Fishing Capacity Reduction Program for the Longline Catcher Processor Subsector of the Bering Sea and Aleutian Islands Non-Pollock Groundfish Fishery

Report 2009

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U.S. Department of Commerce
Gary Locke, Secretary

National Oceanic and Atmospheric Administration
Dr. Jane Lubchenco, Ph.D.
Under Secretary of Commerce for Oceans and Atmosphere

National Marine Fisheries Service
James W. Balsiger, Ph.D., Acting Assistant Administrator for Fisheries
Gary Reisner, Director, Office of Management and Budget
Leo Erwin, Chief, Financial Services Division

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I. INTRODUCTION

This report to Congress describes the status of the fishing capacity reduction program for the longline catcher processor subsector of the Bering Sea and Aleutian Islands non-pollock groundfish fishery, administered by the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce. The report contains information on the capacity reduction program from its inception and legislative authority, through the rulemaking process, tender of payment, and beginning of fee collections.

This report is submitted pursuant to Title II, Division B, of the Department of Commerce and Related Agencies Appropriations Act of 2005, which requires that the following information be submitted annually, for 5 years, to Congress:

1. A description of the fishing capacity reduction program carried out under the authority in Subsection (b) (page 3).

2. An evaluation of the cost and cost-effectiveness of such program (page 5).

3. An evaluation of the effectiveness of such program in achieving the objective set out in Section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)) (page 7).

The legislation also requires the initial report shall be submitted not later than 90 days after the date the first referendum is held for the fishing capacity reduction program. This referendum was completed on April 6, 2007. Subsequent reports are due during each of the 4 years after the initial report is submitted to Congress. This report is the third of five annual reports to Congress.

The Appendix (page 9) provides the address of NMFS Headquarters where information regarding the fishing capacity reduction program may be obtained.

II. DESCRIPTION

The Consolidated Appropriations Act of 2005 (Public Law 108-447, Section 219) authorized a loan up to $75 million to be issued to the Bering Sea/Aleutian Islands (BSAI) Alaska groundfish fisheries. This report concerns the issuance of a capacity reduction loan to the Bering Sea and Aleutian Island (BSAI) longline catcher processor subsector of the non-pollock groundfish fishery. Under this authority, a $35 million fishing capacity reduction loan was issued to the industry (subject to offering and selection process) to provide for fishing licenses permanently revoked and fishing harvesting capacity removed from the fishery.

The capacity reduction loan is consistent with the goals and objectives of the Strategic Plans of NOAA and NMFS, and with the Magnuson-Stevens Fishery Conservation and Management Act. The objective of the loan is to address the needs of the fishing community in optimizing economic benefits within the context of reducing fleet harvesting capacity to maintain sustainable fisheries. A fishing capacity reduction loan involves tendering payments to several members of the fishery to permanently remove the fishing permits, licenses, and any associated fishing vessels and fishing gear from the fishing grounds.

In 2005, the BSAI longline catcher processor subsector fishing community organized themselves into the Freezer Longline Conservation Cooperative (FLCC). The FLCC worked with the NMFS Financial Services Division to develop the fishing capacity reduction contracts for license holders to sign if they chose to relinquish their fishing rights, fishing histories, and catcher processor vessels.

On August 11, 2006, NMFS developed a proposed rule for public input on the capacity reduction program, which was published in the *Federal Register* (71 FR 46364) with a public comment period through September 11, 2006. Three comments were received during the comment period, all in support of the program. On September 29, 2006, NMFS published the final rule in the *Federal Register* (71 FR 57696). The capacity reduction agreement contracts were published in those rules for public review and comment, and the final capacity reduction contract was published as a component of the final rule in the *Federal Register* (71 FR 57701).

On January 5, 2007, the FLCC submitted their Fishing Capacity Reduction Plan to the NMFS Office of Management and Budget, Financial Services Division. The plan included four formal offers for catcher processor groundfish licenses that would be removed from the fishery, selected by the FLCC members. The four offers included three active fishing licenses associated with three catcher processor vessels, and one inactive license with no associated vessel. The total amount of the loan was $35 million, to be paid over 30 years using a percentage of future fish landings of BSAI Pacific cod.

On March 16, 2007, NMFS approved the FLCC plan. In order for reduction payments to be tendered, a referendum was conducted for eligible members to cast ballots in favor of or against the industry fee collection system for repayment of the loan. Passage of the referendum required two-thirds of the qualified voters casting ballots to vote in favor of the industry fee system. On March 21, 2007, NMFS issued ballots to the voting members of the FLCC and on April 6, 2007,

voting on the referendum was completed, with 87 percent participation. Thirty-four voters cast ballots, and all were in favor of the referendum, thereby approving the repayment fees for the $35 million fishing capacity reduction loan.

On April 26, 2007, NMFS issued a payment tender notice in the *Federal Register* (72 FR 20836), and provided 30 days for public comments. NMFS mailed payment tender instructions on April 27, 2007, to the selected offerors to provide NMFS, in writing, instructions for how they wanted NMFS to disburse the reduction payments. On May 29, 2007, NMFS tendered payment to the owners of the four fishing licenses being relinquished as part of the capacity reduction program.

In exchange for payment, the owners relinquished their fishing licenses, reduction privilege vessels where appropriate, and fishing histories. Offerors were also required to notify any creditors they were receiving reduction payments, and to remove any fishing equipment associated with the vessels and licenses being removed from the fleet. Upon making payments, NMFS revoked each reduction license, notified the National Vessel Documentation Center to revoke the fishery trade endorsement of each selected offeror's reduction privilege vessel, and notified the U.S. Maritime Administration to prohibit the reduction privilege vessel's transfer to foreign ownership or registry.

On July 20, 2007, NMFS published a proposed rule for the industry fee system for buyback repayment in the *Federal Register* (72 FR 39779). The comment period for this proposed rule closed on August 20, 2007. One comment was received, but it was out of scope. On September 24, 2007, the industry fee system final rule was published in the *Federal Register*, notifying the public that fee collection for this buyback would begin on October 24, 2007 (72 FR 54219). The fee collection system was also incorporated into 50 C.F.R. Subpart M, Section 600.1106, through this action.

NMFS prepared a fee collection report form to be used when reporting the number of pounds landed, and when fee disbursements are made to NMFS for repayment of the loan. NMFS coordinated with Pay.gov (www.pay.gov), operated through contracts with the Federal Reserve Bank of Cleveland, to accept electronic disbursements toward repayment of this loan. Collected fee deposits also may be mailed to the NMFS lockbox.

On September 24, 2007, NMFS Financial Services Division issued a letter to subsector members. With this mailing, NMFS provided timely notification to subsector members of the start of fee system collection on October 24, 2007, and included a copy of the Fee System final rule and a copy of the Fee System Collection Report, which subsector members should submit with payment of collected fees.

On October 24, 2007, the fee system collection began. At the same time, the BSAI non-pollock groundfish industry fee collection system went live on Pay.gov, for subsector members to submit payment of collected fees electronically. To provide complete transparency, these *Federal Register* rules, letters, fee collection reports, and other documents are published on the NMFS Financial Services website at: http://www.nmfs.noaa.gov/mb/financial_services/buyback.htm.

III. COST AND COST-EFFECTIVENESS

This section describes all payments made under the fishing capacity reduction program for the longline catcher processor subsector of the BSAI non-pollock groundfish fishery. The offers made by longline catcher processor subsector members of the BSAI non-pollock groundfish fishery were developed and accepted by the members of that fishery, and included in the plan that was submitted to and approved by NMFS. The cost of each license (and vessel, if applicable) and total cost of the fishing capacity reduction program are listed in Table 1 below.

Table 1. NMFS Funding for the Longline Catcher Processor Subsector of the BSAI Non-Pollock Groundfish Fishery

Funding Item	**Amount**
License Number LLG 3843, Vessel *Horizon*	$11,800,000
License Number LLG 2678, Vessel *Northern Aurora*	10,000,000
License Number LLG 3961 (no vessel)	1,500,000
License Number LLG 3936, Vessel *Western Queen*	11,700,000
Total Cost	**$35,000,000**

When the fishing capacity reduction plan was developed, there were 41 License Limitation Program licenses (LLPs) in the longline catcher processor subsector BSAI non-pollock groundfish fishery. Of the 41 LLPs, 39 were active and two were inactive. The offers made to remove the three active permits and catcher processor vessels associated with them took into consideration the amount of fish each vessel was harvesting and processing on an annual basis (catch history). Removal of the vessels associated with the active licenses removes vessels from the fishery, and immediately benefits the longline catcher processor subsector by reducing competition pressure for each of the remaining vessels to catch fish. In theory, each of the vessels retaining their fishing licenses will be able to harvest more fish. See Table 2 below.

Table 2. Projected Potential Effect of the Buyback on Longline Catcher Processor Subsector of the BSAI Non-Pollock Groundfish Fishery

	Before Buyback	**After Buyback**	**Net Difference**
Number of Active Vessels	39	36	- 3
Fishing Capacity of Removed Buyback Vessels (based on average catch history, 2003-2005)	---	7.5%	- 7.5%
2007 Projected Total Revenue	$174.1 million	$174.1 million	---
Average 2007 Projected Revenue per Vessel	$4.46 million	$4.84 million	+ $380,000
Minus Loan Repayment Fee	---	$77,440	$77,440
Net Average Revenue per Vessel	---	$4.76 million	+ $302,560

The cost-effectiveness of the inactive, or latent, fishing license removed is more difficult to assess. Although there is no immediate benefit (because no fishing vessel was removed from the fishing grounds), there is a tangible benefit to the industry because the potential competition of a vessel being added to the fleet in the future is removed. Without the ability to add another fishing vessel, the remaining members of the fishing fleet retain their ability to harvest fish at their current capacity, or to incur the benefits associated with the other active licenses that were removed.

In the plan, the FLCC concludes that the plan is "consistent with the goals of the [Magnuson-Stevens] Act and will result in maximum sustained reduction in fishing capacity at the least cost and in the minimum amount of time." NMFS concurred with this assessment and approved the plan. The referendum voters also voted unanimously in favor of the fee collection system, which demonstrated to NMFS that the involved members of the fishing community have high confidence in the cost-effectiveness of this buyback program. On May 29, 2007, NMFS tendered payment for the licenses and vessels listed in Table 1 above.

The initial fee for the program's reduction fishery was established at 2.0 cents per pound of BSAI Pacific Cod landed. Based on the projected 2007 Total Allowable Catch set for BSAI Pacific Cod, NMFS projected that the yearly amortization payments of approximately $2.78 million would be met in the first year of repayment. The fee collection system began on October 24, 2007. As of April 29, 2009, fee collections totaled $4,955,812. This includes $528,416 paid on the loan principal and $4,427,396 of interest. The outstanding loan principal is $34,471,584.

IV. EFFECTIVENESS AT ACHIEVING GOALS

This section discusses the effectiveness of the fishing capacity reduction program in achieving the objectives of Section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)).

The objectives of the program include promoting sustainable fishery management, and obtaining a maximum sustained reduction of fishing capacity from the longline catcher processor subsector at the least cost. The capacity reduction program is voluntary. In return for reduction payments, the owners of the groundfish fishing license(s) and reduction privilege vessel(s) permanently relinquish their fishing licenses, the fishing histories upon which those licenses were issued, and their vessels' worldwide fishing privileges. Their vessels may never fish again, and may never be transferred out of U.S. registry.

After NMFS accepted the fishing capacity reduction plan as submitted by the FLCC, NMFS completed the steps outlined in the previous section and tendered payment on May 29, 2007, to the selected offerors for withdrawing vessels from fishing, revoking fishing licenses, and surrendering fishing histories. By doing so, NMFS has met objectives outlined in Section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act. The specific objectives of the Act that NMFS expects to accomplish by implementing this program include the following:

1. Approximately 7.5 percent of fishing capacity was removed from the BSAI longline catcher processor subsector of the BSAI non-pollock groundfish fishery.

2. The capacity reduction program should help to prevent or end overfishing, rebuild stocks of fish, or achieve measurable and significant improvements in the conservation and management of the fishery.

3. The capacity reduction program is consistent with the federal and state fishery management plans or programs in effect for the BSAI groundfish fishery.

4. The fishing capacity reduction program and FLCC Fishing Capacity Reduction Plan prevent the replacement of fishing capacity removed by the reduction program through a moratorium on new entrants, restrictions on vessel upgrades, and other effort control measures, taking into account the full potential fishing capacity of the fleet.

5. The fisheries management plan under which this fishery falls establishes a specified or targeted total allowable catch or other measure triggering closure of the fishery if the level is met, or if other adjustments to reduce catch are enacted.

6. The fishing capacity reduction plan is cost-effective, as described above, and the fishery is capable of repaying the debt obligation incurred under Section 1111 of Title XI of the Merchant Marine Act of 1936 through the approved industry fee system.

7. The objective of the plan is to obtain the maximum sustained reduction in the fishing capacity at the least cost and in a minimum period of time.

8. If the owner of a fishing vessel has volunteered to relinquish fishing licenses, they may either scrap the vessel, or the vessel will be subjected to restrictions permanently prohibiting and effectively preventing the use of the vessel for fishing purposes in the future. In addition, restrictions are placed on the vessel prohibiting it from being used in any other federal fishery or re-flagged in another country's registry.

9. Once the fishing license has been relinquished, the offeror who relinquished the license surrenders and relinquishes any claim associated with the license and vessel used to harvest fishery resources for present or future limited access system permits.

10. Initial participation in the plan is voluntary, but the Secretary of Commerce shall ensure compliance by all those who participate.

As discussed above, the plan meets all of these requirements under Section 312(b) of the Magnuson-Stevens Act. In addition, the completed fishing capacity reduction program met the conditions required by Section 219 of Title II, Division B, of the Department of Commerce and Related Agencies Appropriations Act of 2005 (Public Law 108-447).

APPENDIX:
National Marine Fisheries Service Contact Information

Information regarding fishing capacity reduction programs is available from NMFS. Contact:

Leo Erwin
Chief, Financial Services Division
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910
Telephone: (301) 713-2390
Email: Leo.Erwin@noaa.gov