

BSAI Amendment 23 Moratorium

Dates: The final version of BSAI Amendment 23 was adopted by the Council in December, 1994. NMFS published a proposed rule for BSAI Amendment 23 and GOA Amendment 28, and Crab Amendment 5 on May 12, 1995 (60 FR 25677). The final rule was published on August 10, 1995 (60 FR 40763). Effective date of implementation for most sections of the amendment was September 11, 1995.

Purpose and Need: In 1987, concerned with excess harvesting capacity in the groundfish, crab, and halibut fisheries of the BSAI and GOA, the Council established a committee to examine the problem of overcapitalization. Upon concluding that allocation conflicts and overcapitalization would worsen under the current open access system, the committee recommended a limited access management approach for these three fisheries. Concerned with the potential for speculative entry into the fisheries during discussions of management alternatives, NMFS published a control date notice of February 9, 1992. Anyone not having previously participated in the fisheries before that date would not be assured future access to the fisheries should a limited access system be adopted.

The purpose of this amendment was to provide for an interim measure to slow significant increases in the harvesting capacity of the groundfish and crab fishing fleets until a Comprehensive Rationalization Plan (CRP) could be implemented. The CRP, which continues to be developed by the Council, is intended to resolve the overall issue of overcapitalization on a long-term basis, and transition the fisheries from an open access management system to a more market-based, limited access system. *Without the regulatory ability to institute a moratorium, the Council feared that potentially unlimited new entry into the fishery would exacerbate overcapitalization and hinder the ultimate development of a successful CRP.* The anticipated short-term effects of the amendment included increasing economic benefits to fishermen and reducing the risk of overfishing.

Regulation Summary: After several proposed moratoriums, the final rule required a moratorium permit for vessels within specific vessel categories that harvest groundfish and BSAI crab resources off Alaska. Generally, a vessel qualified for a moratorium permit if it made a legal landing of any moratorium species during the qualifying period of January 1, 1988 through February 9, 1992. In addition, a vessel that made a legal landing during the qualifying period, in either a groundfish or crab fishery, but not both, can cross over as a new vessel in the fishery in which it did not make a legal landing in the qualifying period provided: 1) it uses the same gear type in the new fishery as it used to qualify for the moratorium in the other fishery; or 2) it made a legal landing in the crossover fishery during the qualifying period and it uses only the same gear type it used in that period.

Analysis: A 22-page supplemental analysis (final draft dated February 1995) was prepared for the final resubmittal of the proposed moratorium for these amendments, which were originally approved by the Council in 1992. The supplemental analysis outlined the changes from the original moratorium proposal: revision of the qualification period, halibut and sablefish qualification, consideration of current participation, crossovers, and the appeals process. The analysis also indicated that the revised moratorium would allow 4,144 unique vessels in the crab and groundfish fisheries, about 1,800 more than the current participant fleet but significantly less than the 15,709 unique vessels that participated in the fisheries since 1978 that had the potential to re-enter if no action was taken.

Results: Since the amendment was approved, the Council has implemented the License Limitation Program (LLP) to limit entry into the groundfish and crab fisheries off of Alaska. As anticipated, the LLP (Amendment 60 to the BSAI FMP/Amendment 58 to the GOA FMP/Amendment 10 to the BSAI Crab FMP) replaced the vessel moratorium established in these amendments starting in the 2000 fishing season. For general licenses, the base qualifying period established was January 1, 1988, through June 27, 1992, approximately four months longer than the moratorium qualification period, in order to be consistent with the Council's published cutoff date for qualification under the Comprehensive Rationalization Plan. The LLP also required an area endorsement for the BSAI or the GOA, to provide for present participation in the fisheries (the qualifying period being January 1, 1992 through June 17, 1995). The moratorium established by Amendments 23 and 28 limited speculative entry into the fisheries while the LLP was being developed and approved, and kept the overcapitalization situation from worsening during development of the long-term Comprehensive Rationalization Plan. In addition, the moratorium qualifications could be transferred to other vessels (provided that the length of the new vessel was the same or less than the original), and so helped provide a basis for the LLP transfer process.

BSAI Amendment 39 Establish a License Limitation Program, Multi-Species Community Development Quota Program

Dates: NMFS published a proposed rule for Amendment 39 to the BSAI FMP on August 15, 1997 (62 FR 43866). The amendment was adopted with Amendment 41 to the GOA FMP and Amendment 5 to the Commercial King and Tanner Crab Fisheries FMP. NMFS published the final rule on October 1, 1998 (63 FR 52642). Effective date of implementation was January 1, 1999, except for some parts effective January 1, 2000.

Purpose and Need: In 1992, the Council committed to rationalize the groundfish and crab fisheries and begin development of a Comprehensive Rationalization Plan (CRP). The CRP was prompted by concerns that expansion of the domestic harvesting fleet, in excess of that needed to efficiently harvest the optimum yield, was burdening compliance with the Magnuson-Stevens Act and severely deteriorating the economic benefits derived from the crab and groundfish fisheries. The Council examined several management alternatives including, license limitation programs, individual fishing quotas (IFQs), and more traditional measures, and determined that a limited entry program had the most potential to address the immediate overcapitalization problems of the industry. As a result, the Council approved the License Limitation Program (LLP) in 1995, recognizing the need for further rationalization in the future.

The overall purpose of the LLP is to help resolve the competing and oftentimes conflicting needs of the domestic fisheries that developed under open access and to close the gap between fishing capacity and the available fishery resource. The LLP limits the number, size, and specific operation of vessels fishing crab and groundfish in the BSAI and GOA based on historical participation. *During the design and refinement of the LLP, the Vessel Moratorium Program (VMP) was implemented to provide industry stability and curtail interim increases in fishing capacity.* The intent was for the LLP to replace the VMP upon implementation.

Amendment 39 also expanded the Community Development Quota (CDQ) Program by including in CDQ allocations a percentage of the total allowable catch (TAC) of groundfish and crab species in the BSAI that was not previously included in the existing CDQ programs for pollock, halibut, and sablefish.

Regulation Summary: The final rule limited access to the commercial groundfish fisheries in the BSAI and GOA and commercial crab fisheries in the BSAI, except for demersal shelf rockfish east of 140° W. longitude and sablefish managed under the IFQ program. The rule provided for the following: issuance of a single type of groundfish license; LLP is not applicable to waters of the State of Alaska; licenses would be issued to current owners (as of 6/17/95) of qualified vessels; licenses would be designated as catcher vessel or catcher/processor and with one of three vessel length classes; the crab and groundfish base qualifying period is 1/1/88-6/27/92 and the groundfish area endorsement qualifying period is 1/1/92-6/17/95; endorsement areas are defined as Aleutian Islands, Bering Sea, Western Gulf, Central Gulf, and Southeast Outside, or state waters shoreward of those endorsement areas; landing requirements for general license and area endorsement qualifications by vessel class; and additional provisions addressing crossover vessels, transfers, and vessel linkages. The rule also included in CDQ allocations 7.5% of the TAC of groundfish and crab in the BSAI that was not originally included in the CDQ programs for pollock, halibut, and sablefish.

Analysis: A final EA/RIR (dated September 1997) and several supplemental analyses considered the status quo and a general license limitation alternative. Out of a comprehensive list of elements and options the Council considered during the debates on LLP, the analysis identified one option for each component of a license limitation program to create the preferred alternative described above in the final rule. A supporting document also analyzed the differences between the vessel moratorium program and the license limitation program passed by the Council. The vessel moratorium was more liberal in terms of qualification criteria and the areas a vessel could fish. Under the moratorium a vessel was only required to make one landing of a qualifying species between 1/1/88 and 2/9/92, and having met that criteria the moratorium permit holders could fish groundfish in any federal waters off Alaska. Therefore, because the LLP had dual qualification criteria, many fewer vessels were expected to qualify than did for the moratorium.

Results: The LLP went into effect on January 1, 2000, thus an evaluation of the program and the final number of license holders is not yet available. The LLP continues to be refined through subsequent amendments. The Council recently approved BSAI Amendment 60, GOA Amendment 58, and BSAI Crab Amendment 10 which amended the LLP to include: a crab recency requirement of one landing during 1/1/96-2/7/98 in addition to the general license and area endorsement qualifications; a requirement that the vessel name is included on the license; license designations for the type of gear authorized to harvest LLP groundfish as either "trawl" or "non-trawl" gear (or both); and a requirement that the vessel itself would be a specific characteristic of the license and could not be severed (i.e., the license could not be used on any other vessel). In addition, Amendment 67 to the BSAI FMP was approved by the Council in April 2000. This amendment requires a Pacific cod species and gear endorsement to fish in the BSAI fixed gear Pacific cod fishery, including recent participation criteria for the period 1995-1999, in addition to the general license and area endorsement qualifications.