed EFP

The EFP application requests exemptions from regulations in order to conduct gear research on the northern edge of Jeffrey's Ledge in the Gulf of Maine to study fixed lobster fishing gear without vertical lines that could reduce or diminish whale entanglement. One contracted commercial fisherman would fish 140 traditional wire lobster traps with no vertical lines (experimental) and 140 traditional wire lobster traps with vertical lines (control), each set in multiple trawl configurations, rigging no fewer than 7 trawls with 20 traps each. Both the experimental and control group trawls would be hauled 30 times each during the fishing season, totaling no fewer than 420 hauls. The EFP application proposes the collection of statistical and scientific information as part of the project. Investigators would complete a NMFS-approved data sheet on each trip, collecting data on weather and sea conditions, position of gear, bottom type, water depth and temperature, duration of hauling time, set time, trap loss, configuration changes, hauling procedure modifications, catch, price per pound, and gear conflicts.

Trawls would be tested on different bottom types, and the grappling hook gear used to retrieve the lineless trawls would be specific to that bottom type. Although the grappling hooks might adversely impact benthic habitats, their limited use for the proposed activity would not constitute a threat that is significantly greater than the one associated with the impact of the traps themselves, or of the other lobster traps that are already being fished in the proposed project location. Therefore there would be no anticipated adverse effects on protected resources or habitat as a result of this work.

This project would not involve the authorization of any additional lobster trap gear. To allow for experimentation with traps without vertical lines, the EFP would provide exemptions from the vertical line and buoy regulations at § 697.21(b)(2). All traps fished by the participating vessel would comply with all other applicable lobster regulations specified at 50 CFR part 697. There would not be observers or researchers onboard the participating vessel.

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

Dated: February 12, 2010.

**Emily H. Menashes,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

RIN 0648-AX89

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Chinook Salmon Bycatch Management Measures for Groundfish of the Bering Sea and Aleutian Islands Management Area; Amendment 91**

**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 91 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) to NMFS for review. If approved, Amendment 91 would be a novel approach to managing Chinook salmon bycatch in the Bering Sea pollock fishery that combines a limit on the amount of Chinook salmon that may be caught incidentally with an incentive plan agreement and performance standard designed to minimize bycatch to the extent practicable in all years and prevent bycatch from reaching the limit in most years. This action is necessary to minimize Chinook salmon bycatch in the Bering Sea pollock fishery to the extent practicable while maximizing the potential for the full harvest of the pollock total allowable catch within specified prohibited species catch limits. Amendment 91 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

**DATES:** Comments on the amendment must be received on or before April 19, 2010.

**ADDRESSES:** You may submit comments, identified by RIN 0648-AX89, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the

Federal eRulemaking Portal <http://www.regulations.gov>.

- Fax: (907) 586-7557, Attn: Ellen Sebastian
- Mail: P.O. Box 21668, Juneau, AK 99802.

- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Electronic copies of Amendment 91, the Final Environmental Impact Statement (EIS), the Final Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA) prepared for this action may be obtained from the Alaska Region website at <http://alaskafisheries.noaa.gov/regs/summary.htm>.

**FOR FURTHER INFORMATION CONTACT:** Gretchen Harrington or Seanbob Kelly, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit any fishery management plan or fishery management plan 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 document announces that proposed Amendment 91 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) is available for public review and comment. The groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands Management Areas are managed under the FMP. The FMP was

prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*

The Bering Sea (BS) pollock fishery is managed under the American Fisheries Act (AFA) (16 U.S.C. 1851 note) enacted by Congress in October 1998. The AFA identifies vessels and processors eligible to participate in the directed pollock fishery and allocates pollock among the Community Development Quota (CDQ) Program, the catcher/processor sector, the mothership sector, and the inshore sector.

The BS pollock fishery is the largest single species fishery, by volume, in the United States. The first wholesale gross value of this fishery was over \$1.4 billion in 2008. Pollock is harvested with fishing vessels using trawl gear during two seasons: the A season (January 20 to June 10) and the B season (June 10 to November 1). Chinook salmon and pollock occur in the same locations in the BS. Consequently, Chinook salmon are accidentally caught in the nets as fishermen target pollock.

The BS pollock fishery catches up to 95 percent of the Chinook salmon taken incidentally as bycatch in the Bering Sea and Aleutian Islands groundfish fisheries. From 1992 through 2001, the average Chinook salmon bycatch in the BS pollock fishery was 32,482 Chinook salmon. This average increased substantially from 2002 to 2007, to 74,067 Chinook salmon. A historic high of approximately 122,000 Chinook salmon were taken in the BS pollock fishery in 2007. However, Chinook salmon bycatch has declined in recent years to 20,493 Chinook salmon in 2008 and 12,410 Chinook salmon through October 31, 2009, the end of the 2009 fishing year for pollock.

Chinook salmon is a culturally and economically valuable species, which is fully allocated and, in some cases, facing conservation concerns. Estimates vary, but more than half of the Chinook salmon bycatch in the BS pollock fishery may be destined for river systems in western Alaska. In general, western Alaska Chinook salmon stocks declined sharply in 2007 and remained low in 2008 and 2009. Consequently, the in-river harvest of western Alaska Chinook salmon has been severely restricted and, in some cases, river systems have not met escapement goals.

Chinook salmon is a prohibited species in the BS pollock fishery and is closely regulated. Over the past fifteen years, the Council and NMFS implemented several management measures to limit Chinook salmon bycatch in the BSAI trawl fisheries. In 1995, the Council adopted and NMFS