Public Testimony Sign-Up Sheet

Agenda Item ~~B-2 Reports~~ C-1(b)(3) GOA parallel waters

	NAME (PLEASE PRINT)	AFFILIATION
1	Kenny Down	Freezer Longline Coalition
2	Mike Alfieri	WGOAF
3	Chris Holland	Point Omega
4	Jeff Stephan	UFMA
5	Ilysa Kusman	Kay Bay Fisheries
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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.

Public Testimony Sign-Up Sheet

Agenda Item C-1(c) Vessel Capacity

	NAME (PLEASE PRINT)	AFFILIATION
1	Jerry Bongen	
2	Linda Kozak	Kozak + Assoc.
3		
4	~~Andy Wike~~	
5	~~Harry Liddle~~	
6	Jeff Stephan	UFMA
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AGENDA C-1(b - c)
JUNE 2009

MEMORANDUM

TO: Council and AP Members

FROM: Chris Oliver
Executive Director

DATE: May 22, 2009

SUBJECT: GOA Groundfish Issues

ESTIMATED TIME
8 HOURS
All C-1 items

ACTION REQUIRED

(b) Review discussion paper on parallel waters options in the GOA Pacific cod sector split motion

(c) Review discussion paper on options for addressing the GOA vessel capacity issue

(b) GOA Pacific cod parallel waters fishery

BACKGROUND

In December 2008, the Council completed initial review of the draft EA/RIR/IRFA for the proposed action to allocate the Western and Central GOA Pacific cod TACs among the various gear and operation types. Currently, separate TACs are identified for Pacific cod in the Western, Central, and Eastern GOA management areas, but the TACs are not divided among gear or operation types. This results in a race for fish and competition among the sectors for shares of the TACs. Sector allocations may provide stability to long-term participants in the fishery by reducing competition among sectors for access to the GOA Pacific cod resource. However, if entry into the parallel waters fishery remains open, the objective of stability may not be achieved. Initial review of the GOA Pacific cod sector split action is scheduled for October 2009.

Prior to initial review, the Council requested that staff prepare a discussion paper that examines the possible goals, objectives, elements, and options for addressing management issues in the GOA Pacific cod parallel waters fishery within the context of the proposed sector allocations. The intent of reviewing the discussion paper at the June meeting is to give the Council the opportunity to refine the parallel waters options in the overall sector split motion, and to direct staff to incorporate these options into the initial review document for October. The rationale for including the parallel waters options in the amendment is concern that participation in the GOA Pacific cod parallel waters fishery by vessels that do not hold LLP licenses may increase. If sector allocations are established, parallel waters activity by new entrants has the potential to erode the catch shares of those participants who contributed catch history to the allocations and depend on the GOA Pacific cod resource. There are currently no limits on entry into the parallel waters groundfish fisheries, and no limits on the proportion of the GOA Pacific cod TAC that may be harvested in parallel waters. Vessels fishing in Federal waters are required to hold an LLP license with the appropriate area, gear, and where implemented, species endorsements, but vessels fishing in State waters (parallel and State-managed fisheries) are not required to hold an LLP license.

The discussion paper begins with a description of the management issues and a review of the regulatory context. The background section is followed by a discussion of the possible purpose and need of addressing the parallel waters issues. Finally, the paper describes the elements and options that the Council could consider advancing for further analysis, and the potential advantages and disadvantages of each approach. The paper provides background information that may help the Council and the State of Alaska consider interactions between the proposed Pacific cod sector allocations and management of the parallel waters Pacific cod fishery. The Council could provide recommendations to the Alaska Board of Fisheries (BOF) for capping parallel waters catches in order to balance the objectives of providing stability to the existing sectors while providing opportunities for new entry. The Council is also considering options to preclude Federally-permitted vessels that do not have LLP licenses from participating in the parallel fishery. These options could complement action taken by the BOF to cap parallel waters catches.

At this meeting, the Council is scheduled to review the discussion paper and could modify the parallel waters options, if desired. The discussion paper was mailed on May 15, 2009, and is attached as Item **C-1(b)**.

(c) GOA vessel capacity

BACKGROUND

The Council has expressed interest in exploring ways to limit entry of high capacity 58 ft to 60 ft LOA pot and hook-and-line vessels into the GOA Pacific cod fisheries. One approach identified in the fixed gear recency action was to add a vessel capacity endorsement (i.e., width or simple gross tonnage) to fixed gear licenses. Currently, LLP licenses have a maximum length overall (MLOA) designation, but there is no limit on the width or tonnage of the vessel that may be assigned to a license. The capacity endorsement that was considered in the fixed gear recency action would have provided such a limit by restricting vessels to a 3-to-1 length to width ratio based on the length overall of the vessel currently assigned to the license. Licenses assigned to vessels that exceeded this ratio would have been grandfathered at their present length to width ratio.

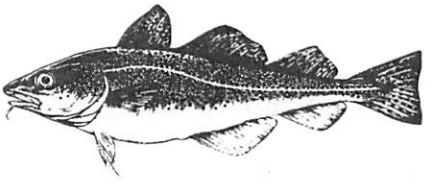
At its April 2009 meeting, the Council reviewed a staff discussion paper that described regulatory, enforcement, and safety concerns with the proposed length to width restriction. Although vessel width can be defined in regulation, the action could impose substantial costs on participants if width measurements are required to be certified by a marine surveyor. NMFS Enforcement also expressed concern that vessel width may be difficult to measure in the field. Finally, establishing regulations that discourage specific vessel configurations may conflict with National Standard 10 (promote safety at sea).

As a result of the concerns expressed in the discussion paper, public testimony, and during AP and Council deliberations, the Council removed the capacity endorsement component from the fixed gear recency motion. The Council requested that staff devlope another discussion paper for the June meeting, describing potential ways to address the capacity issue within the fixed gear fleet. The Council requested that the paper explore possible alternative width-to-length ratios and any other solutions to the vessel capacity issue suggested by the public (e.g., trip limits or other output controls). The discussion paper begins with a description of the management issues and a review of the regulatory context. The background section is followed by a discussion of the possible purpose and need of addressing the vessel capacity issue. Finally, the paper describes the elements and options that the Council could consider advancing for further analysis.

At this meeting, the Council is scheduled to review the discussion paper, and take action as necessary. The discussion paper is attached as item **C-1(c)**.

Discussion Paper

Reviewing Alternatives for the Parallel Waters Fishery Within the Proposed Action to Allocate the Western and Central GOA Pacific Cod TACs among Sectors



Prepared by staff of the
North Pacific Fishery Management Council
605 W. 4th Avenue, #306
Anchorage Alaska 99501

May 15, 2009

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1 Introduction

The Council is considering a proposed action to allocate the Western and Central GOA Pacific cod TACs to the various gear and operation types. Currently, separate TACs are identified for Pacific cod in the Western, Central, and Eastern GOA management subareas, but the TACs are not divided among gear or operation types. This results in a derby-style race for fish and competition among the sectors for shares of the TACs. Sector allocations may provide stability to long-term participants in the fishery by reducing competition among sectors for access to the GOA Pacific cod resource. However, if entry into the parallel waters fishery remains open, the objective of stability may not be achieved. The Council is scheduled to make an initial review of the GOA Pacific cod sector split action in October 2009.

Prior to initial review, the Council requested that staff prepare a discussion paper that examines the possible goals, objectives, elements, and options for addressing management issues in the GOA Pacific cod parallel waters fishery within the context of the proposed sector allocations. The intent of reviewing the discussion paper at the June meeting is to give the Council the opportunity to refine the parallel waters options in the sector split motion, and to direct staff to incorporate these options into the initial review document for October. The rationale for including the parallel waters options in the motion is concern that participation in the GOA Pacific cod parallel waters fishery by vessels that do not hold LLP licenses may increase. This parallel waters activity may have negative economic impacts on long-term participants who hold LLP licenses. If sector allocations are established, this parallel waters activity by new entrants has the potential to erode the catches of those participants who contributed catch history to the allocations and depend on the GOA Pacific cod resource. There are currently no limits on entry into the parallel waters groundfish fisheries, and no limits on the proportion of the GOA Pacific cod TAC that may be harvested in parallel waters. Vessels fishing in Federal waters are required to hold an LLP license with the appropriate area, gear, and species endorsements, but vessels fishing in State waters are not required to hold an LLP license.

The discussion paper begins with a description of the management issues and a review of the regulatory context. The background section is followed by a discussion of the possible purpose and need of addressing the parallel waters issues. Finally, the paper describes the elements and options that the Council could consider advancing for further analysis, and the potential advantages and disadvantages of each approach. The paper provides background information that may help the Council and the State of Alaska consider interactions between the proposed sector allocations and management of the parallel waters fishery. The Council could provide recommendations to the Alaska Board of Fisheries (BOF) for capping parallel waters catches in order to balance the objectives of providing stability to the sectors while providing opportunities for new entry. The Council is also considering options to preclude Federally-permitted vessels that do not have LLP licenses from participating in the parallel fishery. These options could complement action taken by the BOF to cap parallel waters catches or stand alone.

2 Background

Each year during the harvest specifications process the Council sets the allowable biological catch (ABC) for the GOA Pacific cod stock (NMFS 2008). The ABC is allocated among the three GOA management areas based on the three most recent trawl surveys. The current allocations are 39% Western GOA, 57% Central GOA, and 4% Eastern GOA (Thompson et al. 2008). Each area ABC is further apportioned into a total annual catch (TAC), which limits catch in the Federal and parallel waters fishery, and a State waters guideline harvest level (GHL). The TAC is not apportioned between the Federal and parallel waters fisheries. These apportionments are summarized in Table 1.

Table 1 2009 apportionments of the GOA Pacific cod ABC.

GOA Pacific Cod ABC (55,300 mt)					
Western GOA ABC		Central GOA ABC		Eastern GOA ABC	
39% (21,567 mt)		57% (31,521 mt)		4% (2,212 mt)	
Federal TAC	State GHL	Federal TAC	State GHL	Federal TAC	State GHL
75% (16,175 mt)	25% (5,392 mt)	75% (23,641 mt)	25% (7,880 mt)	90% (1,991 mt)	10% (221 mt)

Source: 2009-2010 NMFS GOA harvest specifications.

2.1 Management of the GOA Pacific cod Federal and parallel waters fisheries

The GOA Pacific cod Federal waters fisheries occur in the EEZ (3 to 200 nm) and are managed by NMFS. The GOA Pacific cod parallel waters fisheries occur in State waters (0 nm to 3 nm) adjacent to the Federal GOA management areas, and are open concurrently with the directed fisheries in Federal waters. The State of Alaska has management authority for groundfish resources within State waters. Each year, the ADFG commissioner issues an emergency order to open the parallel fishery. The same fishing seasons, gear restrictions, and bycatch limits that apply in the Federal waters fisheries are adopted in the parallel waters fisheries, unless superseded by Alaska Board of Fisheries (BOF) regulation. The BOF may adopt different gear limits, vessel length restrictions, or season closures for the parallel fishery. For example, the BOF recently limited hook-and-line vessels to 58 ft LOA in the BSAI Pacific cod parallel waters fishery. In the BSAI Pacific cod Federal waters fishery, there is no vessel length limit for hook-and-line gear. The State regulations apply to all participants in the parallel fishery. Federally-permitted participants cannot be treated differently from participants who do not hold Federal permits.

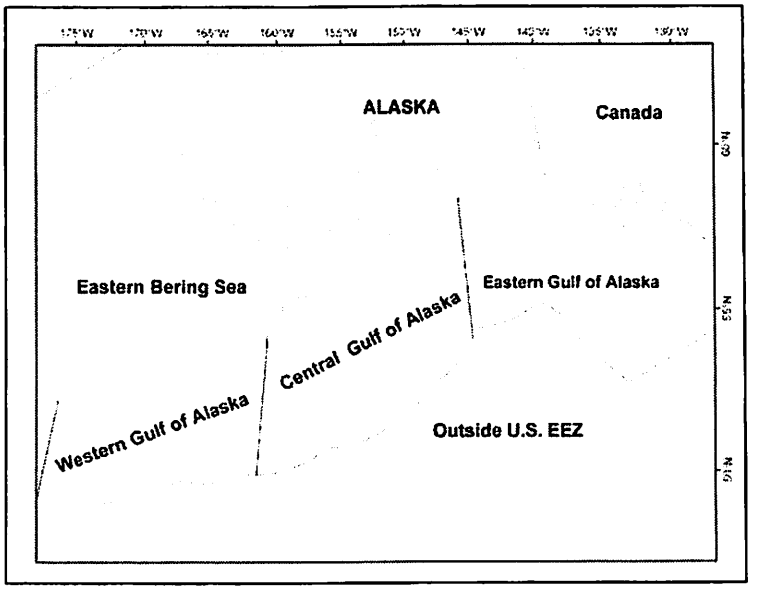

Figure 1 Federal groundfish management areas in the Gulf of Alaska.

Pacific cod harvests in the Federal and parallel waters fisheries count against the Federal groundfish TACs. The GOA Pacific cod TACs are not divided among gear types, but are apportioned to the inshore and offshore processing sectors, with 90% allocated to the inshore component and 10% to the offshore component. Catcher processors and motherships participating in the directed Pacific cod fisheries must make an annual election to participate in either the inshore or offshore component. The inshore

component is comprised of shore plants, stationary floating processors, and vessels less than 125 feet in length that process less than 126 metric tons (round weight) per week of pollock and Pacific cod in the aggregate. In addition, the TACs are apportioned seasonally, with 60% allocated to the A season and 40% to the B season. The A and B seasons were implemented in 2001 as a Steller sea lion protection measure. The A season begins on January 1 for fixed gear vessels, and on January 20 for trawl vessels. The B season begins on September 1 for all gear types, and ends Nov 1 for trawl vessels and December 31 for fixed gear vessels.

Entry to the BSAI and GOA groundfish fisheries in Federal waters has been restricted under the License Limitation Program (LLP) since 2000, but the LLP is not required in parallel waters. The Council is scheduled to take final action at the June 2009 meeting on an amendment that would require Federally-permitted pot and hook-and-line CPs to hold LLP licenses to participate in the BSAI Pacific cod parallel waters fishery. In the GOA Pacific cod sector split motion, there are options to limit entry to the GOA Pacific cod parallel waters fishery similar to the alternatives under consideration for the BSAI.

The parallel waters Pacific cod fisheries are managed separately from the State waters Pacific cod fisheries. The State waters Pacific cod fisheries occur during distinct seasons that generally do not overlap with the parallel and Federal waters seasons, and are managed by ADFG under a Guideline Harvest Level (GHL) and a separate set of regulations. The GOA State waters Pacific cod fishery regulations are described in the next section. The majority of State waters in the GOA are closed to bottom trawling, with the exception of portions of the Alaska Peninsula management area (Figure 2). The bottom trawling closures apply during both the parallel and State waters seasons.

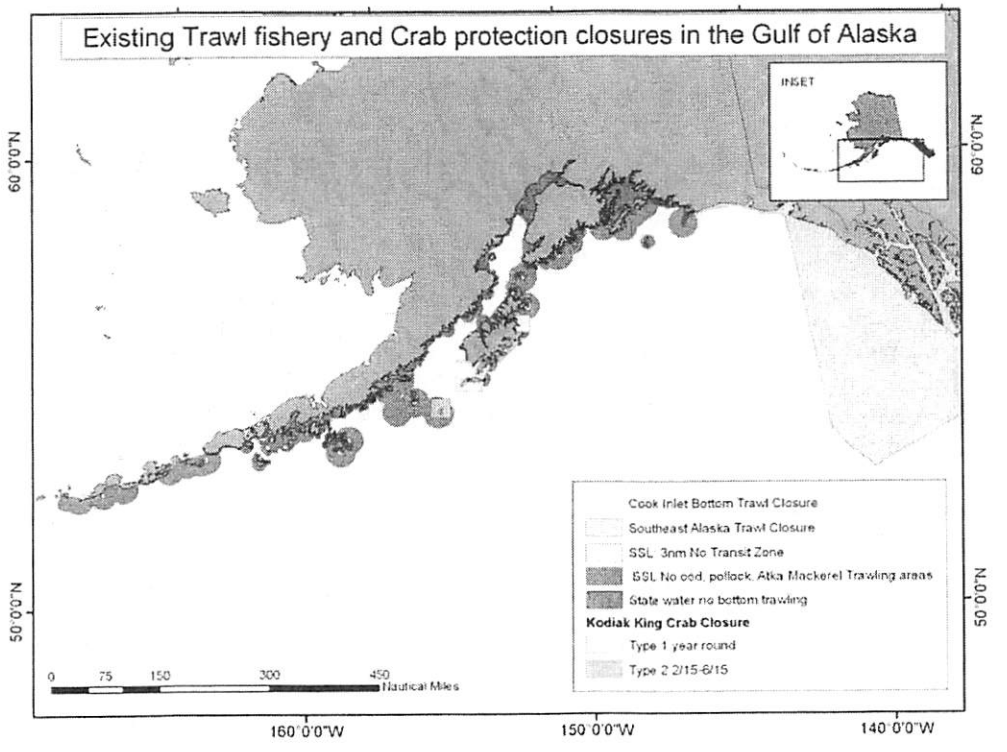

Figure 2 Existing trawl gear closures in the Gulf of Alaska.

2.2 Management of the GOA Pacific cod State waters fishery

In 1997, the State of Alaska began managing its own Pacific cod fisheries inside of 3 nm (referred to as the 'State waters fishery'), which are allocated a portion of the Federal ABC. State fisheries are managed under a guideline harvest level (GHL), which limits total catch in the fishery in a manner similar to the Federal TAC. State waters GHLs are specified as a portion of the Federal Pacific cod ABC. If the GHL is fully harvested, it can be increased on an annual basis up to 25% of the Pacific cod ABC in each GOA management area, the maximum level permitted by State regulation. In 1997, 15% of the Pacific cod ABC in each of the three GOA management subareas was allocated to the State waters fisheries. State waters allocations in the Western and Central GOA have increased to 25% of the Pacific cod ABCs and are currently at the maximum level permitted by State regulation. The Eastern GOA GHL was lowered to 10% of the ABC in 2004, because this allocation has not been fully utilized by the fishery (Table 2).

Table 2 Current allocations of Pacific cod to State waters fisheries in the GOA

Federal Management Area	State Management Area	Percent of Area ABC	Pot/Jig Allocation	Pot allocation as a percent of ABC	Jig allocation as a percent of ABC
Central GOA	Cook Inlet	3.75%	75/25	2.81%	0.94%
	Chignik	8.75%	90/10	7.88%	0.88%
	Kodiak	12.50%	50/50	6.25%	6.25%
	Total Central GOA	25%		16.94%	8.06%
Western GOA	Alaska Peninsula	25%	85/15[1]	21.25%	3.75%
Eastern GOA	Prince William Sound	10%	none	n/a	n/a

1 Pot gear is capped at 85%.

There is no LLP requirement in the State waters fisheries, but there are gear and vessel length restrictions (Table 3). The GOA State waters Pacific cod fisheries are open only to pot and jig gear. The GHLs in each management area are allocated to the pot and jig sectors, and vessel size restrictions limit harvests by >58 ft LOA vessels in some areas or exclude them from participating in the fisheries. Currently, the Kodiak allocation is apportioned 50% to the pot sector and 50% to the jig sector. In the Kodiak management area, vessels greater than 58 ft LOA are capped at 25% of the GHL prior to September 1. The Cook Inlet allocation is apportioned 75% to the pot sector and 25% to the jig sector. The Chignik allocation is apportioned 90% to the pot sector and 10% to the jig sector, and the fishery is limited to vessels ≤58 ft LOA. The South Alaska Peninsula GHL is not explicitly allocated between pot and jig gear, but the pot sector is capped at 85% of the GHL, and the fishery is limited to vessels ≤58 ft LOA. In sum, the State waters fisheries allocate a total of 16.94% of the Central GOA ABC to the pot sector and 8.06% of the Central GOA ABC to the jig sector. In addition, the pot and jig sectors are allocated 21.25% and 3.75%, respectively, of the Western GOA ABC.

Table 3 Summary of GOA State waters Pacific cod fishery regulations.

Area	Pot allocation	Jig allocation	Allocation to ≤58 ft vessels	Allocation to >58 ft vessels	Super exclusive	Exclusive	Gear Limit
Kodiak	50%	50%	None	Capped at 25% prior to Sept 1	No	Yes-prior to Nov 1	60 pots/5 jigs
Cook Inlet	75%	25%	None	Capped at 25% prior to Sept 1	No	Yes-prior to Nov 1	60 pots/5 jigs
Chignik	90%	10%	100%	0%	Yes	No	60 pots/ 5 jigs
South Peninsula	Capped at 85%	none	100%	0%	No	Yes-prior to Nov 1	60 pots/ 5 jigs

Source: Nick Sagalkin, ADFG. For additional information, see Mattes and Stichert (2008) and Sagalkin (2008).

In the Kodiak and South Alaska Peninsula areas, the State waters Pacific cod fisheries open 7 days after the Federal A season closes (Table 4). The Cook Inlet fishery opens 24 hours after the inshore Central GOA A season closes, and the Chignik fishery opening date is set in regulation on March 1. There is no overlap between the parallel and State waters seasons in the Kodiak, Cook Inlet, and South Alaska Peninsula areas. There is potential for the seasons to overlap in the Chignik area, if the Central GOA A season extends past March 1.

Within each State management area, pot and jig seasons currently open on the same day. If GOA Pacific cod sector allocations are established, there may be timing conflicts between the Federal and State seasons if the Federal jig and pot seasons no longer close on the same date. If one sector has to wait for the other to finish fishing its Federal allocation, the opening of the State waters fisheries could potentially be delayed. The majority (85% to 93%) of State waters pot catch is by vessels that hold LLP licenses (Table 5) and also participate in the parallel/Federal fishery. The Council is considering measures to ensure continuity in the Federal and State pot and jig seasons that allow both sectors access to their allocations and minimize the amount of stranded quota in both the Federal and State waters jig fisheries. For example, in the sector split motion, Component 5 includes 3 options for managing the jig fishery under sector allocations. The options contain specific recommendations for dates to close the parallel/Federal jig season and open the State jig season.

Table 4 Recent season opening dates of the GOA Pacific cod State waters fisheries

	Kodiak	Chignik	Cook Inlet	Alaska Peninsula
Year	Jig/Pot	Jig/Pot	Jig/Pot	Jig/Pot
2003	16-Feb	1-Mar	10-Feb	24-Feb
2004	7-Feb	1-Mar	1-Feb	2-Mar
2005	2-Feb	1-Mar	27-Jan	3-Mar
2006	7-Mar	1-Mar	1-Mar	9-Mar
2007	6-Mar	1-Mar	28-Feb	15-Mar
2008	27-Feb	1-Mar	21-Feb	7-Mar

*The 2008 CGOA inshore parallel/Federal season closed 20-Feb, but reopened 29-Feb for 2 days to reach the TAC.

Table 5 Percent of pot vessels participating in the GOA State waters Pacific cod fisheries that had groundfish LLP licenses, and percent of State waters catch by these vessels.

		Pot	
	Year	Percent of vessels with LLPs	Percent of catch by vessels with LLPs
Central GOA	2002-2007 average	75%	85%
Western GOA	2002-2007 average	91%	93%

Source: ADFG Fish Tickets and RAM groundfish LLP license file, December 2008.

2.3 State, Parallel, and Federal waters catch in the GOA Pacific cod fisheries

Western and Central GOA Pacific cod harvests in the State, parallel, and Federal waters fisheries during 1995 through 2008 are reported in Table 6 and 7. The tables include CV and CP harvests. In general, CP harvests comprised only a small proportion of the parallel waters catch. In most years, fewer than 3 CPs participated in the parallel fishery in each management area, and CP catches in the parallel fishery cannot be reported separately from CV catches. Most State waters in the GOA are closed to bottom trawling, with the exception of portions of the Alaska Peninsula management area, and parallel catches are predominantly made with pot and hook-and-line gear. Trawl vessels harvested the majority of Federal

waters catch prior to the seasonal apportionment of the TACs in 2001. In recent years, vessels using fixed gear have harvested the majority of Federal waters catch.

The percentage of Pacific cod harvested in the State, parallel, and Federal waters fisheries varies annually (see Table 6). This variation is likely due to several factors. The State waters GHLs were initially set at 15% of the Western and Central GOA area ABCs, and have increased to 25% of each area ABC. The TACs are not apportioned between the Federal and parallel waters fisheries. The shifts in the location of catches may reflect changes in the distribution of cod as well as changes in the location of fishing effort. In the Western GOA, the percentage of Pacific cod harvested from the parallel and State waters fisheries (combined) increased from 20% to 30% of total catch in the mid-1990s to more than 50% of the catch during recent years, peaking at 65% in 2006 (Figure 3). The percentage of cod harvested from the Western GOA parallel waters fishery also increased in recent years and peaked at 38% in 2006. During the same time period, the amount (mt) of cod harvested from the Western GOA parallel and State waters fisheries increased slightly (Figure 4). Federal waters catches have decreased dramatically over this time period, and have been as low as 6,640 mt (in 2006), down from nearly 20,000 mt in 1997.

Table 6 Retained Pacific cod catch (mt) from the parallel, State, and Federal waters fisheries in the Western and Central GOA.

Western GOA	State waters			Parallel waters			Federal waters			Total
Year	Vessel count	Catch (mt)	Percent of total	Vessel count	Catch (mt)	Percent of total	Vessel count	Catch (mt)	Percent of total	Catch (mt)
1995	--	--	--	99	3,883	18%	137	17,474	82%	21,356
1996	--	--	--	90	5,386	26%	80	15,618	74%	21,004
1997	92	4,320	15%	79	4,476	16%	104	19,496	69%	28,292
1998	84	3,915	16%	103	3,837	15%	117	17,168	69%	24,920
1999	86	5,362	20%	88	3,800	14%	113	18,273	67%	27,435
2000	93	6,824	24%	113	5,776	20%	121	16,154	56%	28,754
2001	131	6,103	29%	100	2,744	13%	101	11,867	57%	20,714
2002	125	5,777	25%	96	3,297	14%	101	14,065	61%	23,139
2003	103	5,237	25%	88	6,124	29%	98	9,565	46%	20,926
2004	103	5,626	27%	114	6,489	31%	85	8,830	42%	20,945
2005	84	5,165	30%	103	4,450	26%	83	7,816	45%	17,431
2006	55	5,301	28%	92	7,209	38%	83	6,640	35%	19,150
2007	64	5,750	30%	101	4,285	23%	99	8,946	47%	18,980
2008	99	6,031	29%	98	3,645	18%	101	11,103	53%	20,779

Central GOA	State waters			Parallel waters			Federal waters			Total
Year	Vessel count	Catch (mt)	Percent of total	Vessel count	Catch (mt)	Percent of total	Vessel count	Catch (mt)	Percent of total	Catch (mt)
1995	--	--	--	306	9,859	22%	444	34,252	78%	44,111
1996	--	--	--	220	7,555	18%	306	34,909	82%	42,464
1997	170	4,328	9%	310	6,857	15%	383	34,711	76%	45,896
1998	203	6,595	14%	283	5,067	11%	378	35,843	75%	47,505
1999	242	8,476	16%	294	7,204	14%	382	35,903	70%	51,582
2000	245	5,219	14%	288	4,655	13%	377	27,356	73%	37,230
2001	138	3,822	12%	243	2,754	9%	318	24,453	79%	31,029
2002	112	6,437	22%	186	2,267	8%	246	21,003	71%	29,708
2003	170	6,381	21%	174	3,104	10%	220	20,790	69%	30,275
2004	205	8,126	24%	208	3,375	10%	215	22,973	67%	34,474
2005	195	7,596	26%	196	3,760	13%	220	18,393	62%	29,749
2006	135	5,038	18%	221	5,017	18%	227	17,370	63%	27,425
2007	128	5,500	18%	218	4,255	14%	255	20,928	68%	30,683
2008	148	7,365	22%	223	2,794	9%	287	22,640	69%	32,799

Source: ADFG Fish Tickets (parallel and State waters), and NMFS Catch Accounting data (Federal waters).

Table 7 Retained Pacific cod catch (mt), reported by gear type, from the parallel, State, and Federal waters fisheries in the Western and Central GOA.

Year	State Waters Catch (mt)			Parallel Waters Catch (mt)					Federal Waters Catch (mt)				
	Jig	Pot	Total	HAL	Jig	Pot	Trawl	Total	HAL	Jig	Pot	Trawl	Total
Western GOA													
1995	--	--	--	37	46	1,793	2,006	3,883	5,630	*	559	11,285	17,474
1996	--	--	--	102	45	1,611	3,628	5,386	4,460	0	77	11,080	15,618
1997	158	4,162	4,320	16	4	939	3,516	4,476	4,061	1	101	15,332	19,496
1998	199	3,716	3,915	237	0	1,863	1,754	3,837	2,952	*	687	13,529	17,168
1999	321	5,042	5,362	15	0	1,377	2,408	3,800	5,171	0	214	12,888	18,273
2000	344	6,480	6,824	107	5	2,603	3,061	5,776	4,654	0	2,697	8,803	16,154
2001	1,376	4,727	6,103	21	154	1,494	1,074	2,744	4,051	3	2,082	5,731	11,867
2002	928	4,853	5,777	12	185	2,777	322	3,297	6,437	7	2,543	5,079	14,065
2003	1,647	3,590	5,237	26	42	5,915	141	6,124	4,263	*	3,736	1,566	9,565
2004	758	4,869	5,626	11	180	5,838	460	6,489	2,911	*	4,123	1,796	8,830
2005	558	4,608	5,165	252	46	2,828	1,324	4,450	753	0	3,729	3,334	7,816
2006	34	5,267	5,301	100	*	4,221	2,888	7,209	2,696	*	1,697	2,247	6,640
2007	109	5,641	5,750	191	1	2,965	1,127	4,285	3,268	*	1,995	3,683	8,946
2008	638	5,393	6,031	218	61	2,968	398	3,645	3,361	*	3,148	4,594	11,103
Central GOA													
1995	--	--	--	2,046	40	7,155	619	9,859	2,634	12	6,605	25,002	34,252
1996	--	--	--	1,831	14	4,702	1,007	7,555	3,370	20	5,837	25,682	34,909
1997	1,168	3,160	4,328	1,832	17	4,573	435	6,857	4,629	4	3,847	26,231	34,711
1998	1,122	5,472	6,595	1,842	32	2,657	537	5,067	4,149	19	6,551	25,124	35,843
1999	1,197	7,279	8,476	2,167	22	4,437	577	7,204	4,320	*	10,683	20,899	35,903
2000	1,300	3,919	5,219	1,996	37	2,510	112	4,655	4,742	2	10,367	12,246	27,356
2001	708	3,114	3,822	1,166	10	1,476	102	2,754	4,526	1	2,617	17,309	24,453
2002	785	5,651	6,437	850	3	1,281	133	2,267	7,656	*	2,077	11,271	21,003
2003	1,839	4,543	6,381	1,272	7	1,631	195	3,104	3,776	8	1,576	15,430	20,790
2004	2,120	6,006	8,126	1,753	111	1,285	226	3,375	5,123	7	3,631	14,212	22,973
2005	2,183	5,412	7,596	1,596	135	1,841	188	3,760	2,942	*	6,329	9,123	18,393
2006	*	*	5,038	2,480	90	2,263	184	5,017	4,599	*	6,157	6,615	17,370
2007	*	*	5,500	1,711	29	2,447	68	4,255	6,006	*	6,180	8,741	20,928
2008	*	*	7,365	1,011	18	1,631	134	2,794	6,882	*	3,585	12,173	22,640

Source: ADFG Fish Tickets (parallel and State waters catch), and NMFS Blend/Catch Accounting data (Federal waters catch). *Totals do not include confidential data.

In the Central GOA, the percentage of catch from the parallel and State waters fisheries combined increased from 20% to 25% of total catch in the mid-1990s to more than 30% in recent years, peaking at 39% in 2005 (Figure 5). Parallel waters catches in the Central GOA have generally fluctuated between 10% and 20% of total catch. During the same time period, the amount (mt) of catch from the Central GOA parallel and State waters fisheries remained fairly stable (Figure 6). In recent years, Federal waters catches in the Central GOA decreased by as much as half of catch levels in the mid-1990s.

Appendix A contains additional background information on TACs and total harvests in the Western and Central GOA Pacific cod parallel and Federal waters fisheries. In general, the inshore TACs have been fully harvested during the A season, but not during the B season (particularly in the Western GOA). There is also additional information on GHLs and harvests in the State waters fisheries.

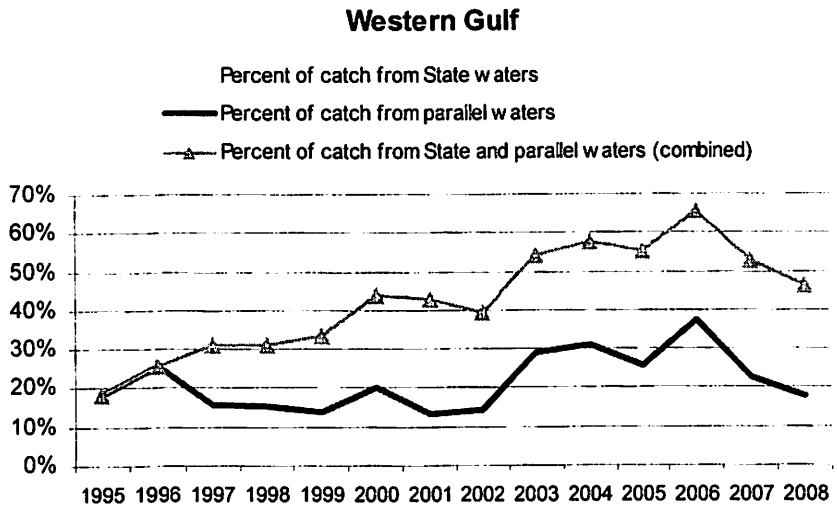

Figure 3 Percent of Western GOA Pacific cod catch from State and parallel waters.

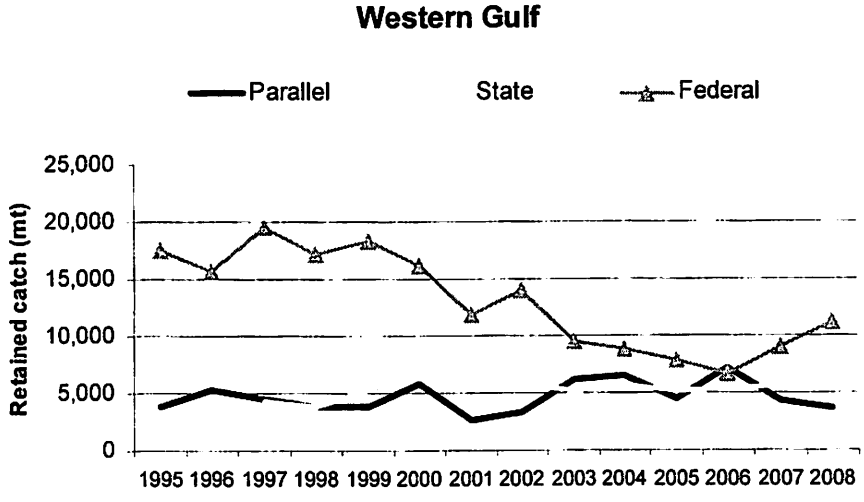

Figure 4 Amount (mt) of Western GOA Pacific cod catch from State, parallel, and Federal waters.

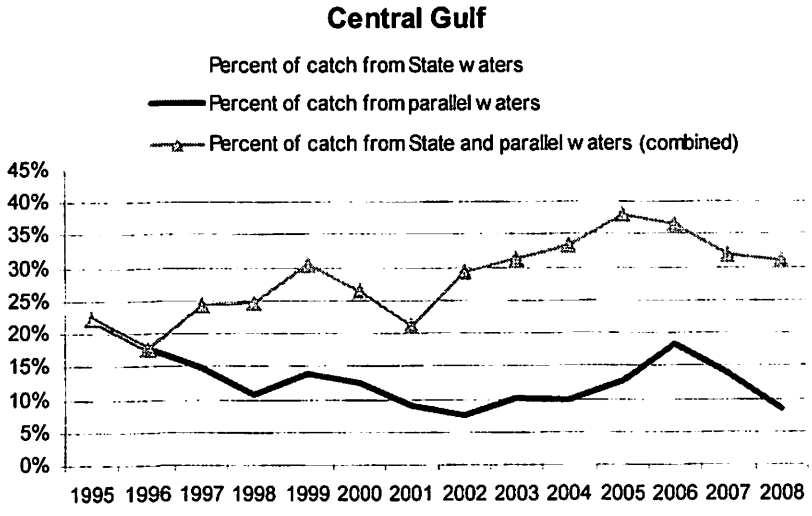

Figure 5 Percent of Central GOA Pacific cod catch from State and parallel waters.

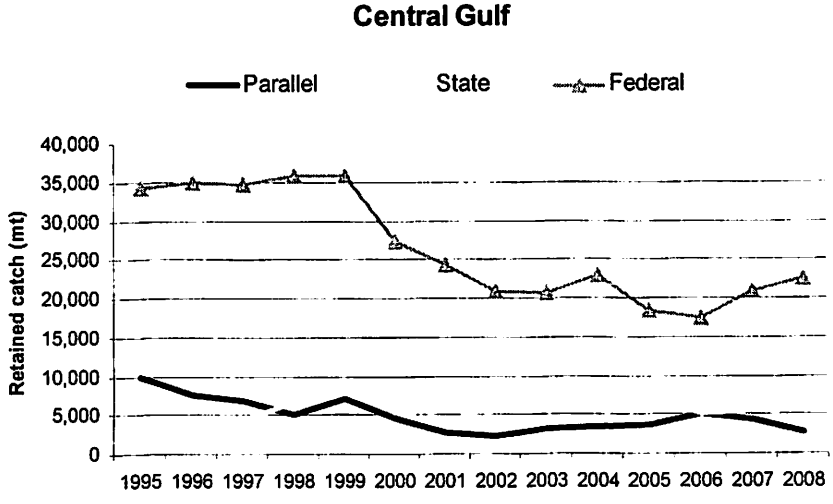

Figure 6 Amount (mt) of Central GOA Pacific cod catch from State, parallel, and Federal waters.

2.4 Participation and catch by sector in the parallel and Federal fisheries

This section reviews catches in the parallel and Federal fisheries, and excludes catch in the State waters fisheries. In several sectors, the majority of Pacific cod catches are from the parallel fishery. Jig and less than 50 ft LOA pot vessels in both the Western and Central GOA make 75% to 95% of catches in the parallel fishery (Figure 7), but average annual catches (mt) by these sectors in the parallel fishery are relatively small (Figure 8). In the Western GOA, pot vessels 50 to 60 ft LOA make nearly 90% of catches in the parallel fishery, and this sector catches more than 1,700 mt per year in the parallel fishery. Several other sectors have substantial catches in the parallel fishery (CGOA pot 50 to 60 ft, CGOA hook-

and-line <50 ft, and WGOA trawl <60 ft), but these parallel waters catches comprise less than 50% of the annual catches by these sectors.

Tables 8 and 9 compare participation and average annual catch (mt) per vessel by vessels fishing only in parallel waters (upper table) and vessels fishing in both parallel and Federal waters, or only in Federal waters (lower table), within a given year. These tables only include catcher vessel landings. In most sectors, the majority of vessels make at least some harvests in Federal waters; annual catches of vessels that only fish in parallel waters are smaller than annual catches of vessels that fish in both parallel and Federal waters, or only in Federal waters. In the jig and <50 ft pot sectors, a substantial proportion of the vessels only fished in parallel waters.

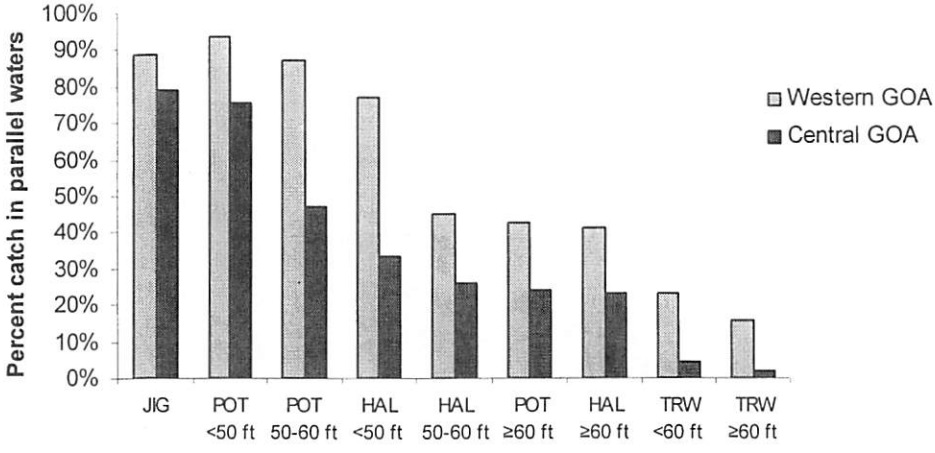

Figure 7 Percent of catch by each sector from the Western and Central GOA parallel waters fisheries, averaged from 1995 through 2008 (excludes State waters catch).

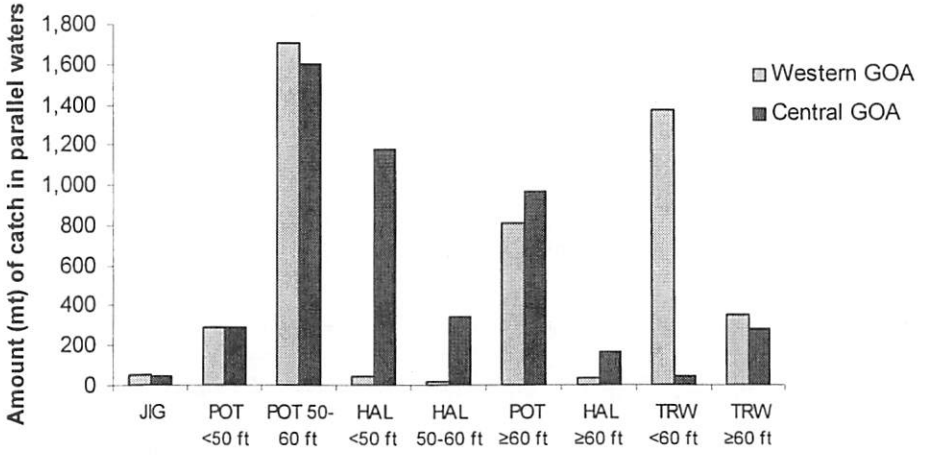

Figure 8 Amount of catch (mt) by each sector from the Western and Central GOA parallel waters fisheries, averaged from 1995 through 2008 (excludes State waters catch).

Table 8 Participation and average catch (mt) per vessel in the Western GOA Pacific cod parallel and Federal waters fisheries. Upper table shows vessels that only fished in parallel waters in a given year. Lower table shows vessels that fished in both parallel and Federal waters in a given year.

Western GOA - Vessels fishing in parallel waters only

	HAL CV <50		HAL CV 50-60		HAL CV >=60		Jig CV		POT CV <50		POT CV 50-60		POT CV >=60	
Year	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)
1995	4	4	1	*	3	1	9	5	13	18	6	61	9	24
1996	4	20	4	5	2	*	13	3	12	26	2	*	1	*
1997	6	0	1	*	0	0	3	1	10	42	4	*	0	0
1998	7	2	0	0	1	*	2	*	13	35	6	142	6	29
1999	3	0	1	*	1	*	0	0	9	21	8	84	0	0
2000	3	8	0	0	3	1	4	1	8	27	11	40	8	98
2001	5	1	1	*	0	0	13	11	6	26	15	41	1	*
2002	2	*	1	*	1	*	28	5	2	*	18	93	0	0
2003	1	*	1	*	0	0	9	4	2	*	19	113	3	*
2004	5	0	4	1	2	*	21	8	6	23	21	86	8	90
2005	12	15	5	12	1	*	9	5	5	52	18	54	6	150
2006	8	4	4	7	1	*	1	*	7	30	11	63	5	200
2007	14	4	3	18	1	*	3	0	3	25	9	86	7	111
2008	16	4	4	2	1	*	9	7	1	*	9	75	5	23
Average	6	6	2	*	1	*	9	5	7	41	11	80	4	63

Western GOA - Vessels fishing in parallel and Federal waters

	HAL CV <50		HAL CV 50-60		HAL CV >=60		Jig CV		POT CV <50		POT CV 50-60		POT CV >=60	
Year	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)
1995	1	*	3	0	8	1	4	1	1	*	15	41	14	65
1996	0	0	1	*	4	23	1	*	2	*	18	42	3	*
1997	4	5	5	1	4	*	3	0	0	0	4	31	2	*
1998	4	1	2	*	2	*	2	*	1	*	12	26	15	44
1999	5	0	7	6	10	2	0	0	1	*	12	35	4	50
2000	3	1	9	1	11	1	0	0	1	*	17	26	36	89
2001	4	0	10	2	9	1	4	3	3	62	8	48	13	88
2002	3	1	12	1	11	1	3	13	1	*	12	96	15	120
2003	3	1	9	2	11	1	2	*	1	*	20	177	15	216
2004	3	0	9	1	9	1	2	*	1	*	25	107	20	214
2005	2	*	19	1	7	1	0	0	0	0	17	39	13	278
2006	5	1	13	3	6	1	1	*	0	0	15	61	13	238
2007	10	12	22	7	8	1	1	*	2	*	16	79	11	139
2008	11	4	34	6	10	15	1	*	1	*	33	101	11	150
Average	4	2	11	2	8	4	2	*	1	*	16	65	13	135

Table 9 Participation and average catch (mt) per vessel in the Central GOA Pacific cod parallel and Federal waters fisheries. Upper table shows vessels that only fished in parallel waters in a given year. Lower table shows vessels that fished in both parallel and Federal waters in a given year.

Central GOA - Vessels fishing in parallel waters only

	HAL CV <50		HAL CV 50-60		HAL CV >=60		Jig CV		POT CV <50		POT CV 50-60		POT CV >=60	
Year	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)
1995	79	6	7	21	7	17	15	3	15	20	7	66	10	41
1996	44	11	3	*	2	*	7	0	8	26	6	178	7	55
1997	62	5	6	2	2	*	6	1	10	13	6	172	4	105
1998	44	10	8	4	1	6	9	1	4	40	6	37	4	122
1999	46	8	10	2	3	13	6	3	6	21	7	133	6	75
2000	64	4	5	23	2	*	14	3	9	15	8	90	10	56
2001	46	3	6	0	1	*	9	1	3	24	5	53	4	49
2002	30	2	1	*	0	0	7	0	4	16	6	55	3	49
2003	32	5	5	12	1	*	7	1	4	19	6	75	2	*
2004	42	7	6	0	4	26	31	3	3	15	2	*	1	*
2005	31	6	5	0	3	3	29	5	4	9	3	*	3	82
2006	42	1	7	1	1	*	20	3	7	19	4	36	2	*
2007	43	3	7	1	1	*	13	2	7	16	4	17	3	114
2008	41	2	6	1	1	*	10	2	7	4	4	29	2	*
Average	46	5	6	6	2	*	13	2	7	18	5	76	4	80

Central GOA - Vessels fishing in parallel and Federal waters

	HAL CV <50		HAL CV 50-60		HAL CV >=60		Jig CV		POT CV <50		POT CV 50-60		POT CV >=60	
Year	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)	Vessel count	Average catch (mt)
1995	167	13	67	14	53	13	14	1	13	77	28	191	49	127
1996	87	29	22	52	15	20	10	3	13	47	19	185	34	140
1997	148	28	54	30	36	7	13	1	8	86	15	195	18	179
1998	133	26	46	31	38	12	9	5	10	53	19	180	18	244
1999	141	25	65	28	48	9	4	1	8	85	23	191	34	165
2000	162	25	63	25	44	14	3	1	6	53	32	93	49	148
2001	132	32	55	19	34	9	6	1	4	43	22	71	24	52
2002	100	54	45	26	34	8	1	*	4	10	14	81	14	109
2003	79	30	39	16	31	11	5	2	1	*	11	101	11	126
2004	66	53	39	24	35	17	5	3	3	22	14	163	12	199
2005	70	39	49	20	34	11	1	*	3	28	15	199	19	242
2006	83	44	44	39	31	26	6	6	2	*	23	160	21	202
2007	88	45	63	28	36	13	5	2	0	0	29	138	20	188
2008	102	29	82	29	44	13	1	*	2	*	25	103	17	125
Average	111	34	52	27	37	13	6	2	6	39	21	146	24	160

Figures 9 and 10 show the percentage of catch made by vessels that only fished in the parallel waters fishery. Catch by vessels that only fished in the parallel fishery has generally been a larger component of the Western GOA fishery than the Central GOA fishery. In the Western GOA, vessels fishing only in the parallel fishery typically harvested more than 30% of the parallel waters catch and as much as 20% of the total parallel/Federal catch. In the Central GOA, vessels fishing only in parallel waters typically harvested 20% to 30% of the parallel waters catch, but this catch generally comprised less than 5% of the total parallel/Federal catch.

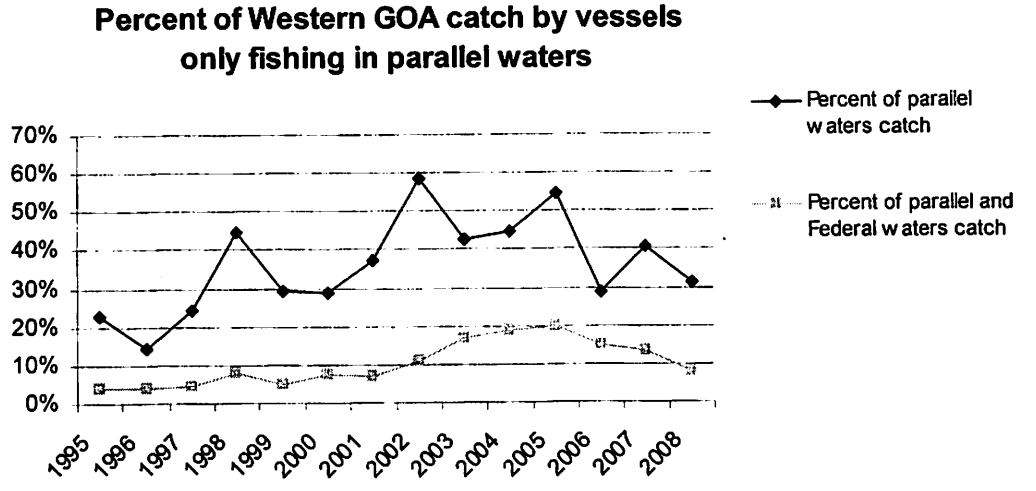

Figure 9 Percentage of the Western GOA Pacific cod catch by vessels that only fished in the parallel waters fishery (excludes State waters catch).

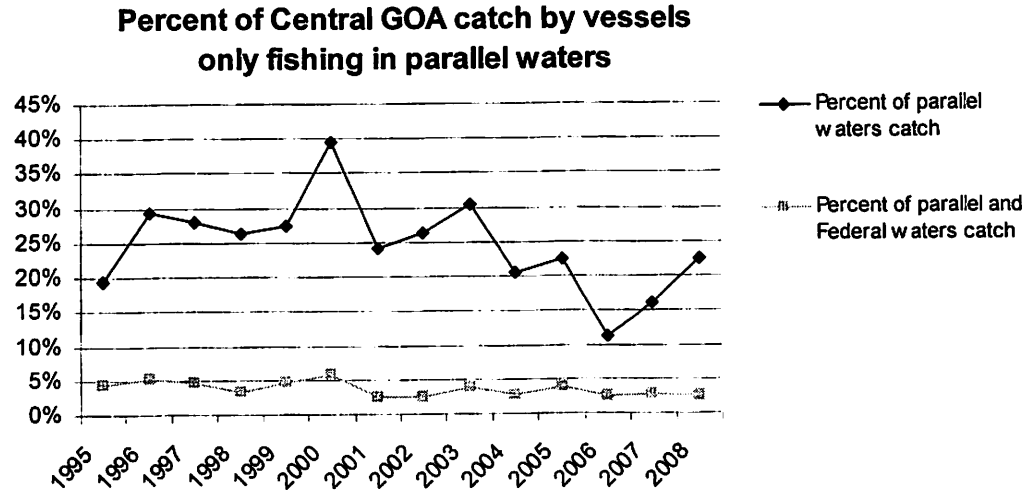

Figure 10 Percentage of the Central GOA Pacific cod catch by vessels that only fished in the parallel waters fishery (excludes State waters catch).

2.5 Catch by non-LLP vessels in the parallel waters fishery

Vessels are not required to hold an LLP license to participate in the parallel waters groundfish fisheries. In years when cod are concentrated in inside waters, or when conditions in other fisheries are unfavorable, participation by vessels without LLP licenses may increase in the parallel waters fisheries. In the GOA, the presence of a local fleet that can readily access the parallel waters fisheries makes it more likely that during certain years, vessels without LLP licenses will fish for Pacific cod in parallel waters. During recent years, vessels without LLP licenses fishing during the parallel waters seasons have harvested a relatively small proportion of catch in each management area. Table 10 shows the average number of vessels without LLPs that fished for Pacific cod during the parallel waters seasons in 2002-2008, retained catch, and percent of catch within each sector by these vessels. These numbers are an estimate, and are intended to provide the Council with some perspective on the extent of participation in the Pacific cod fisheries by vessels without LLP licenses.

The table also provides some insight into the level of participation within each sector by vessels without licenses. If Pacific cod sector allocations are implemented, increased participation in the parallel waters fisheries by vessels without LLPs could erode the historic catches of long-term participants in the fisheries that contributed catch history to the sector allocations. Most hook-and-line catcher vessels that did not hold LLPs were participating in the IFQ fisheries at the time they made the Pacific cod landings. Under the LLP, vessels participating in the IFQ fisheries that do not have LLP licenses are allowed to retain incidental catch of Pacific cod up to the MRA. This provision in the LLP is consistent with National Standard 9 of the Magnuson-Stevens Act and is intended to reduce the waste that occurs when discards of groundfish are required. In the Central GOA, an average of 90 hook-and-line vessels per year during 2002-2008 that did not have LLP licenses had at least one landing of Pacific cod, but catch by these vessels amounted to only 3% of the hook-and-line CV catch in the Central GOA. Hook-and-line vessels without LLPs harvested 17% of the Western GOA hook-and-line catch during 2002-2008, but hook-and-line catcher vessels typically catch less than 1% of the Western GOA catch. The majority of the jig catch in each management area is harvested by vessels without LLP licenses, but these vessels generally harvest less than 1% of the catch. Overall, vessels without LLP licenses harvest a small proportion of the retained catch of Pacific cod in the Central GOA (2%) and Western GOA (5%). The majority of this catch was by pot vessels. Notably, an average of 9% of pot CV catch in the Western GOA was made by vessels that do not hold LLP licenses.

Table 10 Average number of vessels fishing in the parallel waters fisheries without an LLP license, retained catch (mt), and percent of retained catch of Pacific cod within each sector by vessels without LLPs during 2002-2008

		HAL CV		Jig CV		Pot CV		Trawl CV		All sectors
	Year	Vessels	Catch (mt)	Vessels	Catch (mt)	Vessels	Catch (mt)	Vessels	Catch (mt)	Catch (mt)
Central GOA	2002-2008 average	90	149	15	43	5	232	1	*	424 (range: 190 - 645)
Western GOA	2002-2008 average	21	35	9	46	7	606	1	*	687 (range: 518 - 887)

		HAL CV	Jig CV	Pot CV	Trawl CV	All sectors
	Year	Percent of sector catch	Percent of sector catch	Percent of sector catch	Percent of sector catch	Percent of total catch
Central GOA	2002-2008 average	3%	70%	4%	*	2%
Western GOA	2002-2008 average	17%	66%	9%	*	5%

Source: ADFG Fish Tickets and RAM groundfish license file, May 2009. *Withheld due to confidentiality.

3 Regulatory Context

3.1 Federal Fisheries Permits

All vessels fishing for groundfish in Federal waters of the Bering Sea, Aleutian Islands, and Gulf of Alaska are required to hold a Federal fisheries permit (FFP). Also, any vessel that fishes in Federal waters of the BSAI or GOA for any non-groundfish species (e.g., IFQ halibut, crab, salmon, scallops, herring), and that is required to retain any bycatch of groundfish must obtain an FFP (679.4). Vessels that hold a Federal fisheries permit must comply with groundfish observer program regulations and with NMFS recordkeeping and reporting requirements. In addition, vessels that hold Federal fisheries permits must carry a Vessel Monitoring System (VMS) if they participate in the directed Atka mackerel, Pacific cod, or pollock fisheries in Federal waters of the BSAI or GOA. Vessels that participate in these directed fisheries must also have an endorsement on their Federal fisheries permit that indicates the use of pot, trawl, or hook-and-line gear in these fisheries. Vessels using jig gear are not required to obtain this endorsement on their FFPs, and as a result, are exempt from the VMS requirement. Starting July 28th, 2006, all vessels fishing under Federal fisheries permits in the Aleutian Islands, including State waters, must have an operational VMS.

The catch reporting, observer, and VMS requirements apply to vessels that hold FFPs regardless of whether they are fishing in Federal waters or State of Alaska waters. However, vessels that fish exclusively in the parallel and State waters fisheries do not need an FFP, and vessels that do not hold FFPs are not subject to NMFS recordkeeping and reporting requirements, or Federal observer or VMS requirements. The FFP is issued on a 3-year cycle and is in effect from the date of issuance through the end of the current NMFS 3-year cycle.

FFP Management Issues

In the sector split motion, there are options in Component 10 to place restrictions on the frequency with which vessels may surrender and reactivate their FFPs. Currently, vessels are allowed to surrender their Federal fisheries permits at any time during a given year and have the permits reissued at a later date during the same calendar year. For example, a vessel could surrender its FFP and fish in the parallel or State waters fisheries to avoid having to comply with observer or VMS requirements, and later in the same calendar year, have the permit reissued in order to fish in Federal waters. There is currently no limit on the number of times a permit may be surrendered and reissued within the 3-year permit cycle.

In the past, the Council has considered placing restrictions on the frequency with which Federal fisheries permits may be surrendered and reactivated. One concern that has been expressed is that such restrictions could potentially increase fishing pressure in the parallel waters fisheries by precluding vessels from re-entering the Federal waters fisheries. On the other hand, restricting vessels from surrendering the FFP could enhance conservation and management of the fisheries because it could result in increased observer coverage of vessels participating in the parallel and State waters groundfish fisheries. The proposed BSAI parallel waters action would preclude vessels that hold Federal fisheries permits with CP endorsements from surrendering and reactivating the permits within a specified time period.

3.2 License Limitation Program

The License Limitation Program (LLP) limits access to the groundfish and crab fisheries in the Bering Sea, Aleutian Islands, and Gulf of Alaska. Fishing under the program began in 2000. A vessel must have a valid LLP license with the appropriate gear designation, operation type, and area endorsement in order

to participate in groundfish fisheries in Federal waters. Current regulations allow license holders to transfer groundfish or crab licenses to another vessel once per calendar year (Jan 1 – Dec 31) (679.4(k)(7)). For example, if a license is transferred on Sept 1 to a different vessel, it can be transferred back to the original vessel on Jan 1 of the following year. Also, license holders can unassign a vessel from a license without assigning the license to another vessel. However, any future vessel assignment to that license, even to the former vessel, is counted as a transfer.

There are several exceptions to the LLP requirement:

1. Vessels fishing in the parallel waters fisheries.

2. Vessels less than 26 ft LOA in the GOA and less than 32 ft LOA in the BSAI.

3. Vessels less than 60 ft LOA using jig gear in the BSAI, subject to gear restrictions. Any vessel using jig gear in the GOA, subject to gear restrictions.[1]

4. Vessels fishing IFQ halibut or sablefish may retain incidentally caught groundfish up to the Maximum Retainable Allowance (MRA) without an LLP.

5. Catcher vessels less than 60 ft LOA are not required to hold an Amendment 67 Pacific cod endorsement to participate in the fixed gear BSAI Pacific cod fishery.

Table 11 Estimated number of licenses qualifying under fixed and trawl recency actions.

	Western GOA	Central GOA
Hook-and-line CV <60 ft	7	122
Hook-and-line CV ≥60 ft	3	7
Pot CV <60 ft	59	51
Pot CV ≥60 ft	21	27
Jig CV	11	19
Trawl CV	77	96
Additional licenses available to CQEs		
CQE Pot CV <60 ft	21	26
CQE Hook-and-line CV <60 ft	0	24
Hook-and-line CP <125 ft	9	5
Hook-and-line CP ≥125 ft	7	7
Hook-and-line CP <125 ft Offshore Limited[1]	0	5
Hook-and-line CP ≥125 ft Offshore Limited[1]	*	7
Pot CP	4	3
Trawl CP[2]	20	21

[1] Licenses that qualified for HAL CP endorsements under halibut PSC coop exemption are limited to offshore sector.
[2] Most trawl CP licenses are Amendment 80 licenses (18 of 20 WG licenses and 14 of 21 CG licenses).

The Council recently reduced the number of trawl and fixed gear licenses eligible to participate in the GOA Pacific cod fisheries. In April 2008, the Council took final action on the trawl recency action, which extinguished BSAI and GOA trawl licenses that do not have recent landings in the groundfish fisheries. In April 2009, the Council took final action on the fixed gear recency action, which added Pacific cod endorsements to GOA fixed gear licenses. Vessels using fixed gear will be required to hold a liicense with a gear-specific (pot, hook-and-line, or jig) Pacific cod endorsement, in addition to the appropriate area endorsement, to participate in the directed Pacific cod fisheries in Federal waters of the

[1] The GOA jig gear LLP exemption was part of the fixed gear recency action taken on April 2009. The exemption will take effect when the action is implemented.

GOA. Pacific cod endorsements limit the number of licenses eligible to fish the Western and Central GOA Pacific cod sector allocations, and effectively cap the number of participants in each sector. However, vessels without LLP licenses, and licenses without Pacific cod endorsements, may continue to participate in the parallel waters directed Pacific cod fisheries. The number of trawl and fixed gear licenses that are estimated to qualify under the recency actions are shown in Table 11.

Some licenses with dual gear endorsements are projected to qualify under both the trawl and fixed gear recency actions. Most of these are Western GOA licenses. An estimated 30 Western GOA licenses with an MLOA designation of less than 60 ft will be eligible to participate in the Pacific cod fishery using both pot and trawl gear (Table 12). This is about half of the 59 Western GOA licenses with an MLOA of <60 ft that qualify for a pot endorsement. Fewer than 3 Western GOA licenses with an MLOA of greater than 60 ft will be eligible to use both trawl and pot gear, and no licenses qualify to use both trawl and hook-and-line gear. Only 7 Central GOA licenses will be eligible to fish using both trawl and pot gear, and fewer than 3 licenses qualify to use both trawl and hook-and-line gear.

Table 12 Number of groundfish CV licenses eligible to participate in the Western or Central GOA fixed and trawl gear, following implementation of recency actions

	Western GOA		Central GOA	
	<60 ft MLOA	≥60 ft MLOA	<60 ft MLOA	≥60 ft MLOA
Pot and trawl gear	30	*	4	3
Hook-and-line and trawl gear	0	0	*	0

3.3 Federal regulatory authority over vessels with Federal permits and licenses

The Council and NOAA fisheries have broad authority over vessels that hold Federal permits and licenses. Vessels that hold Federal fisheries permits or LLP licenses may be subject to Federal groundfish regulations, even while fishing in State waters adjacent to the GOA or BSAI. For example, vessels that hold FFPs are subject to Federal recordkeeping and reporting, observer, and VMS requirements while fishing in Federal, parallel, or State waters fisheries. In 2006, sideboards were implemented that limit harvests of GOA Pacific cod by vessels that received initial allocations of *Opilio* crab quota. The sideboard regulations were written such that vessels cannot circumvent sideboard closures by fishing in parallel waters fisheries. Vessels that hold *either* an FFP or an LLP are subject to the sideboards while participating in any groundfish fishery in the parallel waters fisheries in the GOA (680.22).

A vessel could easily surrender the FFP to circumvent the GOA Pacific cod sideboard restrictions, and later have the FFP reissued to the same vessel. There is currently no restriction on the number of times a holder of an FFP may surrender a permit and have it reissued. However, the sideboard regulations are written such that they apply to vessels with either an FFP or LLP, and vessels that hold crab or groundfish LLP licenses would also have to surrender these licenses or transfer them to another vessel in order to circumvent the sideboard regulations. This is less likely to occur, because LLP licenses may only be transferred once per calendar year. Vessels that transfer their crab and groundfish LLP licenses to another vessel would lose eligibility to participate in the crab and groundfish fisheries in Federal waters for the remainder of the calendar year (until Dec 31st).

The Council could extend other regulations to Federally-permitted vessels participating in the parallel water fisheries, as long as the action has an adequate conservation or management rationale.

4 Purpose and Need Statement

The Council last reviewed the sector split problem statement and motion at the December 2008 meeting. Currently, the problem statement does not contain any specific references to management issues in the parallel waters fishery. If the Council advances the parallel waters options for further analysis, the problem statement could be revised to include a statement of the purpose and need for considering these options. For example, the problem statement could note that the proposed action balances the objectives of providing stability to long-term participants in the sectors, while providing opportunities for new entrants who do not hold Federal permits or licenses to participate in the parallel fishery.

GOA Pacific Cod Sector Split Purpose and Need Statement

The limited access derby-style management of the Western GOA and Central GOA Pacific cod fisheries has led to competition among the various gear types (trawl, hook-and-line, pot and jig) and operation types (catcher processor and catcher vessel) for shares of the total allowable catch (TAC). Competition for the GOA Pacific cod resource has increased for a variety of reasons, including increased market value of cod products, rationalization of other fisheries in the BSAI and GOA, increased participation by fishermen displaced from other fisheries, reduced Federal TACs due to the State waters cod fishery, and Steller sea lion mitigation measures including the A/B seasonal split of the GOA Pacific cod TACs. The competition among sectors in the fishery may contribute to higher rates of bycatch, discards, and out-of-season incidental catch of Pacific cod.

Participants in the fisheries who have made long-term investments and are dependent on the fisheries face uncertainty as a result of the competition for catch shares among sectors. Allocation of the catch among sectors may reduce this uncertainty and contribute to stability across the sectors. Dividing the TACs among sectors may also facilitate development of management measures and fishing practices to address conservation (e.g. Steller sea lion mitigation measures, bycatch reduction, and prohibited species catch (PSC) mortality) and social objectives, including considerations for small boat sectors and coastal communities. Given the fact that harvest sector allocations would supersede the inshore/offshore processing sector allocations for Pacific cod by creating harvest limits, the Council may need to consider regulatory changes for offshore and inshore floating processors.

The timing of the Pacific cod A and B seasons may have limited the participation of jig vessels in the parallel and Federal fisheries of the GOA. Additionally, the State waters jig allocation has gone uncaught in some years, potentially due to the lack of availability of Pacific cod inside three miles. A non-historical Federal catch award, together with the provision of access in Federal waters for the State Pacific cod jig allocations, offers entry-level opportunities for the jig sector.

5 Elements and Options

5.1 Sector Split Motion

The sector split motion is shown here for reference, but the Council indicated that in June it will focus on refining Component 10, which addresses management of the parallel waters fishery. Component 10 currently includes 2 options that could be selected alone or in combination. Under Option 1, the Council could provide recommendations to the BOF on limiting parallel waters harvests to a specified amount (mt) or percentage of the GOA Pacific cod TAC, effectively placing an upper limit on the amount of the TAC that may be harvested by participants who do not hold LLP licenses. Under Option 2, Federally-permitted vessels would be required to hold an LLP with the appropriate gear, area, and species endorsements to participate in the Western and Central GOA parallel waters Pacific cod fisheries. Suboptions to Option 2 require vessels to adhere to the seasonal sector closures, and limit the ability of vessels to surrender and reapply for the FFP. Option 2 is similar to the approach the Council is

considering in the proposed BSAI parallel waters action, although that action applies specifically to pot and hook-and-line CPs. Here, Option 2 applies to all Federally-permitted vessels, including CVs and CPs. As in the proposed BSAI action, Option 2 would not preclude non-Federally permitted vessels from participating in the parallel waters fishery.

The rationale for including Component 10 in the motion is concern that participation in the GOA Pacific cod parallel waters fishery by vessels that do not hold LLP licenses may increase. This parallel waters activity may have negative economic impacts on long-term participants who hold LLP licenses. If sector allocations are established, this parallel waters activity by new entrants has the potential to erode the catches of those participants who contributed catch history to the allocations and depend on the GOA Pacific cod resource. There are currently no limits on entry into the parallel waters groundfish fisheries, and no limits on the proportion of the GOA Pacific cod TAC that may be harvested in parallel waters. Vessels fishing in Federal waters are required to hold an LLP license with the appropriate area, gear, and species endorsements, but vessels fishing in State waters are not required to hold an LLP license. The majority of State waters in the GOA are closed to trawl gear, but the potential exists for an influx of pot and hook-and-line effort into the parallel fishery by vessels that do not hold LLP licenses.

Finally, it should be noted that the Council is also considering options to provide opportunities for new entrants by giving jig vessels an allocation that is greater than the historic proportion of the TAC harvested by that sector. In Component 5, there are three options for structuring management of the jig fishery, with the goal of creating a year-round jig fishery, minimizing the amount of stranded quota, and providing increased fishing opportunities when weather conditions are favorable. Given that this specific set of options is being considered for the jig fishery, the Council could explicitly exclude jig gear from the options under consideration for the parallel waters fishery. For example, the Council could recommend that a parallel waters catch cap apply only to pot, hook-and-line, and trawl gear. In addition, the Council recently exempted vessels using jig gear from the LLP requirement as part of the fixed gear recency action. As a result, Option 2, which extends the LLP requirement to the parallel fishery, does not appear to apply to jig gear, but the Council may wish to clarify its intent in Option 2.

ALTERNATIVE 1. **No Action.** The GOA Pacific cod TACs will not be allocated to the sectors.

ALTERNATIVE 2. The GOA Pacific cod TACs will be allocated to the sectors.

Component 1: Management areas

The Western and Central GOA Pacific cod TACs will be allocated among the various gear and operation types, as defined in Component 2 (the management areas could be treated differently within Component 2).

Component 2: Sector definitions

The Western and Central GOA Pacific cod TACs will be allocated among the following sectors. The Council has the option to either give a single allocation to each sector, or to divide any allocation by vessel length based on the option(s) listed below:

- Trawl catcher processors
- Trawl catcher vessels
- Hook-and-line catcher processors
  Option: Hook-and-line catcher processors <125 ft
  Hook-and-line catcher processors ≥125 ft

- Hook-and-line catcher vessels
  Option: Hook-and-line catcher vessels <60 ft
  Hook-and-line catcher vessels ≥60 ft
  Option: (CG only): Hook-and-line catcher vessels <50 ft
  Hook-and-line catcher vessels ≥ 50 ft
- Pot catcher processors
- Pot catcher vessels
  Option: Pot catcher vessels <60 ft
  Pot catcher vessels ≥60 ft
- Jig vessels

Option: For Western GOA only create a combined sector allocation for trawl and pot catcher vessels.
Suboption: Applies only to vessels <60 ft.

Option: Restrict vessels from participating in the GOA Pacific cod fishery using more than one operation type.

Suboption 1: Restrict CP licenses to the operation type on their license (licenses with a catcher processor designation could only fish off the catcher processor sector allocation).

Suboption 2: Add a CV/CP Pacific cod endorsement to both trawl and non-trawl CP licenses that have operated as catcher vessels during the qualifying period. These CP/CV licenses will elect to participate as either a CP or CV in the GOA Pacific cod fishery either:
(i) annually
(ii) as a permanent, one-time election

Component 3: Definition of qualifying catch

Qualifying catch includes all retained legal catch of Pacific cod from the Federal and parallel waters fisheries in the Western and Central GOA.

- Catch will be calculated using Fish Tickets for catcher vessels and Catch Accounting/Blend data for catcher processors.
- Under all options, incidental catch allocated to trawl catcher vessels for the Central GOA Rockfish program (currently, 2.09% of the Central GOA Pacific cod TAC) will be deducted from the Central GOA trawl catcher vessel B season allocation.
- All sector allocations will be managed to support incidental and directed catch needs.

Component 4: Years included for purposes of determining catch history

Option 1: Qualifying years 1995-2005: average of best 5 years
Option 2: Qualifying years 1995-2005: average of best 7 years
Option 3: Qualifying years 2000-2006: average of best 3 years
Option 4: Qualifying years 2000-2006: average of best 5 years
Option 5: Qualifying years 2002-2007: average of best 3 years
Option 6: Qualifying years 2002-2007: average of best 5 years
Option 7: Qualifying years 2002-2008: average of best 3 years
Option 8: Qualifying years 2002-2008: average of best 5 years

- The Council has the option to choose separate qualifying years for each sector.

- When sectors are divided into subsectors (e.g., by vessel length), the allocation will be calculated using the best set of years for the sector, and the sum of the subsector allocations will equal the allocation to the sector.

Seasonal apportionment of sector allocations (different options may be selected for the management areas):

Option 1: Apportion each sector's annual allocation 60% to the A season and 40% to the B season.
Option 2: Apportion each sector's annual allocation based on that sector's seasonal catch history during the qualifying years, while maintaining the overall 60%/40% apportionment of the TAC.
Option 3: For the WGOA, only the A season TAC will be apportioned among sectors; the B season TAC will not be apportioned among sectors.

- These seasonal apportionment options do not apply to the jig sector.

Component 5: Allocation of Pacific cod to jig sector

Set aside 1%, 3%, or 5% of the Western and Central GOA Federal Pacific cod TACs for the initial allocation to the jig vessel sector, with a stairstep provision to increase the jig sector allocation by 1% if 90% of the Federal jig allocation in an area is harvested in any given year. The jig gear allocation will be capped at 5% of the respective Western and Central GOA Federal Pacific cod TACs.

Subsequent to the jig allocation increasing, if the harvest threshold criterion described above is not met during three consecutive years, the jig allocation will be stepped down by 1% in the following year, but shall not drop below the level initially allocated.

The jig allocation could be set aside from the A season TAC, the B season TAC, or divided between the A and B season TACs.

The Council requests that staff continue to work with the State of Alaska and NMFS to explore considerations required to implement possible options for the jig fishery management structure (both State parallel/Federal and State) that create a workable fishery and minimize the amount of stranded quota, focusing on Option 1. Possible solutions that could be explored are:

Option 1: State parallel/Federal managed Pacific cod jig fishery. Federal allocation managed 0-200 miles through a parallel fishery structure. Any State waters jig GHL could (under subsequent action by the Alaska Board of Fisheries) be added to this State parallel/Federal managed jig sector allocation so that the jig sector is fishing off of a single account. If the Board of Fisheries chooses not to take the jig GHL, it would roll into the Federal jig allocation.

If a combined parallel/Federal fishery is created the fishery would be managed as follows. There would be no seasonal split of the combined parallel/Federal TAC. The fishery would open on Jan 1st and close when the TAC is reached.

Option 2: If a distinct Parallel/Federal and State waters fisheries continue to exist, the two fisheries will be managed as follows:

The Federal TAC would be divided into an A/B season of 60%/40%. The A season would open on Jan 1st and close when the TAC is reached or on March 15th. The State jig fishery could open either when the Federal season closes due to TAC or on March 15th. The Federal B season would open on Sept 1st.

Option 3: State managed Pacific cod jig fishery. Federal management authority delegated to the State of Alaska to manage the Pacific cod jig fisheries in the Western and Central GOA from 0-200 miles.

Component 6: Management of unharvested sector allocations

Any portion of a CV, CP, or jig allocation determined by NMFS to remain unharvested during the remainder of the fishery year will become available as soon as practicable to either:

Option 1: Other respective CV or CP sectors first, and then to all sectors as necessary to harvest available TAC.
Option 2: All sectors.

Component 7: Apportionment of hook-and-line halibut PSC (other than DSR) between catcher processors and catcher vessels

Option 1: No change in current apportionments of GOA halibut PSC.
Option 2: Apportion the GOA hook-and-line halibut PSC to the CP and CV sectors in proportion to the total Western GOA and Central GOA Pacific cod allocations to each sector. No later than November 1, any remaining halibut PSC not projected by NMFS to be used by one of the hook-and-line sectors during the remainder of the year would be made available to the other sector.

Component 8: Community protection provisions

This component would protect community participation in the processing of Pacific cod and protect community delivery patterns established by the inshore/offshore regulations. For the purposes of Options 1, 2, and 3 under Component 8, motherships include catcher processors receiving deliveries over the side and any floating processor that does not meet the regulatory definition of a stationary floating processor in 679.2. Stationary floating processors may only process groundfish at a single geographic location during a given year.

For each management area, the mothership processing cap will be:

Option 1: No motherships.

Option 2: A percentage of the Pacific cod TAC based on the same qualification criteria as selected for the harvesting sector allocations, but calculated from mothership processing activity.

Option 3: A percentage of the Pacific cod TAC to be selected by the Council (5-10%).

- Under Option 2 and Option 3, mothership processing will end for the year when the processing cap is reached. All cod catch counts towards the cap.

Suboptions that apply to Options 1, 2, and 3:

Suboption 1: Choose different options for each management area.

Suboption 2: Apply any of the options only to directed landings of Pacific cod.

Suboption 3: Exempt motherships operating within the municipal boundaries of a community.

Option: Limit weekly processing by exempted motherships to (a) 125 mt per week, (b) 200 mt per week, or (c) 300 mt per week.

(i) Applies to all cod landings
(ii) Applies to directed cod landings

Component 9

To address conservation, catch monitoring, and social objectives, potential allocations to any sector based on catch history may be adjusted.

Component 10: Potential models for resolving parallel fishery issue

Option 1. Aleutian Islands sablefish model (parallel fishery catch cap)

Option 2. Limit access to the parallel zone for Federal fishery participants.

Require any pot and longline vessel with an LLP or an FFP to have a Pacific cod endorsement and the appropriate area endorsement to participate in the Western GOA or Central GOA Pacific cod parallel water fishery. Require any trawl vessel with an LLP or an FFP to have the appropriate gear and area endorsement to participate in the Western GOA or Central GOA Pacific cod parallel water fishery.

i. Suboption: In addition, require the above Federally-permitted or licensed vessels that fish in the parallel waters to adhere to Federal seasonal closures of the Western/Central GOA sector allocations corresponding to the sector in which the vessel operates.

ii. Suboption: In the Western/Central GOA, vessels may only surrender and/or reactivate the FFP:
   a. Once per calendar year
   b. Once every eighteen months
   c. Once every two years

iii. Suboption: FFP may not be surrendered during the 3 year term of the permit.

5.2 Review of options in Component 10

5.2.1 Option 1— Develop recommendations for the BOF on a parallel waters catch cap

The Council could develop recommendations for the BOF on a parallel waters catch cap for the Western and Central GOA Pacific cod parallel waters fisheries, similar to the management concept currently in place for the Aleutian Islands sablefish fishery.[2] In that fishery, the management practice has been to set a quota for the State waters fishery equal to approximately 5% of the BSAI sablefish TAC. The 5% cap is approximately equal to the percentage of the BSAI sablefish TAC that was harvested in State waters when the IFQ program was implemented. There are no limits on entry into the State fishery. In Federal waters, participation is restricted to persons who hold Federal IFQ. All catch in State waters, both by IFQ and non-IFQ participants, counts against the State waters quota. All catch by Federal IFQ holders, both in State and Federal waters, also counts against individual quotas. When the State waters quota is reached, ADFG closes the fishery to all participants. Federal IFQ holders may continue to fish in Federal waters until they have harvested their individual quotas.

Another approach is to cap parallel waters catches by non-LLP participants. This approach is similar to the example discussed above, but differs with respect to how catch is counted and what triggers the closure of the parallel fishery. Catch by non-LLP participants would count against the parallel waters cap. When the non-LLP TAC has been harvested, ADFG would close the parallel fishery to all participants, as in the example discussed above. The BOF cannot grant special harvesting privileges to individuals, and would have to treat indviduals equally without regard to whether they hold Federal permits or licenses. For example, the BOF could not close the parallel fishery to non-LLP participants, while allowing LLP holders to continue to access the parallel fishery.

Both of these management approaches meet the objective of protecting the sector allocations from being eroded by increased effort in the parallel fishery. However, both management approaches create the potential to exacerbate the derby fishery in State waters. There are no individual harvest limits for non-Federally permitted participants and no limits on entry to the parallel fishery. The BOF could adopt gear and vessel size limits to reduce the incentive to enter the parallel fishery. The BOF could also allocate the parallel waters quota among gear types and adopt exclusive registration areas. These additional restrictions may slow down the parallel fishery. In addition, both approaches to establishing a parallel waters catch cap could result in the parallel fishery closing early (prior to the TAC closures). Such a closure would likely have negative economic impacts on vessels that have historically fished for Pacific cod mainly in parallel waters and depend on access to the parallel waters fishery.

In deciding whether to recommend that the BOF establish parallel waters catch caps for the GOA Pacific cod fisheries, the Council could consider balancing several objectives:

(1) Protecting the sectors most likely to experience an influx of parallel waters effort from erosion of the sector allocations.
(2) Allowing participants (including those who hold LLP licenses) who are most highly dependent on the parallel fishery continued access to that fishery.
(3) Providing the opportunity for new entrants who do not hold LLP licenses to participate in the parallel fishery.

[2] The discussion in this section is drawn from a memorandum from the Alaska Department of Law to the Board of Fisheries dated February 12, 2004 (attached as Appendix D). The memorandum reviewed management concepts that were under consideration by the GOA Rationalization steering committee. The discussion presented here focuses on the first two management concepts reviewed in the memorandum.

The advantages and disadvantages to establishing a parallel waters catch cap are discussed below. Each of the approaches involves trade-offs in achieving these objectives.

Option 1— Potential outcomes

(1) Option 1 not selected – no recommendation to the BOF on a parallel waters catch cap

If there is no parallel waters catch cap, there would not be a limit on the amount or percentage of the Western and Central GOA Pacific cod TACs harvested in parallel waters. All catch in the parallel and Federal waters fisheries would count against the respective sector allocations. One advantage to this approach is that there would not be a parallel waters closure prior to the Federal waters closure. Such a closure could potentially shorten the fishing season for vessels that depend heavily on the parallel waters fishery. Another advantage to this approach is that the Catch Accounting system would not require any modifications beyond those needed to implement the sector allocations. All Pacific cod catch from the parallel and Federal waters fisheries would count against the respective sector allocations based on the gear and operation type used by the vessel.

The main drawback to this approach is that the sectors with the greatest influx of parallel waters effort would have their allocations eroded. Parallel waters catch comprises a substantial proportion of total catch by some sectors, and this catch history is included in the sector allocation calculations. However, parallel waters catch history is not necessarily an indicator of which sectors are likely to experience an influx of new parallel waters effort. Other sectors could experience an influx of parallel waters effort if the incentive exists to enter the fishery.

(2)(a) Option 1 selected – Council recommends that the BOF caps parallel waters catch as an amount (mt) or percentage of the Pacific cod TAC

If a parallel waters catch cap is established, all parallel waters catch would count against the cap, which would function as a sideboard on the amount harvested from parallel waters. The cap could exclude jig gear to allow that fishery to remain open year-round, depending on the management approach selected in Component 5. Parallel and Federal waters catch by LLP and non-LLP participants would also count against the respective sector allocations. When the parallel waters cap is harvested, ADFG would issue an emergency order closing the parallel fishery to both LLP and non-LLP participants.

One advantage of this approach is that it limits the overall erosion of sector allocations by placing an upper limit on parallel waters catches. However, if the parallel waters cap isn't explicitly allocated between LLP and non-LLP participants, catches by non-LLP participants could increase up to the cap. If catches by non-LLP participants increase beyond historic levels, the sectors with the greatest influx of non-LLP parallel waters effort would have their allocations eroded. In addition, the parallel fishery would close to all participants once the non-LLP cap is reached. Vessels that hold LLP licenses would have the incentive to fish in parallel waters first in order to close the parallel fishery and prevent non-LLP participants from eroding the sector allocations. If the parallel fishery closes before the TAC is reached, those vessels that hold LLPs, but typically fish in parallel waters, would need to move into Federal waters to continue fishing. This may not be a desirable option for small boats that typically fish in parallel waters. Finally, this option may require additional management responsibilities by ADFG and coordination with NMFS. For example, NMFS could modify the Catch Accounting system to track parallel waters catch, and recommend closure dates to ADFG. The emergency order to close the fishery would be issued by ADFG.

The parallel waters catch cap could be established based on the historic proportion of catch harvested in the parallel fishery in each management area. This approach could result in a sufficient amount of cod

being available if effort in the parallel waters fishery remains similar to the past. If parallel waters effort increases beyond historic levels, the parallel fishery could close prior to the TAC. In the Western GOA, setting a cap based on historic catch may be difficult, because parallel waters catch has varied substantially from year to year. During 1995 through 2008, the percentage of catch harvested in parallel waters ranged from 16% to 52% of the total catch in parallel and Federal waters (Figure 11). In recent years, the proportion of catch harvested in parallel waters has been on the higher end of this range. Western GOA parallel waters catches increased substantially beginning in 2003. In the Central GOA, parallel waters catches have been less variable, ranging from 10% to 22% of total catch. In both the Western and Central GOA, parallel waters catches peaked in 2006 as a percentage of total catch, and declined in 2007 and 2008. Setting a parallel waters cap in advance of the fishing season, when the distribution of cod is unknown, could result in a cap that is either too small or too large. If the cap is too small, the parallel fishery may close earlier than the TAC, and those participants who have LLPs but depend on the parallel fishery would lose access to the parallel fishery. If the cap is too large, and incentives exist to enter the fishery, non-LLP participation may increase and erode the sector allocations.

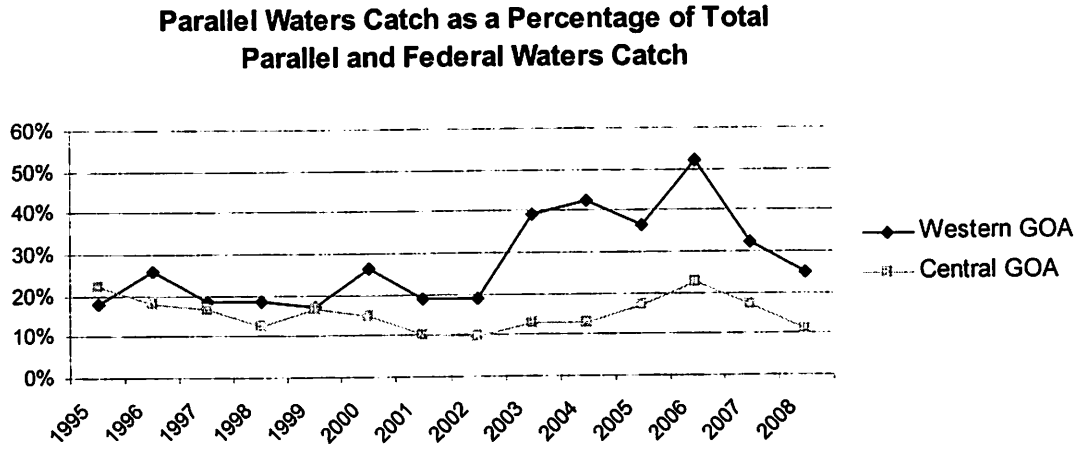

Figure 11 Parallel waters catch of Pacific cod as a percentage of total retained catch in the parallel and Federal waters fisheries in the Western and Central GOA, 1995-2008.

(2)(b) <u>Option 1 selected</u> – Council recommends that the BOF cap parallel waters catch by non-LLP participants

Under this approach, the BOF would allocate non-LLP participants in the parallel fishery a fixed amount (mt) or percentage of the TAC based on catch history or other considerations. The non-LLP allocation would be taken off the top of the TAC, and the remainder of the TAC would be divided among the sectors based on the percent allocations to each sector. Catch by non-LLP participants would count against the non-LLP allocation. Catch by LLP participants would count against the respective sector allocations. When the parallel waters allocation for non-LLP participants is harvested, ADFG would issue an emergency order closing the parallel fishery to both LLP and non-LLP participants. Again, the cap could exclude jig gear.

One benefit of this approach is that catch by non-LLP participants is capped at a fixed amount or percentage of the TAC. This approach also allocates non-LLP participants, who may be new entrants to the fisheries, a specific portion of the TAC. Another benefit is that the non-LLP allocation is deducted off the top of the TAC, and proportionally reduces all of the sector allocations, instead of eroding the

allocations of the sectors with the greatest influx of non-LLP effort. One drawback to this approach is that the parallel fishery closes to all participants once the non-LLP allocation is harvested. Vessels that hold LLPs but typically fish in parallel waters would need to move into Federal waters to continue fishing. This may include small boats that rely heavily on the parallel fishery. Finally, a derby fishery could still result if there are no limits on entry to the parallel fishery. Another drawback is that it complicates catch accounting and management of the fishery. Catch by non-LLP participants would be accounted for separately from the sector allocations. Again, this option may require additional management responsibilities by ADFG and coordination with NMFS. The NMFS Catch Accounting system could be modified to track catch by LLP licenses and NMFS could recommend closure dates to ADFG. The emergency order to close the fishery would be issued by ADFG.

The non-LLP parallel waters allocation could also be established based on the historic proportion of catch harvested by non-LLP participants in each management area. Again, this approach could result in a sufficient amount of cod being available to support the fishery if non-LLP effort in the parallel waters fishery remains similar to the past. If non-LLP effort increases beyond historic levels, the allocation could be reached early, and the parallel fishery would close prior to the TAC. Catch by non-LLP vessels during 2002 through 2008 is summarized in Table 13. The majority of catch by non-LLP participants has been made by a relatively small number of vessels using pot gear. Catch by non-LLP participants has comprised, on average, 2% of CGOA catches and 5% of WGOA catches. Catches by non-LLP participants in the Central GOA increased during 2006 through 2008. In the Western GOA, non-LLP catches have varied annually, and have not exhibited an increasing or decreasing trend.

Table 13 Percent of Pacific cod catch within each sector by vessels without LLPs, averaged from 2002-2008.

		HAL CV	Jig CV	Pot CV	Trawl CV	All sectors
	Year	Percent of sector catch	Percent of sector catch	Percent of sector catch	Percent of sector catch	Percent of total catch
Central GOA	2002-2008 average	3%	70%	4%	*	2%
Western GOA	2002-2008 average	17%	66%	9%	*	5%

Source: ADFG Fish Tickets and RAM groundfish license file, May 2009. *Withheld due to confidentiality.

5.2.2 Option 2— Limit access by Federally-permitted vessels to the GOA Pacific cod parallel fishery

Option 2 is modeled after the alternatives being considered for the BSAI Pacific cod parallel waters fishery. This section addresses the potential effects of selecting Option 2 alone or with Option 1.

Potential outcomes

(1) Option 2 not selected – no limits on access by Federally-permitted vessels to the parallel fishery

If Option 2 is not selected, Federally-permitted vessels that do not hold LLP licenses with the required endorsements would benefit, as they would continue to have access to the parallel fishery. The drawbacks to this approach depend on whether parallel waters catches are capped. If parallel waters catches are capped, and there are no limits on entry to the fishery, a derby fishery could result if parallel waters effort increases. This could result in the parallel fishery closing prior to the TAC, which would impact those vessels that depend on the parallel fishery. If parallel waters catches are not capped, and entry to the parallel fishery is not limited, sector allocations are likely to be eroded if parallel waters effort increases beyond historic levels. The likelihood of effort increasing depends on market and fishing conditions in the Pacific cod and other fisheries, and access to other fisheries. Finally, if Option 2 is not selected and sector allocations are implemented, vessels could fish in parallel waters after the sector closures, as long as the gear type remains open (e.g., pot CPs could fish off the pot CV allocation).

(2) Option 2 selected – Require Federally-permitted vessels to hold an LLP license with the appropriate area, gear, and species endorsements in order to participate in the parallel fishery

If Option 2 is selected, entry to the parallel fishery by Federally-permitted vessels would effectively be limited. Most vessels that participate in the groundfish fisheries hold Federal permits and licenses. Option 2 would preclude all Federally-permitted vessels from participating in the parallel fishery unless they hold an LLP license, and the only potential increase in non-LLP parallel waters effort would be by non-Federally permitted vessels. Some of these non-Federally permitted vessels may already participate in the parallel fishery and may contribute catch history to the sector allocations. The advantages of selecting Option 2 depend on whether parallel waters catches are capped. If parallel catches are capped, limiting access by Federally-permitted vessels to the parallel fishery may reduce the likelihood of a derby fishery in parallel waters. If parallel catches are not capped, limiting access by Federally-permitted vessels to the parallel fishery may limit the erosion of the sector allocations.

Under Option 2, suboptions would preclude vessels from surrendering and reactivating the FFP on an unlimited basis. Vessels that surrender the FFP are not required to participate in the Federal Observer program, carry VMS, or comply with NMFS recordkeeping or reporting requirements. All of these requirements enhance management and conservation of the fisheries. For example, increased observer coverage improves bycatch monitoring by improving the quality of data available to inseason managers. Data collected by VMS is used to enforce area closures around sea lion rookeries and haulouts and gear closures in sensitive habitat. To the extent that Option 2 would result in increased observer and VMS coverage of the vessels that participate in the parallel State waters groundfish fisheries, the proposed action could result in improved bycatch monitoring, data quality, and enforcement of closed areas.

Option 2 also includes a suboption that requires Federally-permitted vessels to adhere to the sector allocation closures, even while fishing in parallel waters. In the BSAI, vessels have been fishing for Pacific cod in the BSAI parallel waters fishery after the TAC for their respective sector has been harvested and the season is closed. The State recognizes sector allocations by gear type, but does not recognize sector allocations based on processing activity (i.e., the distinction between CV and CP allocations).[3] If the directed fishery for one of the sectors is open in Federal waters, any vessel using that gear type and meeting any applicable vessel length restrictions is eligible to participate in the parallel waters fishery.

For example, hook-and-line catcher vessels may participate in the parallel waters fishery even when the adjacent Federal waters fishery is only open to hook-and-line catcher processors. In the same way, hook-and-line catcher processors may participate in the parallel waters fishery even if it is only open to hook-and-line catcher vessels in adjacent Federal waters. In practice, NMFS inseason management accounts for the parallel waters catch by gear and operation type. In the BSAI Pacific cod fishery, parallel waters catch is deducted from the appropriate Amendment 85 allocation based on the gear and operation type of the harvesting vessel. However, if one sector's season closes and vessels in that sector continue to fish in the parallel waters fishery, this would create a catch accounting problem. If NMFS continued to count that catch against the sector's allocation, this would result in an overage for that sector, and catch could potentially exceed the ABC. If NMFS counted that catch against another sector's allocation, this would effectively result in a reallocation of the TAC. Option 2 would preclude vessels from fishing in parallel waters after their respective sector has closed.

[3] State v. Grunert, 139 P.2d 1226 (Alaska 2006); Grunert v. State, 109 P.2d 924 (Alaska 2005). In the 2005 case, the Alaska Supreme Court ruled that the Board of Fisheries could not allocate within a single fishery. 109 P.2d at 931-32. In the 2006 case, the Court held that 'fisheries' could only be distinguished by differences in the gear that is actually used to harvest the fish. 139 P.2d at 1235-39.

One drawback to Option 2 is that it may preclude some Federally-permitted vessels that wish to enter the directed groundfish fisheries from participating in the parallel fishery. For example, vessels that participate in the IFQ halibut and sablefish fisheries and fish in Federal waters are required to hold an FFP. Under Option 2, Federally-permitted vessels would be precluded from participating in the directed GOA Pacific cod parallel waters fisheries unless they hold an LLP with the required endorsements. However, vessels fishing for IFQ halibut or sablefish may continue to retain Pacific cod up to the MRA (20%) without an LLP license. Another drawback is that vessels that cannot surrender the FFP may incur additional costs for observer coverage and VMS. For example, vessels often surrender the FFP prior to participating in the State waters Pacific cod fisheries, and are not required to have observer coverage for these trips. Option 2 would preclude vessels from surrendering the FFP. Observer coverage costs to industry were last estimated in 2004 as $355/day, but costs may be higher, depending on the fishery. Factors that may increase observer coverage costs include operation out of remote ports with higher transportation costs, short-term 'pulse' fisheries, fishery disruptions, and lack of advance planning (NPFMC, 2008).

5.3 Summary and Action by the Council

The advantages and disadvantages of the parallel waters management approaches identified in Options 1 and 2 are summarized in Tables 14 and 15. The primary advantage of establishing a parallel waters catch cap (Option 1) is that it limits the erosion of the sector allocations by new, non-LLP entrants to the fishery. The primary disadvantage is that the parallel waters fishery is important to many vessels, including vessels that hold LLP licenses, and access to the parallel fishery could be limited by a parallel waters catch cap. Option 2 limits access by Federally-permitted vessels to the parallel fishery by requiring those vessels to hold an LLP with the appropriate area, gear, and species endorsements. Most vessels that participate in the groundfish fisheries have Federal permits and licenses, and would be subject to Option 2. Vessels that do not hold any Federal permits or licenses would continue to have access to the parallel fishery, including vessels that may already be participating in the fishery and may contribute catch history to the sector allocations. If Option 2 is selected in combination with Option 1, parallel waters catch by non-Federally permitted vessels would be constrained by the parallel fishery catch cap.

If the Council wishes to advance the options in Component 10 for further analysis, the options could be refined to give staff additional direction. For example, Option 1 could be developed so that it specifies how a parallel waters catch cap would be calculated and which vessels would be subject to the cap. In developing the options, the Council may wish to consider including the following elements:

Option 1— Develop recommendation to Alaska BOF for a parallel waters catch cap

- Add suboptions to (1) cap parallel waters catch, and (2) cap non-LLP parallel waters catch.
- Specify how the catch cap will be calculated (e.g., based on parallel waters catch history during the same years used to calculate sector allocations).
- Specify which gear types will be subject to the catch cap (e.g., jig gear could be excluded).
- Recommend any gear or vessel length restrictions for the parallel fishery.

Option 2— Limit access by Federally-permitted vessels to GOA Pacific cod parallel fishery

- Clarify whether Suboptions 2 and 3 apply to all FFPs (current language in Suboption 2 refers to to the Western and Central GOA).
- Clarify whether under Suboption 2, a vessel may surrender **and** reactivate the FFP within the specified time period, or only make one transaction (surrender **or** reactivate).

Table 14 Summary of Option 1.

OPTION 1		
(1) <u>No parallel waters catch cap</u> **Result** All catch counts against sector allocations. No limit on parallel waters catch.	**Advantages** No closure of parallel fishery. Allows vessels that depend on the parallel fishery to continue to fish as they have traditionally operated. No modifications to Catch Accounting system.	**Disadvantages** Sectors with influx of parallel waters effort would have allocations eroded.
(2)(a) <u>Cap parallel waters catch</u> **Result** All catch counts against sector allocations. Parallel waters catch cap functions as a sideboard. Parallel fishery closes to all participants when cap is reached. Gear and/or vessel length restrictions could limit access to the parallel fishery. Cap could exclude jig gear.	**Advantages** Limits erosion of sector allocations by capping parallel waters catch to historic or other amount.	**Disadvantages** Parallel fishery could close early. Vessels that hold LLPs and depend on the parallel fishery could lose access to the parallel fishery prior to the TAC closure. No allocation of parallel waters cap between LLP and non-LLP participants could exacerbate the derby fishery in parallel waters. Increased management costs to ADFG and NMFS. Interagency coordination may be required and NMFS Catch Accounting system would be modified.
(2)(b) <u>Cap non-LLP parallel waters catch</u> **Result** Non-LLP allocation taken off the top of the TAC. Remainder of TAC divided among sectors based on percent allocations. Catch by LLP participants counts against sector allocations. Catch by non-LLP participants counts against non-LLP cap. Parallel fishery closes to all participants when cap is reached. Gear and/or vessel length restrictions could limit access to the parallel fishery. Cap could exclude jig gear.	**Advantages** Limits parallel waters catch by non-LLP participants to the cap, based on historic non-LLP catch or other amount. Sectors with influx of parallel waters effort would not have allocations eroded. Gives non-LLP participants access to a specific portion of the TAC.	**Disadvantages** Parallel fishery could close early. Vessels that hold LLPs and depend on the parallel fishery could lose access to the parallel fishery prior to the TAC closure. Increased management costs to ADFG and NMFS. Interagency coordination may be required and NMFS Catch Accounting system would be modified.

Table 15 Summary of Option 2.

	OPTION 2	
(1) No limits on access by Federally-permitted vessels to the parallel fishery		
Result Parallel fishery remains open to Federally-permitted vessels that do not hold LLP licenses.	**Advantages** Provides opportunities for new entrants to the fishery	**Disadvantages** If parallel waters catch is capped: there is the potential to exacerbate the derby fishery and early closure of the parallel fishery. Vessels that hold LLPs and depend on the parallel fishery could lose access to the parallel fishery prior to the TAC closure. If parallel waters catch is not capped: sector allocations could be eroded by increased effort by non-LLP vessels. Federally-permitted vessels could continue to fish in parallel waters after sector closures, as long as the gear type remains open (e.g., pot CPs could fish off pot CV allocation).
(2) Require Federally-permitted vessels to hold an LLP to participate in the parallel fishery		
Result Limits access to the parallel fishery by vessels that hold Federal permits but do not hold an LLP license and required endorsements. Continued open access for vessels without Federal permits FFP cannot be surrendered and reactivated during a specified time period (1 year, 18 months, 2 years, 3 year term of permit) Vessels cannot fish past the end of the sector closures.	**Advantages** If parallel waters catch is capped: extending the LLP requirement to parallel waters for Federally-permitted vessels may reduce the likelihood of a derby fishery in parallel waters. If parallel waters catch is not capped: Option 2 may limit erosion of sector allocations. Increased observer coverage in parallel and State waters groundfish fisheries by precluding vessels from surrendering and reactivating the FFP on an unlimited basis.	**Disadvantages** Removes opportunity for Federally permitted vessels that do not hold LLP licenses to participate in parallel fishery (pot vessels could participate in State waters fishery, other gear types cannot.) Increased costs to vessels (observer, VMS) participating in State and parallel waters fisheries if vessels are precluded from surrendering the FFP.

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APPENDIX A— Catch History in the GOA Pacific Cod Fisheries

Currently, the Western and Central GOA Pacific cod TACs are apportioned between the inshore (90%) and offshore (10%) processing sectors. Inshore and offshore TACs are further apportioned between the A season (60%) and B season (40%). During some recent years, the GOA Pacific cod TACs have not been fully harvested (Table A-1). Inshore TACs have typically been fully harvested in the Central GOA, but in the Western GOA, only 68% to 75% of the inshore TAC was harvested during 2006-2008 (Table A-2). During some years, a substantial proportion of the offshore TACs in both management areas have not been harvested. Inseason management has opened the offshore TACs concurrently with the inshore TACs, but has closed the offshore TACs when the BSAI Pacific cod A season fisheries have ended, to prevent the BSAI catcher processor fleet from directed fishing on the GOA offshore Pacific cod TACs. The reason for these closures is that the offshore TACs are relatively small and cannot support directed fishing by a large portion of the BSAI catcher processor fleet.

The A and B season TACs are not utilized equally (Table A-3). The A season TAC, which is harvested when Pacific cod are aggregated and roe peaks, is typically fully harvested. During recent years, A season catches have met or exceeded A season TACs in both the Western and Central GOA. Incidental catch between the A and B seasons is substantial, particularly by the inshore sector in the Central GOA. Incidental catch made between the A and B season counts against the B season TAC. During recent years, B season TACs have not been fully harvested. During some years, the trawl and hook-and-line B seasons have ended before the TAC is fully harvested, due to halibut PSC limits. During 2005-2007, the fixed gear B seasons remained open until December 31, but inclement weather conditions, high operating costs, and difficulty finding fish limited B season harvests, particularly in the Western GOA.

During recent years, the A season has closed approximately one month after the trawl gear opening on January 20 (see Table A-4). In 2004 and 2005, the Central GOA inshore A seasons closed just 11 days and 7 days, respectively, after the trawl season opened on January 20. Halibut PSC limits have occasionally limited A season harvests by the trawl sector. In 2006, the trawl sector used its first seasonal halibut PSC apportionment by February 23. The second seasonal halibut PSC apportionment becomes available to the trawl sector on April 1. At that point, the A season TACs had been fully harvested by the fixed gear sectors.

Table A-1 Total catch (retained and discarded) of Pacific cod in the parallel and Federal waters Pacific cod fisheries in the Western and Central GOA

	Western Gulf			Central Gulf		
Year	Total catch	Federal TAC	Percent of TAC harvested	Total catch	Federal TAC	Percent of TAC harvested
1995	22,516	20,100	112.0%	45,465	45,650	99.6%
1996	19,823	18,850	105.2%	47,589	42,900	110.9%
1997	23,949	24,225	98.9%	43,678	43,690	100.0%
1998	19,817	23,170	85.5%	41,424	41,720	99.3%
1999	23,158	23,630	98.0%	44,554	42,935	103.8%
2000	21,867	20,625	106.0%	32,188	34,080	94.4%
2001	14,161	18,300	77.4%	27,324	30,250	90.3%
2002	17,168	16,849	101.9%	25,057	24,790	101.1%
2003	16,235	15,450	105.1%	24,828	22,690	109.4%
2004	15,554	16,957	91.7%	27,350	27,116	100.9%
2005	12,408	15,687	79.1%	22,705	25,086	90.5%
2006	14,743	20,141	73.2%	23,029	28,405	81.1%
2007	13,407	20,141	66.6%	25,998	28,405	91.5%
2008	14,919	19,449	74.9%	27,763	28,426	97.7%

Source: NMFS Blend/Catch Accounting databases.

Table A-2 Pacific cod catch and percent of the TAC harvested in the inshore and offshore sectors

		Inshore			Offshore		
Area	Year	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested
Western Gulf	2001	16,470	12,461	75.7%	1,830	1,700	92.9%
	2002	15,164	15,541	102.5%	1,685	1,627	96.6%
	2003	13,905	14,029	100.9%	1,545	2,205	142.7%
	2004	15,261	14,274	93.5%	1,696	1,281	75.5%
	2005	14,118	11,978	84.8%	1,569	423	27.0%
	2006	18,127	13,648	75.3%	2,014	1,095	54.4%
	2007	18,127	12,265	67.7%	2,014	1,142	56.7%
	2008	17,504	13,107	74.9%	1,945	1,451	74.6%
Central Gulf	2001	27,255	25,255	92.7%	3,025	2,066	68.3%
	2002	22,311	22,665	101.6%	2,479	2,393	96.5%
	2003	20,421	22,601	110.7%	2,269	2,228	98.2%
	2004	24,404	25,533	104.6%	2,712	1,931	71.2%
	2005	22,577	22,234	98.5%	2,509	361	14.4%
	2006	25,565	21,609	84.5%	2,840	1,402	49.4%
	2007	25,565	24,860	97.2%	2,840	1,138	40.1%
	2008	25,583	25,517	99.7%	2,837	1,791	63.1%

Source: NMFS Catch Accounting (2003-2008) and Blend databases (2001-2002). 2008 catch through Nov 1.

Table A-3 Pacific cod catch during the A and B seasons by the inshore and offshore sectors in the Western and Central GOA, 2003-2008

Western GOA

	Inshore						Offshore					
	A season			B season			A season			B season		
Year	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested
2003	8,343	10,057	120.5%	5,562	3,972	71.4%	927	2040	220.1%	618	165	26.7%
2004	9,157	10,536	115.1%	6,104	3,738	61.2%	1017	626	61.6%	679	655	96.5%
2005	8,471	10,298	121.6%	5,647	1,686	29.9%	941	123	13.1%	628	300	47.8%
2006	10,876	12,299	113.1%	7,251	1,349	18.6%	1208	666	55.1%	806	429	53.2%
2007	10,876	10,836	99.6%	7,251	1,430	19.7%	1208	643	53.2%	806	500	62.0%
2008	10,502	10,577	100.7%	7,002	2,530	36.1%	1,167	1,190	102.0%	778	261	33.5%

Central GOA

	Inshore						Offshore					
	A season			B season			A season			B season		
Year	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested
2003	12,253	15,679	128.0%	8,168	6,922	84.7%	1,361	1,440	105.8%	788	908	115.2%
2004	14,643	15,673	107.0%	9,761	9,860	101.0%	1,627	1,347	82.8%	1,085	584	53.8%
2005	13,547	12,688	93.7%	9,660	9,660	100.0%	1,414	91	6.4%	1,003	270	26.9%
2006	15,339	15,529	101.2%	10,226	6,083	59.5%	1,679	25	1.5%	1,136	1,378	121.3%
2007	15,339	15,234	99.3%	10,226	9,626	94.1%	1,704	43	2.5%	1,136	1,096	96.5%
2008	15,350	15,280	99.5%	10,233	10,237	100.0%	1,706	1,680	98.5%	1,131	111	9.8%

Source: NMFS Annual Catch Reports, 2003-2008. 2008 catch through Nov 1.

Table A-4 Pacific cod A season closures for the Western and Central GOA, 2001-2008

	Western GOA				Central GOA			
	Inshore		Offshore		Inshore		Offshore	
Year	Date	Reason	Date	Reason	Date	Reason	Date	Reason
2001	27-Feb	TAC	24-May	TAC	4-Mar	TAC	24-May (TRW)	HAL
2002	26-Feb	TAC	9-Feb	TAC	9-Mar	TAC	25-Mar	TAC
2003	17-Feb	TAC	20-Mar	TAC	9-Feb	TAC	1-Feb	TAC
2004	24-Feb	TAC	8-Mar	TAC	31-Jan	TAC	2-Feb	TAC
2005	24-Feb	TAC	22-Feb	TAC	26-Jan	TAC	22-Feb	TAC
2006	2-Mar	TAC	19-Feb	TAC	28-Feb	TAC	19-Feb	TAC
2007	8-Mar	TAC	14-Feb	TAC	27-Feb	TAC	14-Feb	TAC
2008	29-Feb	TAC	4-Mar	TAC	1-Mar	TAC	9-Mar	TAC

Source: NMFS Alaska region season closures summary.

Table A-5 Pacific cod B season closures for the trawl and hook-and-line sectors in the Western and Central GOA, 2001-2008

		Inshore		Offshore		Inshore		Offshore	
		Trawl				Hook-and-line			
Area	Year	Date	Reason	Date	Reason	Date	Reason	Date	Reason
Western Gulf	2001	21-Oct	HAL	21-Oct	HAL	4-Sep	HAL	4-Sep	HAL
	2002	13-Oct	HAL	3-Oct	TAC	23-Nov	TAC	3-Oct	TAC
	2003	12-Sep	HAL	not opened	TAC	25-Sep	TAC	not opened	TAC
	2004	1-Oct	HAL	1-Oct	HAL	2-Oct	HAL	2-Oct	HAL
	2005	1-Oct	HAL	1-Oct	HAL	31-Dec	n/a	31-Dec	n/a
	2006	8-Oct	HAL	8-Oct	HAL	31-Dec	n/a	31-Dec	n/a
	2007	1-Nov	SSL reg	1-Nov	SSL reg	31-Dec	n/a	31-Dec	n/a
	2008	1-Nov	SSL reg	1-Nov	SSL reg	16-Oct	HAL	16-Oct	HAL
Central Gulf	2001	21-Oct	HAL	21-Oct	HAL	4-Sep	HAL	4-Sep	HAL
	2002	not opened	TAC	8-Oct	TAC	26-Sep	TAC	8-Oct	TAC
	2003	3-Sep	TAC	14-Oct	TAC	3-Sep	TAC	14-Oct	TAC
	2004	10-Sep	TAC	1-Oct	HAL	2-Oct	HAL	2-Oct	HAL
	2005	1-Oct	HAL	1-Oct	HAL	31-Dec	n/a	31-Dec	n/a
	2006	8-Oct	HAL	8-Oct	HAL	31-Dec	n/a	31-Dec	n/a
	2007	1-Nov	SSL reg	1-Nov	SSL reg	31-Dec	n/a	31-Dec	n/a
	2008	3-Oct	TAC	1-Nov	SSL reg	16-Oct	HAL	16-Oct	HAL

Source: NMFS Alaska region season closures summary. HAL = halibut PSC closure. TAC = TAC reached.
*The table shows the final B season closure date, and does not reflect the multiple, short openings of the trawl B seasons during 2006-2008. See text for details.

During some years, the B season has closed to hook-and-line and trawl gear before the TAC has been fully harvested. Halibut PSC limits closed all of the GOA hook-and-line B seasons and the Central GOA inshore trawl B season before the TACs were fully harvested during 3 of the past 8 years (see Table A-5). The Western GOA inshore trawl season closed 6 of the past 8 years and the offshore trawl seasons closed 4 of the past 8 years due to halibut PSC limits. Both the trawl and hook-and-line sectors have worked with NMFS to better manage their B season halibut bycatch.

Beginning in 2006, the trawl sector has extended its B season by working closely with NMFS inseason management to control halibut bycatch with a series of short openings during the B season. Table A-5 shows the final B season closure date, but does not show the multiple, short trawl season openings during 2006-2008. This approach has been successful in limiting halibut PSC and allowing the trawl season to

stay open longer. In 2008, the Central GOA inshore B season Pacific cod fishery closed when the TAC was fully harvested on October 3.

Table A-6 Catch (mt) and percent of GHL harvested in GOA State waters Pacific cod fisheries

Year	Jig catch	Pot catch	Total catch	GHL	Percent of GHL harvested	Jig catch	Pot catch	Total catch	GHL	Percent of GHL harvested
			KODIAK					COOK INLET		
1997	898	2,533	3,431	3,856	89%	255	128	383	1,134	34%
1998	959	2,896	3,856	3,674	105%	87	249	336	1,089	31%
1999	1,041	3,828	4,869	5,307	92%	57	631	688	1,179	58%
2000	1,277	2,608	3,884	5,443	71%	6	515	521	998	52%
2001	569	1,659	2,228	4,808	46%	9	397	406	862	47%
2002	630	3,373	4,003	3,946	101%	8	508	516	726	71%
2003	1,447	2,248	3,696	3,629	102%	195	464	659	635	104%
2004	1,909	2,631	4,540	4,491	101%	147	838	985	1,089	90%
2005	2,073	1,804	3,877	4,128	94%	47	1011	1,058	1,225	86%
2006	656	2,214	2,870	4,717	61%	*	*	608	1,406	43%
2007	565	2,339	2,904	4,717	62%	n/a	n/a	654	1,406	47%
2008	895	2,462	3,357	4,736	71%	n/a	n/a	973	n/a	n/a
			CHIGNIK					ALASKA PENINSULA		
1997	16	498	514	2,676	19%	158	4,162	4,320	4,264	101%
1998	76	2,327	2,403	2,586	93%	199	3,716	3,915	4,082	96%
1999	99	2,820	2,919	3,719	78%	321	5,042	5,362	5,897	91%
2000	17	797	814	3,039	27%	344	6,480	6,824	6,849	100%
2001	130	1,058	1,188	2,722	44%	1,376	4,727	6,103	6,078	100%
2002	147	1,771	1,918	2,223	86%	928	4,853	5,777	5,625	103%
2003	196	1,830	2,026	2,041	99%	1,647	3,590	5,237	5,171	101%
2004	64	2,537	2,601	2,631	99%	758	4,869	5,626	5,670	99%
2005	63	2,597	2,661	2,903	92%	558	4,608	5,165	6,713	99%
2006	*	*	1,560	3,311	47%	34	5,267	5,301	6,713	79%
2007	0	2,596	2,596	3,311	78%	109	5,641	5,750	6,713	86%
2008	*	*	3,035	3,316	92%	638	5,393	6,031	6,482	93%

Source: Kodiak, Chignik, and South Alaska Peninsula management areas (Mattes and Stichert, 2008). Cook Inlet (ADFG Fish Tickets). 2008 catches from ADFG preliminary catch reports online.

State waters harvests are reported by State management area and gear type during 1997 through 2008 in Table A-6. Pot allocations have generally been fully harvested in all management areas. Jig harvests were relatively high during 2003 through 2005, but decreased substantially during 2006 through 2008. A combination of poor weather conditions, difficulty finding fish in State waters, and high operating costs contributed to low levels of jig effort during these years. Total catch was substantially below the GHLs in all four Western and Central GOA management areas during 2006 and 2007 and in Kodiak during 2008. Most unharvested State waters GHL was unused jig GHL. Unharvested GHL is rolled over to other sectors on August 15 (Chignik) or September 1 (Kodiak and Cook Inlet), if it is determined that an allocation will not be fully harvested. However, during 2005 through 2007, the parallel waters B season remained opened to vessels using fixed gear from September 1 until December 31. During these years, State managers did not have the opportunity to re-open the State waters season in the fall and roll over unused jig quota to the pot sector.

APPENDIX B— Potential sector allocations

Western Gulf	HAL CP	HAL CV	Jig CV	Pot CP	Pot CV	Trawl CP	Trawl CV
1995-2005: Best 7 years	19.7%	0.5%	0.5%	2.2%	27.9%	2.5%	46.7%
1995-2005: Best 5 years	18.6%	0.5%	0.5%	2.5%	30.4%	2.4%	45.0%
2000-2006: Best 5 years	21.7%	0.6%	0.7%	2.3%	40.5%	2.6%	31.8%
2000-2006: Best 3 years	21.4%	0.8%	0.8%	2.7%	41.3%	2.7%	30.2%
2002-2007: Best 5 years	22.6%	1.2%	0.6%	1.6%	45.7%	2.4%	26.0%
2002-2007: Best 3 years	22.2%	1.5%	0.7%	1.8%	44.9%	2.5%	26.5%
2002-2008: Best 5 years	21.7%	1.7%	0.6%	1.5%	44.2%	2.4%	28.0%
2002-2008: Best 3 years	22.0%	2.2%	0.7%	1.8%	44.5%	2.6%	26.3%
Central Gulf							
1995-2005: Best 7 years	2.8%	17.3%	0.2%	1.5%	24.7%	5.3%	48.1%
1995-2005: Best 5 years	3.4%	17.6%	0.2%	2.0%	25.2%	5.6%	45.9%
2000-2006: Best 5 years	4.2%	20.8%	0.3%	1.0%	25.3%	4.4%	44.1%
2000-2006: Best 3 years	4.7%	19.4%	0.4%	1.4%	27.9%	4.4%	41.9%
2002-2007: Best 5 years	5.2%	22.6%	0.3%	0.4%	25.8%	3.5%	42.3%
2002-2007: Best 3 years	4.9%	21.5%	0.4%	0.5%	28.1%	3.3%	41.3%
2002-2008: Best 5 years	5.5%	22.3%	0.3%	0.3%	25.7%	3.3%	42.6%
2002-2008: Best 3 years	5.2%	21.4%	0.4%	0.5%	28.0%	3.3%	41.2%

Western Gulf	HAL CP <125	HAL CP >=125	HAL CV <50	HAL CV >=50	HAL CV <60	HAL CV >=60	Pot CV <60	POT CV >=60	TRW CV <60	TRW CV >=60
1995-2005: Best 7 years	16.8%	2.9%	0.2%	0.2%	0.4%	0.1%	13.5%	14.4%	32.9%	13.8%
1995-2005: Best 5 years	15.4%	3.2%	0.3%	0.2%	0.4%	0.1%	14.3%	16.1%	30.9%	14.1%
2000-2006: Best 5 years	18.1%	3.6%	0.3%	0.3%	0.6%	0.0%	18.9%	21.6%	24.7%	7.1%
2000-2006: Best 3 years	17.7%	3.7%	0.5%	0.3%	0.8%	0.0%	19.8%	21.5%	23.7%	6.6%
2002-2007: Best 5 years	17.5%	5.1%	0.6%	0.6%	1.1%	0.0%	20.8%	24.9%	21.4%	4.5%
2002-2007: Best 3 years	17.6%	4.6%	0.8%	0.7%	1.5%	0.0%	21.6%	23.3%	23.0%	3.5%
2002-2008: Best 5 years	17.1%	4.6%	0.7%	1.0%	1.4%	0.3%	21.5%	22.7%	23.9%	4.1%
2002-2008: Best 3 years	17.4%	4.6%	0.9%	1.3%	1.8%	0.4%	21.4%	23.2%	22.8%	3.4%
Central Gulf										
1995-2005: Best 7 years	0.8%	2.1%	12.5%	4.8%	16.0%	1.3%	11.4%	13.3%	8.0%	40.1%
1995-2005: Best 5 years	0.8%	2.7%	12.8%	4.9%	16.3%	1.4%	11.3%	13.9%	8.5%	37.4%
2000-2006: Best 5 years	0.6%	3.6%	14.6%	6.2%	19.0%	1.8%	10.9%	14.4%	1.7%	42.4%
2000-2006: Best 3 years	0.5%	4.1%	13.9%	5.5%	18.0%	1.4%	11.4%	16.4%	1.7%	40.1%
2002-2007: Best 5 years	0.8%	4.4%	15.4%	7.1%	20.5%	2.0%	12.1%	13.7%	1.1%	41.1%
2002-2007: Best 3 years	0.5%	4.4%	14.7%	6.9%	19.8%	1.7%	13.0%	15.2%	1.5%	39.8%
2002-2008: Best 5 years	1.1%	4.3%	14.5%	7.8%	20.2%	2.1%	12.3%	13.5%	1.1%	41.4%
2002-2008: Best 3 years	0.9%	4.3%	14.6%	6.8%	19.7%	1.7%	12.9%	15.1%	1.1%	40.2%

APPENDIX C— Steller Sea Lions

Vessels participating in the GOA Pacific cod parallel waters fishery are required to comply with Federal regulations protecting Steller sea lion rookeries and haulouts[4]. Trends in counts of adult and juvenile western Steller seas lions are summarized in Fritz et al. (2009). In the Western GOA, counts increased by 42% from 2000 through 2008. There was a 33% increase from 2000 to 2004 and a 7% increase from 2004 to 2008, although counts declined by -1% from 2007 to 2008. In the Central GOA, there was an overall decline in non-pup counts of -3% between 2000 and 2008. Counts declined by -12% from 2000 to 2004, and increased by 9% from 2004 to 2008. However, there was also a decline observed from 2007 to 2008 of -6%.

[4] The State of Alaska has adopted Steller sea lion protection measures under its management plan for the parallel groundfish fisheries (5 AAC 28.087). The Federal regulations apply to all vessels, regardless of whether the vessel has a Federal fisheries permit.

MEMORANDUM

State of Alaska

Department of Law

TO: Diana Cote
Executive Director
Alaska Board of Fisheries

DATE: February 12, 2004

FILE NO.: 661-03-0141

THRU:

TEL. NO.: 269-5232

FAX: 279-2834

FROM: Jon K. Goltz JKG
Assistant Attorney General
Natural Resources-Anchorage

SUBJECT: Gulf Rationalization Steering Committee – Legal Review of Four Management Concepts

Introduction

This memorandum responds to a request from the Gulf Rationalization steering committee for written review of four management concepts the steering committee is considering. This memo is written against the background of two previous memos from Law that have been distributed to the steering committee: a September 30 memo addressed to Earl Krygier, and a November 22 memo addressed to Diana Cote.

For present purposes, the most salient points from the two previous memos can be summarized in two parts. First, under current law, the Board of Fisheries does not have statutory authority to adopt history-based IFQs or any other special harvesting privileges that would effectively be a form of limited entry. The only limited entry system currently authorized for Alaska waters is the CFEC system, which the steering committee has thus far deemed not to be desirable for the fisheries at issue.

Second, even new legislation authorizing IFQs or any other form of limited entry would have to comply with the Alaska Constitution. That means that any new limited entry program authorized by the legislature and implemented by the Board must serve the purpose of preventing economic distress among fishermen and those dependent on them for a livelihood, with the least possible impingement on the equal access values of the Alaska Constitution. A limited entry program designed to coordinate with the federal program, no matter how efficient, would not be upheld by a court unless it met that test.

This memo addresses four management concepts in light of those two main principles in order to demonstrate how the principles apply.

Discussion

1. The Aleutian islands sablefish example

The Aleutian islands sablefish fishery provides an example of a management concept that is currently in place and functioning under state law without significantly impairing the IFQ program for the fishery in federal waters on the same stock of fish. The Board's regulation simply establishes the allowable gear, requires registration, and sets a season from May 15 through November 15, "unless closed earlier by emergency order."[1]

The management practice has been to set a quota for the state fishery equal to approximately five percent of the total allowable catch (TAC) for Bering Sea/Aleutian Island (BS/AI) sablefish.[2] The five percent figure is roughly equal to the proportion of BS/AI sablefish harvested from state waters as of 1995 or 1996, when the federal IFQ program went into effect. When the harvest of sablefish from state waters reaches the quota for the year, ADF&G closes the season by emergency order. Management of the fishery in state waters occurs without reference to whether any fishermen hold federal IFQ. The state fishery has not been limited by the CFEC, so anybody can participate.[3]

In federal waters, participation is restricted to persons who hold federal IFQ. It is our understanding that the federal practice has been to apply sablefish against individual quotas, regardless of whether the fish was taken in state or federal waters. Moreover, by federal regulation, federal IFQ holders may not harvest sablefish, even in state waters, after catching the their full individual quotas.

The Department of Law sees no legal problem with the way the Aleutian islands sablefish fishery is managed in state waters. There are, however, some potential management weaknesses that the steering committee as well as the Department of Law have identified. As pointed out on page 11 of Law's September 30 memo, this management concept includes no individual harvest limit for non-federally permitted fishermen, and no restriction on new entrants to the fishery. Thus, the state fishery exists under derby fishery conditions. There is an incentive to catch fish fast, before the state quota is reached and state waters close for the season, and that incentive may be increased by a federal rationalization program that gives individual or cooperative allocations in the EEZ.

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[1] 5 AAC 28.650.
[2] February 11, 2004, personal communication with Wayne Donaldson, ADF&G.
[3] 20 AAC 05.320(e).

The state agencies do have some tools to address the negative aspects of a derby. A moratorium could be imposed to temporarily limit entry to the fishery. The fishery could be permanently limited under the CFEC program. The Board of Fisheries could adopt gear and vessel size limitations to reduce the incentive to enter the fishery. The Board could allocate the state quota to gear types, adopt exclusive registration areas, adopt annual or other equally-applied harvest limits, all to prevent early closures of the entire fishery. The Board could also adopt equal share quotas among gear types, areas and species categories, or allocate to voluntary cooperatives as in the Chignik salmon seine fishery. The Department of Law is not in a position to recommend whether these tools are, as a matter of policy, sufficient to address the conservation and economic changes that are anticipated in state fisheries as a result of federal rationalization.

If new tools are deemed advisable, they can be requested from the legislature. With new legislation, the only limits on potential solutions are the constitution and political will. The constitution requires that any limited entry program be adopted for the purpose of preventing economic distress to fishermen and those dependent on them for a livelihood, with the least possible impingement on the equal access values expressed elsewhere in the constitution. No principle of law would prevent the adoption of a management concept similar to the Aleutian islands sablefish model in the near term, while pursuing statutory IFQ authority in the longer term.

2. The ADF&G Paper

The steering committee began its deliberations with a decisional diagram prepared by ADF&G. The first decision point asks:

> Under a rationalized program can the State of Alaska open a groundfish fishery for non-federally permitted vessels in state waters that is managed to a specific TAC while also allowing federally permitted vessels to fish in the same water, but their harvest coming from the federal TAC? State permitted vessels, operating under state management, would be fishing toward their allocation of the TAC. When the state allocation is reached, state waters would close to BOTH state and federally permitted vessels.

The Department of Law agrees that the answer to the question posed by that decision point is "yes." This concept is based on the Aleutians islands sablefish example, but differs with respect to how the catch is counted and what triggers closure of state waters. Under the ADF&G concept, fish harvested by federally permitted vessels would be applied against one quota (the "federal TAC"), and fish harvested by non-federally permitted vessels would be applied against a separate quota (the "state TAC"). State waters would remain open to fishing until the state TAC is reached, at which time state

waters would be closed to fishing. The closure would apply to federally and non-federally permitted vessels.

For this concept to comply with current law, under which the Board cannot grant special harvesting privileges to individuals, it would have to be applied in a manner that treats fishermen equally without regard to whether they hold federal permits. If the Board allows the use of trawls, for example, it must allow trawls on an equal basis; it cannot limit the use of trawls only to federal permit holders. The ADF&G diagram model is, therefore, subject to the same derby conditions as the Aleutian islands sablefish model, because it does not eliminate the incentive to catch fish before the state TAC is reached and state waters close. It also does not limit the fishery to new entrants, or prevent holders of low amounts of federal IFQ (assuming a federal IFQ program is in place) from relinquishing their quota in order to free themselves from federal regulations and catch as many fish as possible in state waters. It does, however, protect the federal TAC from being diminished by increased effort in the state waters. Thus, in years when the stock is found extensively in state waters, the fishery would remain open longer because not all the state waters catch would be applied to the trigger for closing state waters.

Management measures available to address derby conditions are available under this concept just as they are available under the Aleutian islands sablefish example.

3. Equal Shares of One Percent

A third concept involves taking one percent of the TAC for the Gulf of Alaska and using that as the basis for an equal share allocation to all fishermen who intend to fish in state waters. The Board, however, would not limit fishermen to their equal share allocation. Instead, the Board would allow additional harvest privileges to federal permit holders, and would rely on federal law to restrict the harvest by federal permit holders in state waters. The contemplated Board regulation would be a rule that says that fish will not be counted against a state equal share until a persons's federal IFQ has been fully harvested. The result would be elimination of the race for fish in both federal and state waters because all harvest would occur under an individual quota system.

This type of concept, which grants special harvesting privileges for state resources only to persons who hold federal IFQ, would almost certainly be deemed a type of limited entry. Since the Board lacks authority to implement that type of program, this concept would need to be supported by new legislation that gives the Board IFQ authority. The Board cannot adopt by reference a program that it could not implement directly.

Even assuming the Board had the necessary statutory authority, this concept would be vulnerable to a constitutional challenge. IFQs have not been tested under the Alaska Constitution. As discussed in previous meetings of the steering committee, IFQ systems might be better suited than our current CFEC program to allow new entrants and prevent economic distress; but they might also be more exclusive than our current system because they involve individual grants of harvesting privileges rather that a class in which competition still exists. Also, if federal permits were based on anything other than historical harvest from state waters, there might not be a sound basis for using a federal permit as the criterion for granting fishing privileges in state waters.

4. Inefficient gear at a low quota

The final concept the steering committee asked Law to address is the concept of setting a low quota for an inefficient gear type such as jigs. This concept envisions that state waters would remain open to all authorized gear types until the jig quota is reached in state waters, at which time state waters would close to all gear types. By using an inefficient gear type to determine the length of the season, the season would to stay open for a long period of time, and the progress toward the quota would occur incrementally rather than suddenly, minimizing the "race for fish." Under this concept, the Board would rely on federal regulations to restrict the harvest of federal permit holders in state waters.

The main difference between this concept and both the Aleutian islands sablefish example and the ADF&G paper concept is that this one uses a different trigger to close state waters, namely, the jig harvest rather than all the state waters harvest or the non-federally permitted state waters harvest. Thus, this concept is subject to similar deficiencies as the other two concepts, such as no limits on new entrants, and no limit on harvest by non-federally permitted vessels. This concept, which initially seemed to hold some promise, now appears to have little utility, because the Board would eventually have to regulate the harvest of all gear groups allowed in state waters. Otherwise, there would be no regulation of the harvest by non-federally permitted, non-jig fishermen.

Conclusion

The steering committee is considering many other concepts, including cooperatives and straightforward history-based IFQ systems, all of which have some obvious merits but would need to be supported by new legislation. Much of the explanation set forth here and in Law's previous two memos can be applied to the steering committee's deliberations on other proposals. Because the permutations of possible management systems can be complex, this analysis in this memo has been limited to two core legal concepts that seem to consistently apply to deliberations of the steering committee. First, any concept that effectively limits entry to the fishery and does

not come within current CFEC statutes depends on a new grant of statutory authority from the legislature. Second, any new grant of statutory authority from the legislature for limiting entry must meet the test of being for the purpose of preventing economic distress, with the least possible impingement on the open access value of the Alaska Constitution. Other legal issues may arise in the context of more specific options, of course, but these two core legal issues have emerged as key concepts.

From the perspective of the Department of Law, it appears the steering committee still faces a dilemma: one horn is to recommend the use of currently authorized tools, which poses no unusual legal risk but does not eliminate the race for fish; the other horn is to recommend pursuit of an IFQ system or some other new type of limited entry, which could improve economic conditions in the fisheries but has some political opposition and presents a greater risk of being overturned by a court on constitutional grounds. The Department of Law is willing to defend reasonable actions even when they involve some constitutional uncertainty. Of course, we also seek to identify potential legal risks so they can be fully considered and addressed early in deliberative processes. To try to help the steering committee with these issues, an assistant attorney general will attend the next meeting of the steering committee.

Discussion Paper on Vessel Capacity Limits

**Prepared by NMFS Alaska Region,
NOAA Office of Law Enforcement, and NPFMC staff**

1 Introduction

The Council has expressed interest in exploring ways to limit entry of high capacity 58 ft to 60 ft LOA pot and hook-and-line vessels into the GOA Pacific cod fisheries. One approach identified in the fixed gear recency action was to add a vessel capacity endorsement (i.e., width or simple gross tonnage) to fixed gear licenses. Currently, LLP licenses have a maximum length overall (MLOA) designation, but there is no limit on the width or tonnage of the vessel that may be assigned to a license. The capacity endorsement that was proposed in the fixed gear recency motion would have provided such a limit by restricting vessels to a 3-to-1 length-to-width ratio based on the length overall of the vessel currently assigned to the license. Licenses assigned to vessels that exceeded this ratio would have been grandfathered at their present length-to-width ratio.

At its April 2009 meeting, the Council reviewed a discussion paper prepared by NMFS that described regulatory, enforcement, and safety concerns with the proposed length-to-width restriction. Although vessel width can be defined in regulation, requiring vessels to be surveyed could impose substantial costs on participants if width measurements are required to be certified by a marine surveyor. NMFS Enforcement expressed concern that vessel width may be difficult to measure in the field. Finally, establishing regulations that discourage specific vessel configurations may conflict with National Standard 10 (promote safety at sea).

As a result of the concerns expressed in the discussion paper, public testimony, and during AP and Council deliberations, the Council removed the capacity endorsement component from the fixed gear recency motion. The Council requested that staff bring back another discussion paper to the June meeting describing potential ways to address the capacity issue within the fixed gear fleet. The Council requested that the paper explore possible alternative length-to-width ratios and any other solutions to the vessel capacity issue suggested by the public (e.g., trip limits or other output controls). The discussion paper begins with a description of the management issues and a review of the regulatory context. The background section is followed by a discussion of the possible purpose and need of addressing the vessel capacity issue. Finally, the paper describes the elements and options that the Council could consider advancing for further analysis.

2 Background

The Council requested that staff provide additional background information on 58 ft and 59 ft LOA vessels that have participated in the GOA Pacific cod fisheries using pot or hook-and-line gear. Specifically, the Council requested information on the length-to-width ratios of vessels in this size class in order to determine whether alternatives to the proposed 3-to-1 ratio might be considered. The Council also requested that staff provide additional data that may help the Council consider alternative approaches to the capacity issue, such as trip limits.

Figures 1 and 2 show the length-to-width ratio and gross tonnages of vessels 50 ft to 70 ft LOA that participated in the GOA Pacific cod fisheries using pot or hook-and-line gear during 2000 through 2008. It is important to note that vessel width and gross tonnage measurements are self-reported, and may not be measured consistently. Vessel width data are from the USCG vessel database; gross tonnages are from the NMFS Alaska region vessel database, and are based on the tonnages reported on the Federal fisheries permit (FFP) application. The figures show that a substantial number of 58 ft and 59 ft LOA vessels have gross tonnages that significantly exceed those of similar-sized vessels (i.e., vessels <58 ft or >59 ft LOA). Similarly, many 58 ft and 59 ft LOA vessels have length-to-width ratios that are much smaller than those of similar-sized vessels. The Council considered placing a capacity endorsement on LLP licenses to limit vessels to a 3-to-1 length-to-width ratio as part of the fixed gear recency action. This would allow a 58 ft LOA vessel to be a maximum of 19 ft wide. Figure 1 shows that a large proportion of 58 ft and 59 ft LOA vessels have length-to-width ratios outside this ratio, including several vessels with a length-to-width ratio of close to 2, indicating that the vessels are nearly 29 ft wide.

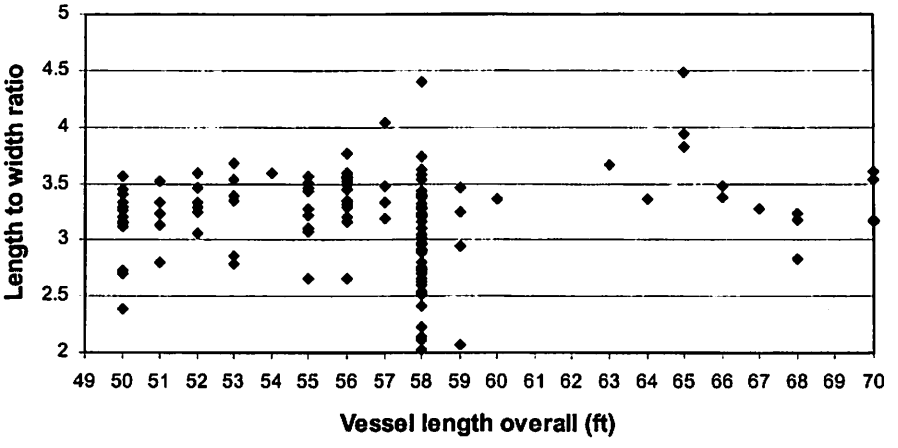

Figure 1. Length to width ratio of vessels 50 to 70 ft LOA that participated in the directed GOA Pacific cod fisheries using pot or hook-and-line gear during 2000 through 2008.[1]

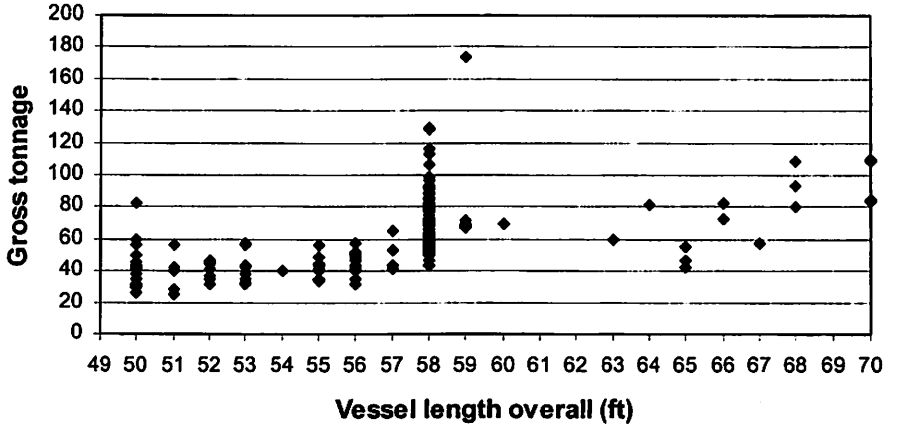

Figure 2. Simple gross tonnage of vessels 50 to 70 ft LOA that participated in the directed GOA Pacific cod fisheries using pot or hook-and-line gear during 2000 through 2008.

[1] Figures 1 and 2 include measurements for 182 vessels. Measurements were not available for 10 vessels.

Table 1 Length-to-width ratios of 58 ft and 59 ft vessels that used pot or hook-and-line gear in the directed GOA Pacific cod fisheries during 2000 through 2008.

Length-to-width ratio	Vessel count	Percent of total	Gross tonnage	Vessel count	Percent of total
2.00 - 2.25	7	7%	40 - 49	2	2%
2.25 - 2.50	3	3%	50 - 59	15	16%
2.50 - 2.75	22	23%	60 - 69	15	16%
2.75 - 3.00	19	20%	70 - 79	28	30%
3.00 - 3.25	29	31%	80 - 89	15	16%
3.25 - 3.50	9	10%	90 - 99	11	12%
3.50 - 4.00	5	5%	>100	8	9%

Source: ADFG Fish Tickets (catch data); NMFS (vessel length and gross tonnage data); USCG (vessel width data).

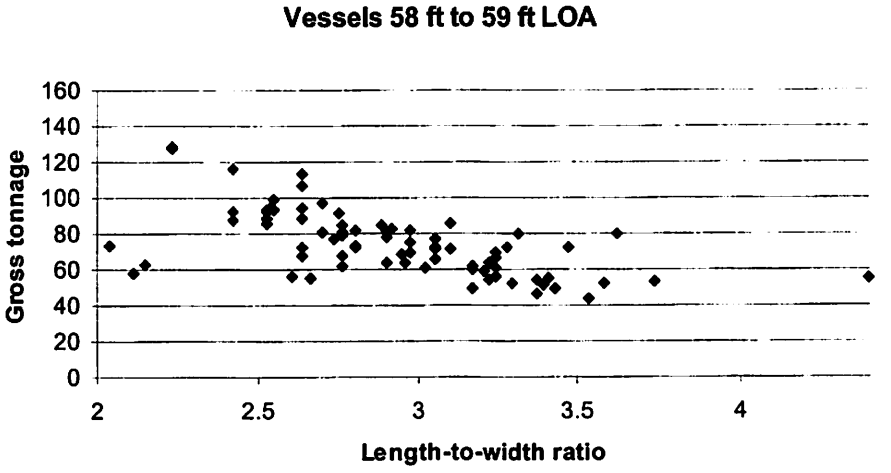

Figure 3 Relationship between gross tonnage and length-to-width ratio for 65 vessels 58 ft and 59 ft LOA that participated in the directed GOA Pacific cod fisheries using pot or hook-and-line gear, 2000-2008.

Table 1 reports the length-to-width ratios of 58 ft and 59 ft LOA pot and hook-and-line vessels that participated in the GOA Pacific cod fisheries during 2000 through 2008. More than half (53%) of the 94 vessels have a length-to-width ratio of less than 3. The majority of these vessels have a length-to-width ratio of 2.5 to 3, and only 10 vessels have length-to-width ratios of less than 2.5. A 58 ft LOA vessel with a length-to-width ratio of 2.5 is approximately 23 ft wide. Based on these data, the Council could consider alternatives to the 3-to-1 length to width ratio proposed in the fixed gear recency motion.

The Council has also considered basing a capacity limit on simple gross tonnage rather than on the length-to-width ratio. Simple gross tonnage is calculated using the length overall, width, and depth measurements for a vessel.[2] One problem with this approach is that a depth measurement is needed to calculate simple gross tonnage, and there are logistical difficulties with obtaining and enforcing depth measurements (addressed later in the paper). There is generally a linear relationship between gross tonnage and the length-to-width ratio (Figure 3), indicating that either measurement could be used as the basis of a capacity endorsement to achieve similar results. However, limiting width may provide an incentive for vessels to be built with greater depth, which could impact the safety of these vessels.

[2] Simple gross tonnage = LOA x width x depth x 0.67 for vessels with ship-shaped hulls (46 CFR Subpart E).

Another approach to limiting the capacity of the less than 60 ft LOA pot and hook-and-line fleet in the GOA Pacific cod fisheries is to establish trip limits. If the Council wishes to develop options for establishing trip limits, it could specify:

- Gear types subject to trip limits
- Vessel lengths subject to trip limits
- Options for possible trip limit amounts (mt or lbs per trip)

Table 2 reports the number of trips by trip size (lbs), gear, and length-to-width ratio, and provides an indication of the potential effects of setting specific trip limits for each sector. Table 3 reports the percent of trips of each size class. For example, if a 100,000 lb trip limit is established for pot and hook-and-line gear for vessels less than 60 ft LOA, only a small fraction of trips exceed this amount, and this restriction would have a limited effect on the <60 ft LOA pot and hook-and-line sectors. Table 4 reports the average trip size by gear, and Table 5 breaks down each gear type by the length-to-width ratio of vessels in that sector. This data is reported here to give the Council a starting point for considering whether trip limits are a desirable approach. If the Council chooses to forward options for trip limits for further analysis, additional data will be provided on trips.

Table 2 Number of trips by trip size, gear, and length-to-width ratio for 58 ft to 59 ft LOA vessels that participated in the directed GOA Pacific cod fisheries during 2000 through 2008.

Gear	Length to width ratio	>100,000 lbs	75,000 - 100,000 lbs	50,000 - 75,000 lbs	25,000 - 50,000 lbs	<25,000 lbs
Hook-and-line	>3	*	13	82	117	124
	2.75 - 3	0	*	*	*	12
	2.5 - 2.75	*	*	30	35	45
	2 - 2.5	*	*	*	*	4
Pot	>3	4	20	97	257	465
	2.75 - 3	0	25	57	161	260
	2.5 - 2.75	21	15	51	118	195
	2 - 2.5	6	7	30	40	67

Source: ADFG Fish Tickets (catch data); NMFS (vessel length data); USCG (vessel width data).

Table 3 Percent of trips by trip size, gear, and length-to-width ratio for 58 ft to 59 ft LOA vessels that participated in the directed GOA Pacific cod fisheries during 2000 through 2008.

Gear	Length to width ratio	>100,000 lbs	75,000 - 100,000 lbs	50,000 - 75,000 lbs	25,000 - 50,000 lbs	<25,000 lbs
Hook-and-line	>3	*	4%	24%	35%	37%
	2.75 - 3	0%	*	*	*	52%
	2.5 - 2.75	*	*	23%	27%	35%
	2 - 2.5	*	*	*	*	17%
Pot	>3	0%	2%	12%	30%	55%
	2.75 - 3	0%	5%	11%	32%	52%
	2.5 - 2.75	5%	4%	13%	30%	49%
	2 - 2.5	4%	5%	20%	27%	45%

Source: ADFG Fish Tickets (catch data); NMFS (vessel length data); USCG (vessel width data).

Table 4 Average trip size by gear type for 58 ft to 59 ft vessels targeting Pacific cod in the Western and Central GOA during 2000 through 2008.

			Average trip size	
Management area	Gear	Number of trips	Tons	Pounds
Central GOA	HAL	508	17.2	37,819
	POT	1273	13.1	28,890
Western GOA	HAL	39	12.1	26,598
	POT	1215	11.1	24,470

Source: ADFG Fish Tickets (catch data); NMFS (vessel length data); USCG (vessel width data).

Table 5 Average trip size by 58 ft and 59 ft LOA vessels targeting Pacific cod by gear and length-to-width ratio groupings during 2000 through 2008.

Management Area	Length to width ratio	Gear	Vessel count	Mt	Pounds
Central GOA	2 - 2.5	HAL	3	27.7	61,067
	2.5 - 2.75	HAL	8	19.2	42,328
	2.75 - 3	HAL	6	13.3	29,321
	>3	HAL	17	16	35,274
	2 - 2.5	POT	5	14.2	31,305
	2.5 - 2.75	POT	7	22.9	50,485
	2.75 - 3	POT	11	12.2	26,896
	>3	POT	21	9.5	20,944
Western GOA	2 - 2.5	HAL	0	0	0
	2.5 - 2.75	HAL	0	0	0
	2.75 - 3	HAL	1	*	*
	>3	HAL	9	12.8	28,219
	2 - 2.5	POT	9	15.9	35,053
	2.5 - 2.75	POT	19	11.3	24,912
	2.75 - 3	POT	11	12.3	27,117
	>3	POT	20	9.4	20,723

Source: ADFG Fish Tickets (catch data); NMFS (vessel length data); USCG (vessel width data).

3 Purpose and Need

If the Council decides to advance the vessel capacity issue for further analysis, it may wish to include a statement of purpose and need for the proposed action. The vessel capacity issue was originally part of the GOA fixed gear recency motion, but the Council removed the vessel capacity options from that motion at final action. The vessel capacity issue could be addressed as part of the GOA Pacific cod sector split action, or could be a separate action. The fixed gear recency problem statement included the following language on the vessel capacity issue:

Fishery policies have created incentives that encourage nontraditional efficiency improvements for the less than 60 ft LOA vessel class. [One] intent of the proposed amendment..... is to preserve the traditional vessel operational efficiencies within the fisheries.

4 Elements and Options

Several potential approaches to the vessel capacity issue were identified during Council and AP deliberations and public testimony:

(1) Placing a capacity endorsement on the LLP license (length-to-width ratio, width limit, or simple gross tonnage limit) to limit the size of the vessel that may be assigned to the license, in addition to the existing MLOA designation.

(2) Establishing trip limits for vessels less than 60 ft LOA using pot or hook-and-line gear in the GOA Pacific cod fisheries.

4.1 Capacity endorsement

Policy and Legal Considerations

The Council has not yet adopted a purpose and need statement to limit vessel width or simple gross tonnage. The Council would need to address several key issues in developing a purpose and need statement and a suite of alternatives. As an example, the Council would need to determine the specific LLP licenses on which the endorsement would be required, the specific ratio of width-to-length (or tonnage), and the rationale for that ratio (or tonnage). Several of the concerns NMFS raised in an earlier version of this discussion paper continue to be applicable. The earlier version of this discussion paper noted that the Council would need to address the ability of vessel owners to avoid the limitations by the purchase of LLP licenses not encumbered with capacity limitations, the potential costs to industry participants if they choose to purchase an unencumbered LLP license, and the implications for vessel owners who are unable to purchase an unencumbered LLP license. NMFS raised concerns that limitations on vessel capacity could increase costs for operating a specific size of vessel, presumably vessels that are more efficient than smaller vessels within that size class. NMFS raised concerns that these measures may not meet the requirements of National Standards 5 (consider efficiency) and National Standard 7 (minimize costs),[3] and that discouraging specific vessel configurations may conflict with the requirements of National Standard 10 (promote safety).[4] NMFS also raised concerns about the implications of a vessel capacity endorsement for compliance with the Regulatory Flexibility Act (RFA) and the Administrative Procedure Act (APA). The concerns raised by NMFS are explained in detail in the April 2009 discussion paper and are not repeated here.

NMFS consulted with USCG personnel to determine whether a specific ratio of length-to-width was commonly used in naval architecture to determine vessel safety or stability, and the potential implications of a vessel capacity endorsement on vessel safety more generally. USCG personnel noted that no specific ratio was commonly used in vessel construction, because vessel dimensions incorporate many different factors such as the intended uses of the vessel, fuel efficiency, and overall seaworthiness. USCG personnel could not identify a specific ratio that best represents current vessel construction standards or that would accommodate future vessel construction techniques. USCG personnel noted that vessel width

[3]MSA, Section 301: National Standard 5: "Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no measure shall have economic allocation as its sole purpose. National Standard 7: "Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication."

[4]MSA, Section 301: National Standard 10: "Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea."

and tonnage for vessels in the 58 foot and 59 foot length overall range has increased over the past several decades as vessel owners have built vessels to improve efficiency and address safety considerations.

USCG personnel noted that wider vessels generally are more stable than narrower vessels of the same length, and are more likely to promote safety for vessel operators and crew. USCG personnel expressed concerns that selecting a specific vessel length-to-width ratio and placing such restrictions on an LLP license could limit vessel construction choices available to vessel owners and adversely affect safety, particularly if an LLP license not encumbered with width restrictions were unavailable to a vessel owner. For example, the USCG noted that if vessel owners are limited by vessel length and width, vessel owners could choose to construct deeper draft or taller vessels to maximize vessel efficiency. The precise safety implications of any such construction techniques are unclear, but adding additional depth or height above the waterline could increase the proportion of the vessel exposed to icing conditions, and adversely affect the vessel's stability through significant change of its vertical center of gravity.

The USCG has encouraged expanding vessel stability standards to commercial vessels 50 feet in length or greater. These standards would apply only to new construction, and would not affect existing vessels. Current standards apply only to vessels 79 feet in length or greater. USCG is seeking legislative authority to mandate stability testing for smaller commercial vessels, but the passage of any legislation is uncertain, and any implementing regulations would not be effective for several years. USCG personnel noted that if width restrictions were placed on LLP licenses and vessels were constructed to comply with these restrictions, those vessel construction techniques could conflict with possible future stability requirements.

USCG personnel raised similar concerns about the implications of establishing a simple "calculated" gross tonnage limitation. First, the Council would need to clearly and specifically define how tonnage would be measured, because numerous different regulatory and traditional tonnage definitions exist. The Council could choose to apply the existing USCG definition and calculation of simple gross tonnage. A limitation on vessel tonnage rather than width could provide greater flexibility for vessel construction but many of the concerns raised about applying a vessel width restriction would continue to apply. It is not clear what the appropriate tonnage limitation would be, or whether that limit on vessel tonnage would preclude safer vessel construction techniques. USCG personnel noted that vessel tonnage would require specific measurement of several dimensions, and it would not be possible to measure those dimensions accurately unless the vessel was out of the water. USCG personnel noted that if the Council developed a tonnage requirement that differs from USCG definitions, it could create additional confusion for vessel operators and enforcement operations.

Technical Aspects of Vessel Capacity Measurements

The April 2009 discussion paper provided by NMFS noted that establishing clear descriptions of vessel depth and width is complicated by the range of vessel construction and measurement tools. Experience with the implementation of an LOA regulation suggests that defining specific nautical terms unambiguously is challenging, and enforcement actions that may disqualify a vessel's use with a specific LLP license are often the subject of appeal and litigation. NMFS noted that NOAA Office of Law Enforcement (OLE) coordinated with a marine surveyor to explore a potential definition of width and depth, and those draft definitions were provided to the Council.

NMFS noted that unlike LOA measurements that can be relatively easily verified by measuring a vessel at dock, width measurements are not easily determined by visually inspecting a vessel. NMFS noted that vessel superstructure can impede line-of-sight measurement, and motion of the vessel, even while at dock, can make accurate measurements difficult. Any protrusions of a vessel below waterline could not be reliably measured. NOAA Enforcement conducted a limited field test in early May in Kodiak to

determine the feasibility of measuring vessel width in the field. NOAA Enforcement did not use a specific definition of width, but were guided by the draft definition provided to the Council in the April 2009 discussion paper.

NOAA Enforcement envisioned and used a series of rigid bars, estimating both level and 90 degree angles with the keel, and visual estimates of the widest part of the vessel to begin the width measurements. The use of plumb bobs on strings as a measurement tool was difficult because the strings moved with both wind and vessel motion and did not provide an accurate measurement. Vessel width measurements were conducted by personnel onboard the vessel. Vessel width measurement conducted from the dock was problematic because the vessel pitches and rolls in wave conditions and even small waves can change the measurement significantly. Based on this limited field test, NOAA Enforcement concluded that for certain vessel construction types, field testing could be accurate within a foot to several feet depending on the vessel and vessel movement conditions present at the time of measurement, and could be sufficient to guide enforcement personnel to require a survey of the vessel's width if these tests differed substantially from the width endorsement on the LLP license. However, NOAA Enforcement noted that the use of rigid bars would not provide reasonably accurate measurements for all vessel types, or when the width of the vessel was at the waterline. Intervening superstructures, shelter decks, or other vessel construction styles made onboard measurements difficult and of questionable accuracy.

NOAA Enforcement note that even though in some cases a field measurement could be used to verify vessel width to a reasonable degree of accuracy, in many cases, field tests of width would be impractical. Because NOAA Enforcement cannot predict the specific vessels where field measurements would be practical, NOAA Enforcement continues to recommend that vessel width or depth measurements be made while a vessel is out of the water by an independent third-party such as a marine surveyor or naval architect.

NMFS would require that measurements be conducted by certified marine surveyors or marine architects to avoid the risk of unintentional or intentional misreporting. The potential complexity of measurements would require that a standard approach be adopted by all surveyors. Individuals that self-report their vessel depth or width would be less likely to apply a uniform standard and may have little incentive to do so. To ensure up-to-date measurements, NMFS would require vessel owners to periodically measure the vessel to ensure that any modifications that affected a vessel's dimensions are provided to the agency. Preliminary discussions with NMFS, NOAA OLE, and USCG personnel suggest that defining a change in vessel dimensions that would require re-measurement is particularly difficult, and NMFS would have to rely on the vessel owner to self-report any such modifications. A requirement for regular re-measurement of a vessel is likely to result in more accurate information. NMFS has not determined the appropriate requirement for re-measurement, but annual, biennial, or triennial timeframes have been discussed. NMFS would likely require that a survey be conducted for a vessel prior to approving the designation of an LLP license for that vessel if that vessel does not have a certified survey on file. The April 2009 discussion paper described the potential costs, number of potential surveyors, and other practical considerations of conducting a vessel survey in detail, and that discussion is not repeated here. Because of the potential number of vessels to be surveyed, the costs of a survey, and the need for regular re-measurement, the total reporting burden and cost to the industry to implement and enforce an LLP license width or SGT endorsement could be substantial.

Implementation Considerations

In the April 2009 discussion paper, NMFS recommended that if any width restriction were placed on license, it ought to be based on a ratio of the length-to-width on the MLOA of the LLP license rather than attempting to link the license to a specific vessel. This approach would be much simpler to implement and would not require a potentially long, contentious, and expensive process of remeasuring a vessel's

LOA, or result in potential delays in endorsing a specific LLP license if the existing LOA is challenged and appealed. Because the MLOA is listed on the LLP license, it is no longer subject to challenge through the appeals process, and calculating the width endorsement from that MLOA using a simple ratio would not be subject to appeals procedures.

If the Council chooses to require vessel owners to measure their vessels and obtain certified length, width, or depth measurements, NMFS would not be able to require those measurements until after the effective date of a final rule. Requiring vessel owners to measure their vessels and provide those measurements to RAM before the issuance of a width or SGT endorsement on an LLP license could cause substantial delays in the implementation of any vessel capacity endorsement. Because these measurements would need to be conducted while the vessel is in drydock, timing a vessel survey with shipyard activity could be problematic, particularly if large numbers of vessels are subject to this provision.

4.2 Trip Limits

The Council could develop options for establishing trip limits that apply to pot and hook-and-line catcher vessels participating in the GOA Pacific cod fisheries. The advantages of trip limits are that they are easily enforced and can apply to any set of vessels (e.g., based on gear type and/or vessel length) using information that is already collected by NMFS. No additional vessel measurements would need to be made. Trip limits could apply equally to vessels with traditional dimensions and to 'Super 8' vessels. Some of the disadvantages of establishing trip limits include the potential that a greater proportion of fish will be discarded at sea if vessels exceed the trip limit. This may not be a significant problem for pot vessels, which may be able to adjust their operations to avoid exceeding a trip limit. Hook-and-line vessels may be more likely to exceed trip limits, depending on the amount of gear deployed and catch rates.

Table 3 shows the number of trips by size (lbs) made by pot and hook-and-line vessels in the GOA Pacific cod fishery during 2000 through 2008. The Council could use this information as a starting point for developing options for trip limits. For example, if a 100,000 lb trip limit is established for pot and hook-and-line gear for vessels less than 60 ft LOA, only a small fraction of trips exceed this amount, and this restriction would have a limited effect on the <60 ft LOA pot and hook-and-line sectors.

If the Council wishes to develop options for establishing trip limits, it could specify:

- Gear types subject to trip limits
- Vessel lengths subject to trip limits
- Options for possible trip limit amounts (mt or lbs per trip)

5 Action by the Council

The purpose of this discussion paper is to provide the Council with additional information on ways to address the vessel capacity issue in the GOA Pacific cod fishery. At this meeting, the Council could develop a purpose and need statement and advance a set of options for further analysis, or take no further action. If the Council chooses to forward this action for further analysis, the Council could direct staff to add the options and problem statement language to the GOA Pacific cod sector split motion or to develop a separate analysis.

HOCKEMA & WHALEN ASSOCIATES

NAVAL ARCHITECTS • MARINE ENGINEERS • CONSULTING ENGINEERS

May 1, 2009
HWA P0906

To all Council Members
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501

Also submitted by Fax: 907 271 2817

Subject: **GOA Fixed Gear Capacity Limits**

Reference: NPFMC News & Notes April 2009

From: Hal Hockema, P.E., Naval Architect

Dear Council Members:

I am submitting this letter in response to discussion of capacity limitations for fishing vessels 58'-60' in length in the NPFMC April 2009 News & Notes. In reading some proposed limitations and discussing them with Ms. Jeannie Heltzel, it is obvious that most proponents of various limitations are viewing the issue from a limited and sometimes selfish paradigm. I would like to thank Ms. Heltzel for her openness in discussing these prospective capacity limits.

In this letter I hope to offer as objective and simple an analysis of this subject that is possible, rather than from narrow self interests.

PERSONAL BACKGROUND AND FISHING VESSEL DESIGN PHILOSOPHY

My personal perspective on fishing vessel design has been developed from the following experiences:

- I grew up in Newport, Oregon, a fishing town.
- I was employed on a fuel dock serving fishing vessels as a summer job in high school.
- I worked on shrimp draggers as a deck hand as summer jobs in college.
- I have worked as a naval architect for nearly 30 years.
- Approximately 75% of my professional experience as a naval architect is within the Alaska and West Coast fishing industries, designing and working with vessels from 50' seiners to 300'+ factory trawlers.
- In particular, I have extensive experience designing 58' and 59' fishing vessels engaged in salmon seining, herring seining, longlining, pot fishing and trawling.
- My focus on designing fishing vessels is to create safe, highly productive and aesthetic vessels for the targeted fisheries. I am equally satisfied designing narrow or wide vessels, as long as the dimensions are not too extreme for the intended fisheries.

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DISCUSSION OF SIZE AND CAPACITY ISSUES RELATED TO 58'-60' FISHING VESSELS IN ALASKA

A 1:3 beam to length ratio for a 58' vessel yields only a 19.3' beam. <u>This is a bad idea!</u>

To my knowledge, no 58' vessels this narrow have been built since 1993. I believe there were only four vessels built in 1991-1993 to that size.

Those boats cost nearly as much as building a much larger 58' x 23' vessel, which became the large boat 58' Alaska "standard" at about that same time. Therefore, the "efficiency" of narrower / smaller vessels is not justified, at least in a new construction scenario. The large 58' and 59' boats excel in ocean fisheries, as they are safer and more productive than smaller vessels.

Most of the 58' fishing vessels in Alaska with 19' beam or less were built at least 35 years ago. These vessels were built primarily for one fishery, seining. The seining seasons are during late spring through early fall, the better weather periods for fishing. Seining is usually done either close to port or in partially protected bays. Over the years, many of these vessels have entered other ocean fisheries, and many have overtaxed the vessel's stability characteristics and only are able to operate legally because the Coast Guard has not required stability calculations be performed on vessels of less than 79' in length, up to now. The Coast Guard is currently developing stability regulations for vessels down to 50' in length that will show that many of these older vessels do not meet modern ocean stability standards when operating with deck loads or tanked fish holds.

The 1:3 beam to length ratio proposal seems to have omitted any mention of hull depth restrictions. Can you imagine a 58'L x 19'B vessel with no depth restrictions? There will continue to be a push for larger boats with higher capacity and to achieve this; deeper boats would become the norm for new construction. Inordinately deep boats, relative to a limited beam, do not make good sea boats and would result in huge amounts of fixed ballast to ensure good stability characteristics.

Length limits have no tangible basis for ocean fisheries.

For confined fisheries where crowding of vessels may occur, as in seining and gillnetting, length limits make sense because much longer boats could "bully" smaller boats competing for the same fish. However, in some cases larger vessels are at a disadvantage when seining because they lack the maneuverability and shallow draft that smaller vessel may possess.

For ocean fisheries, length limits only reduce the overall safety and fuel efficiency of the vessel (a longer vessel generally requires less energy for a given speed), unless "weather" watches are made and boats are restricted to port by the fisheries regulators. I think this is not the management regime anyone wants to be in charge of.

I suggest that the 58' limit developed for seiners 50 years ago also did not envision significant time spent in open ocean fisheries — some in winter — with heavy gear on deck. For the 58' length limit to remain viable, larger wider vessels need to be built and many existing narrow vessels need to be sponsoned (widened) to safely fish in those offshore weather conditions.

A simplified gross tonnage limitation.

This seems to be a good idea on the surface, in that the beam and depth of a boat could be adjusted to the best ratio for a new vessel. A 100 gross tonnage limit has been proposed. For comparison, a 58'L x 24'B x 11'D vessel measures in at about 102 gross tons.

However, even this remains an arbitrary limit. If a larger vessel that exceeds this requirement works economically, then it should be allowed to be built. I have seen vessels built that were too large for specific fisheries that did not work and so the owner had to move on to a different fishery or suffer the economic consequences.

Trip limits.

This seems simple on the surface, but who is going to make that determination, after several large boats have been built with larger trips planned? Seems like Pandora's box to me.

Fish hold capacity limits.

Another quandary is how to determine limits. It could be based on existing capacities for existing vessels and a new limit could be chosen for new construction vessels. But what about existing vessels that need to be sponsoned for stability compliance (safety)? Are they to be stuck with a small boat capacity after widening their boat? In the Bering Sea and Gulf of Alaska Trawl fleets, many vessels have been successfully sponsoned over the years in order to improve stability with large deck loads and almost all of them justified a significant portion of the sponsoning construction cost by increasing the fish hold size.

Conclusions.

Hockema & Whalen Associates has designed two 58' vessels currently under construction that will be delivered this summer; a 58' x 27' seiner / pot fisher and a 58' x 25' seiner / pot fisher / longliner. Both vessels would exceed any of the limits discussed above. The 58' x 27' vessel will measure in at 120 gross register tons and the 58' x 25' vessel will measure in at 111 gross register tons. We have taken measures in designing the hulls to make these vessels more fuel efficient than other boats of similar size. A profile of the 58' x 27' FV is provided for your viewing on the next page.

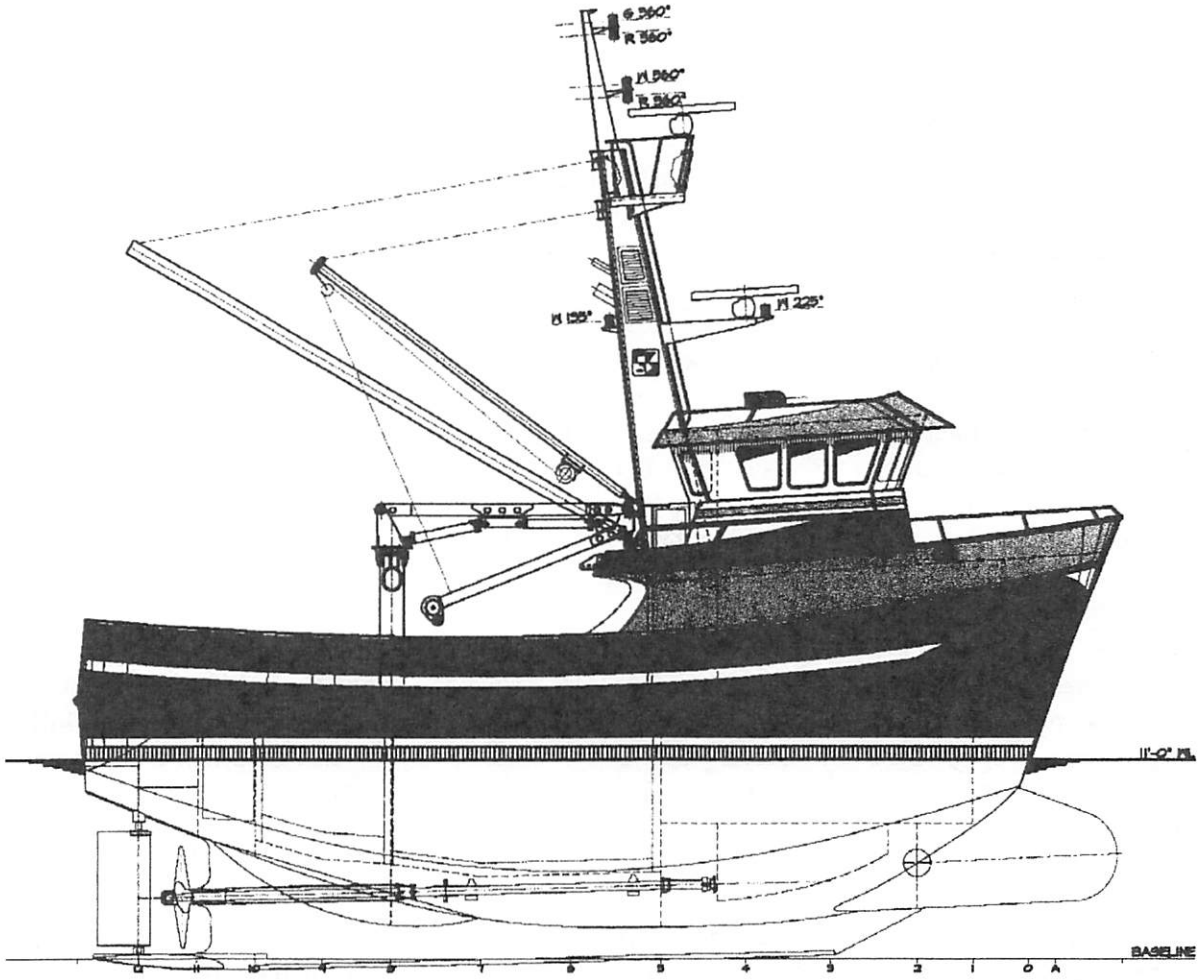
Having said that, these two boats are in a range where not too many small boat fishermen care to own such a large boat. As a designer, I prefer to be free to design the best boat for the job. In these two cases, I feel that our firm has done just that. In many other cases, smaller vessels will be the better choice. In very few cases, even larger vessels than these may be justified.

Obviously, this is not an easy issue to regulate, and it may be better to just leave it alone. In many cases like this, the new regulation only "redistributes the cards on the table" but overall, nothing is really accomplished. ***Another question worth considering is "will this prospective regulation benefit the consumer of the fish?".*** If not, don't do it. I think you should leave things as they are.

Thank you for the opportunity to express my knowledge and feelings regarding this subject. Please call me with any questions you may have regarding the above comments.

Sincerely,
HOCKEMA & WHALEN ASSOCIATES, INC.

Hal G. Hockema, P.E.
Principal Naval Architect – President



58' x 27' FISHING VESSEL

C-1(c)

Proposed Purpose and Need Statement

GOA Fixed Gear Pacific cod Vessel Capacity Regulation

Submitted by Jeff Stephan
United Fishermen's Marketing Association
June 4, 2009

The North Pacific Fishery Management Council (Council) took final action during the April 2009 Council meeting to recommend an Amendment to the Gulf of Alaska Groundfish Fishery Management Plan (GOA FMP) that will implement gear-specific (pot, hook-and-line and jig) GOA Pacific cod (p. cod) "LLP Endorsements" for Western GOA and Central GOA (CGOA) fixed gear LLP licenses in the directed p. cod fisheries in the Western and Central GOA.

Western and Central GOA p. cod fixed gear fisheries have been subject to intense competition. Competition among fixed gear participants in the Western and Central GOA p. cod fisheries has increased for a variety of reasons, including increased market value of Pacific cod products, a declining ABC/TAC, increased participation by harvesters displaced from other fisheries and introduction of capital that has been accrued from participation in rationalized fisheries.

The Council envisioned the need to provide stability to and ensure the sustainability of the LLP Endorsement holders, fleets and communities that customarily and traditionally depend upon and participate in the CGOA fixed gear p. cod fisheries when it adopted LLP Endorsements for the GOA fixed gear p. cod fishery.

It is anticipated that there will be significant growth in the participation of a new generation of high capacity "Super 8" vessels in the GOA fixed gear p. cod fisheries. This new generation of high capacity Super 8 vessels significantly departs from the general, customary and traditional design, participation, capacity and operational characteristics of the fleet that formed the basis of the Council LLP Endorsement action. The growth in participation of Super 8 vessels in the CGOA p. cod fixed gear fishery will significantly redistribute the benefits that were otherwise intended to result from the Council LLP Endorsement action. The Council recognized the need to address the growth and increasing participation from Super 8 vessels when it expressed interest to explore the possible implementation of a "Capacity Endorsement" that would regulate the entry of the new generation of high capacity Super 8 vessels as a supplementary action to the LLP Endorsement action.

The unregulated growth and entry of the new generation high capacity Super 8 vessels, and the redistribution of benefits that will result thereof, will have detrimental impact to the stability and sustainability of the customarily LLP Endorsement holders, fleets and communities that were intended to benefit from the Council LLP Endorsement action.

Many CGOA fixed gear p. cod LLP Endorsements holders and communities have made significant investments, have long catch histories, and are dependent on the CGOA p. cod resources. These long-term participants, and the associated fleets and communities, need protection from the impacts of the anticipated growth in the entry of new generation high capacity Super 8 vessels who have the ability to significantly increase their participation in the CGOA fixed gear p. cod fisheries, thereby significantly impacting the distribution of benefits from this fishery, and threatening the stability and sustainability of these traditional and customary entities.

The intent of the proposed amendment is to establish regulatory guidelines that govern the anticipated growth in the entry of new generation high capacity "Super 8" vessels, and to preserve the objectives, benefits, stability and sustainability for LLP Endorsement holders, fleets and communities that were envisioned by the Council when it adopted the GOA Endorsements actions.