

PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: D-2 (d) (QE permits report

	NAME (PLEASE PRINT)	TESTIFYING ON BEHALF OF:
1	Chuck McCallum	Lake & Pen BOR.
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

MEMORANDUM

TO: Council, SSC and AP Members
FROM: Chris Oliver *CO*
Executive Director
DATE: December 1, 2009
SUBJECT: Fixed gear LLP licenses allocated to CQE communities

ESTIMATED TIME 4 HOURS All D-2 items
--

ACTION REQUIRED

(d) Receive discussion paper on fixed gear LLP licenses for CQE communities

BACKGROUND

At the October 2009 meeting, the Council requested that staff prepare a discussion paper describing how Western and Central GOA fixed gear LLP licenses were allocated to community quota eligible (CQE) communities by the Council's action on fixed gear recency. Specifically, the Council asked that the paper discuss whether the number of licenses allocated to CQEs met the Council's intent of replacing the number of licenses held by CQE residents that did not qualify for a Pacific cod endorsement. The attached discussion paper (Item D-2(d)(1)) provides the information requested by the Council, and describes how the Council could revise the number of licenses allocated to CQE communities if it wishes to reconsider the action.

Discussion Paper

GOA Fixed Gear LLP Licenses for CQE Communities

Introduction

In April 2009, the Council took final action on fixed gear recency, which adds gear-specific (pot, hook-and-line, and jig) Pacific cod endorsements to GOA fixed gear licenses. License holders will be required to carry gear-specific Pacific cod endorsements, in addition to the appropriate area endorsements, in order to participate in the directed Pacific cod fisheries in Federal waters of the Western and Central GOA and West Yakutat management areas. Licenses qualify for gear-specific Pacific cod endorsements based on directed Pacific cod landings during 2002 through December 8, 2008. The minimum thresholds are: 1 landing for jig gear; and for pot and hook-and-line gear, 10 mt for catcher vessel (CV) licenses with an MLOA designation of <60 ft, and 50 mt for catcher processor (CP) licenses and CV licenses with an MLOA designation of ≥60 ft. CP licenses that participated in the informal halibut PSC co-op during 2006, 2007, or 2008 are exempt from these thresholds. These licenses will receive a hook-and-line CP endorsement, but will be restricted to participating in the offshore sector. The action also included an exemption from the LLP requirement for jig vessels that use 5 or fewer jig machines, 1 line per machine, and 30 hooks per line. Licenses that qualify for a jig gear endorsement are not subject to these gear limits. Some licenses have catch history using more than one fixed gear type and will qualify for more than one gear-specific Pacific cod endorsement. Table 1 shows the number of licenses that are projected to qualify for Pacific cod endorsements by gear and operation type, and the MLOA designation on the license.

Licenses available to CQE communities under fixed gear recency action

As part of the Council's motion on fixed gear recency (Component 7), non-transferable fixed gear LLP licenses will be made available to Community Quota Entity (CQE) communities. There are 21 communities eligible under the CQE program located in the Western and Central GOA management areas, including West Yakutat.¹ To be eligible under the CQE program, a community must have fewer than 1,500 residents, lack direct road access, have direct access to saltwater, and have historic participation in the halibut and sablefish fisheries. These communities were identified under Amendment 66 to the GOA Groundfish Fisheries Management Plan (FMP), and are eligible to form a CQE (non-profit incorporated by the State of Alaska) to purchase catcher vessel halibut and sablefish Quota Share (QS) on the open market. Table 2 lists the CQE communities located in Southwest and Southcentral Alaska, and shows the 2000 U.S. Census population in each community, as well as the number of Western and Central GOA fixed gear LLP licenses estimated to be held by residents of these communities. Note that only 11 of the 21 eligible communities listed in Table 2 have formed the non-profit entity (i.e., CQE) necessary to participate in the program and purchase quota share.

The intent of this component is to help minimize potential adverse economic impacts of the recency action on these small, remote fishing communities, and to ensure that community residents have access to the Federal waters GOA Pacific cod fishery. The Council's motion specifies that the maximum number of licenses that may be requested by each community is equal to the number of fixed gear licenses that are held by residents of that community, but are not estimated to qualify for a Federal Pacific cod endorsement under a 1 landing threshold, or 2 LLP licenses, whichever is greater (see Table 3). For

¹Under the Federal LLP, the Central GOA endorsement area also authorizes vessels to fish in the West Yakutat management area, and communities located in this area are also included in this discussion. An additional 21 communities located in Southeast Alaska (Area 2C) are eligible under the CQE Program, but Southeast Alaska is not subject to the Pacific cod fixed gear action.

example, if no CQE community residents hold a fixed gear license, a CQE could request up to 2 fixed gear LLP licenses. The rationale for this approach is that it provides all CQE communities with the opportunity to request at least 2 such licenses, and for residents to participate in the Federal waters GOA Pacific cod fishery. **Note that the Council's motion only makes Central GOA licenses available to CQEs located in the Central GOA management area, and Western GOA licenses to CQEs located in the Western GOA area.** For example, additional Central GOA licenses will not be made available to Sand Point (see Table 3), even though 15 Central GOA licenses held by Sand Point residents are estimated not to qualify for a Pacific cod endorsement (see Table 4), because Sand Point is located in the Western GOA management area. All fixed gear licenses issued to CQEs would have an MLOA designation of 60 ft, and gear designations would be assigned as follows:

- Western GOA LLPs will be endorsed for pot gear
- In the Central GOA, CQEs will have 6 months after implementation to notify NMFS regarding the gear endorsement (pot or hook-and-line) that will be assigned to CQE LLPs. However, if the CQE does not notify NMFS, the following rule will be applied to assign gear endorsements: for each CQE, LLPs will be split 50% pot gear and 50% hook-and-line gear. If there is an odd number of licenses, the additional LLP will be assigned a pot gear designation.

The regulations that allow CQEs to hold and lease quota shares were established in 2004 under GOA Amendment 66, and will be modified to allow CQEs to receive the endorsed LLP licenses. Currently, the CQE takes on the burden of finding a community resident who is willing and eligible to lease IFQ resulting from CQE quota share under contract, and both the CQE and the resident must certify that the lessee is a resident on the transfer application to NMFS (i.e., lease of IFQ from the CQE to the resident). Providing inaccurate information is considered fraud under Federal law. Similarly, CQEs receiving fixed gear LLP licenses will need to attest that the individuals who will use the licenses are residents of the community the CQE represents. The additional administrative burden of this approach on NMFS is minimal, because NMFS only requires the CQE attest to an individual's residency, but will not require each individual to submit proof of residency in order to use the CQE's LLP license.

Note that the CQE Program defines a 'resident' as 1) a U.S. citizen and 2) someone who has maintained a domicile in the community for the 12 consecutive months preceding the time when the assertion of residency is made (and who is not claiming residency in any other community). The common legal definition of domicile is the residence where a person has a permanent home to which they intend to return whenever they are absent; every person has only a single domicile at any time. Thus, the criteria for residency in the existing CQE Program do not appear to require that a person must have 'lived continuously' in the community for 12 months; rather, residency is based on having the principal home in the community, and the intent to return to that home.²

Licenses held by CQE residents that qualify for Pacific cod endorsements

Currently, residents in 14 of the 21 CQE communities hold a total of 54 fixed gear licenses with Western GOA endorsements and 74 fixed gear licenses with Central GOA endorsements. Most of these licenses have an MLOA designation of <60 ft (53 Western GOA licenses and 69 Central GOA licenses). It is important to note that residency information is based on the license holder's address information reported in the RAM LLP license file, as of December 2008. Table 4 compares the number of fixed gear licenses in each community that had at least one fixed gear landing of directed Pacific cod in the Federal or parallel fishery during 2000 through December 8, 2008 to the number of licenses that have no landings,

²While this definition still inhibits a person from moving to a CQE community and immediately fishing CQE quota until they have established a principal residence for 12 months, it does not appear to require an individual to live continuously at that residence during the 12 month time period.

and the number of licenses that each CQE is eligible to request. Data indicating the number of landings is not considered confidential, because it does not provide information on the amount (mt) of catch landed. Thus, this information is provided for each community, even when fewer than 3 licenses had landings. Data showing the number of licenses that meet the 10 mt threshold is considered confidential if fewer than 3 licenses qualified per community.

Conclusions

The intent of Component 7 was to provide CQE communities with the opportunity to request either 1) the estimated number of licenses held by residents that did not qualify for a Pacific cod endorsement, or 2) a minimum of 2 licenses. However, while the Council selected a 10 mt threshold for <60 ft MLOA licenses to qualify for a Pacific cod endorsement, the number of licenses allocated to CQEs was based on the estimated number of licenses held by CQE residents that did not qualify at a 1 landing threshold.

At final action, the Council used the number of licenses that did not meet the one landing threshold as the basis for determining how many licenses would be made available to CQEs, in part because it was possible to determine, using the tables provided in the analysis, the exact number of licenses in each CQE community that did not meet this threshold. The number of licenses that met the 10 mt threshold was only shown in the aggregate for each management area (Central and Western GOA), due to confidentiality restrictions. These data are again summarized for each management area, in the aggregate, in Table 5. At the 10 mt threshold, 29 WG and 9 CG licenses qualified for a pot or hook-and-line endorsement. In comparison, 36 WG and 20 CG licenses meet the 1 landing threshold. If the Council had used the number of licenses not meeting the 10 mt threshold as the basis for determining how many licenses to make available to CQEs (instead of the number not meeting the 1 landing threshold), an additional 7 WG and 11 CG licenses are estimated to be provided to CQEs. **If only Western GOA and Central GOA licenses held by residents of CQE communities located in that management area are considered (see Table 6), an additional 6 WG and 9 CG licenses could be provided to CQEs.**

In sum, fewer licenses meet the selected threshold (10 mt). If the 10 mt threshold had also been used to determine how many licenses each CQE may request, more licenses (in the aggregate) would potentially be made available to CQEs.

There are a number of benefits and drawbacks to making additional fixed gear groundfish licenses available to CQE communities. The main benefit is that it could provide additional opportunities for new entrants who reside in the community to participate in the GOA Federal waters directed Pacific cod fishery, in addition to the parallel and State waters fisheries, which do not require an LLP license. One possible drawback is that many CQE communities currently have active participants in the GOA Pacific cod fisheries who will likely qualify for Pacific cod endorsements. Making additional licenses available to CQE community residents could increase competition for access to the local Federal waters Pacific cod fishery, if participation increases. Also, there are currently no regulations that prevent CQEs from purchasing groundfish licenses, in the same manner that they may purchase halibut and sablefish QS.

Possible action by the Council

In its April motion, the Council recommended that a specific number of licenses be allocated to designated CQE communities (see Table 3). NMFS would encourage a similar approach if the Council chooses to reconsider its final recommendation on this component of the fixed gear recency action. Specifically, the Council could recommend that licenses be allocated to designated CQE communities based on the number of licenses held by residents of those communities that are not projected to qualify for a pot or hook-and-line Pacific cod endorsement. This number could be determined based on the addresses of record for specific LLP licenses in the RAM data base at the time of final action by the

Council. Although addresses are self-reported and may not reflect the permanent domicile of specific LLP license holders, these addresses represent the best available information on the residency of LLP license holders.

NMFS would issue Pacific cod endorsements to all LLP licenses that meet the qualifying thresholds. The difference between the number of licenses currently held by residents of each CQE community and the number of licenses that qualified for an endorsement would be the number of LLP licenses available to CQEs. This approach would ensure that the same number of LLP licenses that are currently held by residents of a CQE would continue to be available to a community, either because they are held by a resident who met the qualifying threshold, or because they may be requested by the CQE representing that community. If the Council chooses this approach, the provision in the April motion that provides all CQEs, including those whose residents do not currently hold any fixed gear licenses, at least 2 licenses, could be retained.

Table 1 Number of LLP licenses projected to qualify under fixed and trawl recency actions.

	Western GOA	Central GOA
<u>Catcher Vessel Licenses</u>		
Trawl CV	76	93
Hook-and-line CV <60 ft	7	123
Hook-and-line CV ≥60 ft	3	7
Hook-and-line CV <50 ft	3	68
Hook-and-line CV ≥50 ft	7	62
Pot CV <60 ft	59	51
Pot CV ≥60 ft	21	27
Jig CV	11	19
Total Fixed Gear CV**	94	215
<u>Additional licenses available to CQEs</u>		
CQE Pot CV <60 ft	21	26
CQE Hook-and-line CV <60 ft	0	24
<u>Catcher Processor Licenses</u>		
Trawl CP	20	21
Hook-and-line CP <125 ft	9	5
Hook-and-line CP ≥125 ft	7	7
Hook-and-line CP <125 ft Offshore Limited***	0	5
Hook-and-line CP ≥125 ft Offshore Limited***	3	7
Pot CP	4	3
Total Fixed Gear CP**	21	27

Total number of licenses that will receive at least one gear-specific Pacific cod endorsement. Some licenses qualify for more than one endorsement. *Licenses that qualify for a hook-and-line CP endorsement under the exemption for participants in the voluntary PSC co-op are limited to participating in the offshore sector.

Table 2 Community Quota Entity (CQE) eligible communities in Southwest and Southcentral Alaska, and the number of fixed gear LLP licenses held by community residents.

Name	Population	Management Area	WG licenses	CG licenses
Akhiok*	80	Central Gulf	0	0
Chenega Bay*	86	Central Gulf	0	0
Chignik	79	Central Gulf	0	3
Chignik Lagoon	103	Central Gulf	1	5
Chignik Lake	145	Central Gulf	0	0
Halibut Cove	35	Central Gulf	0	1
Ivanof Bay	22	Western Gulf	0	0
Karluk	27	Central Gulf	0	0
King Cove*	792	Western Gulf	23	5
Larsen Bay*	115	Central Gulf	0	1
Nanwalek*	177	Central Gulf	0	0
Old Harbor*	237	Central Gulf	0	9
Ouzinkie*	225	Central Gulf	0	10
Perryville*	107	Western Gulf	1	1
Port Graham*	171	Central Gulf	0	1
Port Lions	256	Central Gulf	0	8
Sand Point*	952	Western Gulf	29	16
Seldovia	286	Central Gulf	0	10
Tatitlek	107	Central Gulf	0	1
Tyonek	193	Central Gulf	0	0
Yakutat*	680	West Yakutat	0	3
Total			54	74

Source: Population from 2000 U.S. Census. Residency information is based on the license holder's address information reported in the RAM groundfish LLP license file in December 2008, and does not necessarily indicate that an individual license holder meets the definition of an eligible CQE resident. *Eligible communities that have formed CQEs.

Table 3 Maximum number of fixed gear LLP Pacific cod licenses that may be requested by each CQE community.

Central GOA Licenses		Western GOA Licenses	
Akhiok*	2	Ivanof Bay	2
Chenega Bay*	2	King Cove*	7
Chignik	2	Perryville*	2
Chignik Lagoon	4	Sand Point*	10
Chignik Lake	2	Total	21
Halibut Cove	2		
Karluk	2		
Larsen Bay*	2		
Nanwalek*	2		
Old Harbor*	2		
Ouzinkie*	7		
Port Graham*	2		
Port Lions	6		
Seldovia	6		
Tyonek	2		
Yakutat*	3		
Tatitlek	2		
Total	50		

*Eligible communities that have formed CQEs.

Table 4 Western and Central GOA fixed gear CV licenses currently held by residents of CQE communities that meet the 1 landing threshold based on catch from 2000-2008, licenses that have no landings, and number of licenses that may be requested by each CQE per community.

Community	WG licenses	Licenses with 1 landing from 2000-2008	Licenses with no landings from 2000-2008	Licenses that may be requested by CQEs	CG licenses	Licenses with 1 landing from 2000-2008	Licenses with no landings from 2000-2008	Licenses that may be requested by CQEs
Akhiok*	0	0	0	0	0	0	0	2
Chenega Bay*	0	0	0	0	0	0	0	2
Chignik	0	0	0	0	3	1	2	2
Chignik Lagoon	1	1	0	0	5	1	4	4
Chignik Lake	0	0	0	0	0	0	0	2
Halibut Cove	0	0	0	0	1	0	1	2
Ivanof Bay	0	0	0	2	0	0	0	0
Karluk	0	0	0	0	0	0	0	2
King Cove*	23	16	7	7	5	0	5	0
Larsen Bay*	0	0	0	0	1	1	0	2
Nanwalek*	0	0	0	0	0	0	0	2
Old Harbor*	0	0	0	0	9	7	2	2
Ouzinkie*	0	0	0	0	10	3	7	7
Perryville*	1	0	1	2	1	0	1	0
Port Graham*	0	0	0	0	1	0	1	2
Port Lions	0	0	0	0	8	2	6	6
Sand Point*	29	19	10	10	16	1	15	0
Seldovia	0	0	0	0	10	4	6	6
Talitlek	0	0	0	0	1	0	1	2
Tyonek	0	0	0	0	0	0	0	2
Yakutat*	0	0	0	0	3	0	3	3
Total	54	36	18	21	74	20	54	50

*Eligible communities that have formed CQEs. Note: Licenses for a given management area may only be requested by CQEs located in that area (shown in bold in the table).

Table 5 Summary of number of existing fixed gear licenses held by residents of CQE communities; licenses with 1 landing from 2000-2008; licenses with no landings; licenses that qualified for pot or hook-and-line endorsement (10 mt threshold); licenses that did not meet 10 mt threshold; and total number of licenses that may be requested by CQEs in each area.

Area	Existing licenses	Licenses with 1 landing from 2000-2008	Licenses with no landings from 2000-2008	Licenses that meet 10 mt threshold (pot or longline)	Licenses that did not meet 10 mt threshold (pot or longline)	Licenses that may be requested by CQEs
Western GOA	54	36	18	29	25	21
Central GOA	74	20	54	9	65	50

Table 6 Summary of information provided in Table 5, but only including Western GOA and Central GOA licenses held by residents of CQE communities located in that management area.

Area	Existing licenses	Licenses with 1 landing from 2000-2008	Licenses with no landings from 2000-2008	Licenses that meet 10 mt threshold (pot or longline)	Licenses that did not meet 10 mt threshold (pot or longline)	Licenses that may be requested by CQEs
Western GOA	53	35	18	29	24	21
Central GOA	52	19	33	8	42	50

Note: The columns in bold provide a general comparison of the number of licenses that did not have any landings from 2000-2008 and the number of licenses that may be requested by CQEs, based on the Council's April 2009 motion on fixed gear recency. Note that the actual criteria used to determine the number of licenses that may be

requested by CQEs were: 1) the number of licenses that did not meet a one landing threshold held by residents of each CQE, considering only licenses for the management area where the CQE is located, 2) a minimum of 2 licenses per community, including communities whose residents do not currently hold any fixed gear licenses. In the Western GOA, 3 of the 21 licenses available to CQEs arose from the 'rule of 2'. In the Central GOA, 17 of the 50 licenses available to CQEs arose from this rule.