

Public Testimony Sign-Up Sheet


Agenda Item C-4 TRAWL Recency

MONDAY
1:00 PM
TIME CERTAIN

	NAME (PLEASE PRINT)	AFFILIATION
1	Donna Parker	Arctic Storm
2	Kenny Town	Freezer Longline Coalition
3	Russell Pritchett	Independent Cod Trawlers Assn.
4	Paul Gronholdt	F/V ST. FRANCIS
5	Jim Stone	F/V Ocean Hunter
6	Clem Tillian	AFC
7	Joe Childers	WESTERN GOA Fishermen Assoc
8	Tom Evich	FV KIRAN EVICH
9	dave Dwyer/John Moller	ADAK Fisheries
10	Chuck McCallum	Lake & Pen Borough
11	DAVID ESTERBACK	F/V PACIFIC MAID
12	Gale K. Vick/FRED C.	GOA03
13	Dave Woods	U.S. Seafoods
14	Tony Gregorio	Chignik
15	Julie Penney	AGPB
16	Al Burch	ADA
17	BRENT PAINE	UCB
18	Mike Swetsof	Adak
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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.

MEMORANDUM

TO: AP and Council Members
FROM: Chris Oliver 
Executive Director
DATE: March 31, 2008
SUBJECT: BSAI & GOA Trawl LLP Recency Analysis

ESTIMATED TIME 6 HOURS

ACTION REQUIRED

Final action on BSAI and GOA trawl LLP recency analysis (RIR/EA/IRFA)

BACKGROUND

In February 2008, the Council completed initial review of the draft RIR/EA/IRFA to remove latent trawl CV and CP licenses from the BSAI and GOA groundfish fisheries, and released the analysis for public review subject to some changes. In general, the amendment proposes two alternative approaches to remove subarea endorsements (BS, AI, WG, and CG) from latent trawl catcher vessel and trawl catcher processor licenses. In order to retain the area endorsement, the license must meet specified landings criteria. Note that there are three provisions which outline exemptions to the proposed landings criteria: 1) an AFA exemption from the BSAI landings criteria; 2) a Central Gulf rockfish pilot program exemption from the CG landings criteria; and 3) a BSAI Amendment 80 exemption from the BSAI landings criteria. Other exemptions are proposed as options within the amendment package.

Given the proposed criteria and exemptions, the amendment package overall could reduce the number of trawl CV endorsed licenses by a *maximum* of: 10% in the AI; 23% in the BS; 52% in the CG; and 59% in the WG. This action could also reduce the number of trawl CP endorsed licenses by a *maximum* of: 11% in the AI; 6% in the BS; 26% in the CG; and 27% in the WG.

At its February 2008 meeting, the Council approved a restructuring of the components, alternatives, and options, as well as made some substantive changes to the alternatives under consideration. In brief, the Council removed an option that would exempt all AI endorsements from meeting the proposed landings criteria. The Council also added Option 5 under Component 1, Alternative 3, which would allow licenses endorsed for both the Western and Central Gulf with significant (20, 30, or 40) landings in only one of those Gulf areas to retain both Gulf area endorsements. Note that minor changes to the language of Option 5 are suggested in the analysis (p. xii and p. 28) in order to better reflect the intent as stated at the time the option was added.

The Council also added a suboption under Component 2. Component 2 provides that groundfish harvest history is credited to each LLP stacked on a single vessel at the time the landing was made. The new suboption would require any licenses that are stacked on a single vessel at the time of implementation of this action to be linked together in perpetuity. The rationale for adding this suboption is related to concerns with double counting groundfish history and qualifying two licenses that can then be used

separately in the future to increase effort. The analysis of this suboption notes that while concerns exist relative to increasing future effort, double counting history is not relevant in this action, since allocations are not at issue. If the Council wishes to ensure that this action should not be interpreted by the public as being determinative for the crediting of catch history in the future, it could include a provision in its motion stating that in future allocation actions, the Council may credit catch to a single license in cases in which multiple licenses are stacked on a vessel. Should the Council want to select this suboption as part of its preferred action, there are a number of questions and clarifications outlined in the analysis that must be addressed.

Finally, due to a number of legal and policy concerns, the Council removed an option under Component 4 which would have exempted a number of vessels identified by the Aleut Corporation from the requirement to hold an AI endorsement to fish groundfish in the AI. Two remaining options under Component 4 would award AI endorsements to non-AFA trawl catcher vessel licenses (<60' and ≥60') that meet specified landings thresholds in the AI parallel or State water (Pacific cod) fisheries. The Council also added an option in February that would make those newly created AI endorsements severable and transferable from the overall license, which differs from every other endorsement under the existing License Limitation Program. These AI endorsements could only be transferred to other non-AFA trawl CV licenses with the appropriate (<60' or ≥60') MLOA designation.

Given that there are very few non-AFA trawl catcher vessels with AI endorsed licenses, the intent under Component 4 was to create new AI endorsements in order to help facilitate the development of a resident fishing fleet in Adak, pursuant to the Council's problem statement. With the removal of Option 3, which proposed to allow the Aleut Corporation to control which vessels would be exempt from the AI endorsement requirement, there are no options under Component 4 that guarantee that the AI endorsements created would be used to deliver groundfish to Adak. However, the remaining options could create up to 15 new AI endorsements on non-AFA trawl catcher vessel licenses that meet the landings criteria, thus providing an opportunity for new effort in the Federal AI groundfish fisheries off Adak. If these endorsements are made severable and transferable from the overall license, it greatly increases the potential that they will be used in the AI, as the license holder that earns the endorsement can sell or lease the endorsement to an estimated universe of 91 eligible non-AFA trawl catcher vessel licenses. The analysis discusses the details and anticipated effects of this action.

The analysis was sent to you on March 10, and the executive summary is attached as **Item C-4(a)**. The current suite of alternatives is provided as **Item C-4(b)**. For the Council's reference, an expanded version of Table 33 from the analysis is provided as **Item C-4(c)**. While not previously specified, this action would require both regulatory and FMP amendments (BSAI FMP Amendment 92/GOA FMP Amendment 82). Final action is scheduled for this meeting.

EXECUTIVE SUMMARY

This Regulatory Impact Review (RIR) was prepared to meet the requirements of Presidential Executive Order 12866 for an evaluation of the benefits and costs, and of the significance, of a proposed Federal regulatory action. Analysts have also drafted an environmental assessment (EA) and initial regulatory flexibility analysis (IRFA) to comply with the National Environmental Policy Act and the Regulatory Flexibility Act, respectively. The IRFA will be revised upon selection of a preferred alternative by the North Pacific Fishery Management Council (Council), in order to reflect the potential economic effects of the proposed action on directly regulated small entities.

The Council is considering amending Federal regulations related to the License Limitation Program (LLP) and its application of area endorsements on LLPs held by trawl catcher vessels and trawl catcher processors. Overall, the action under consideration would remove area or subarea endorsements from latent LLP licenses on trawl catcher processors and trawl catcher vessels. Table E-1 and Table E-2 provide data on the current number of trawl CV and trawl CP licenses with BS, AI, CG, and WG endorsements, respectively.

An example of how to read the tables is as follows: there are 148 trawl CV licenses with a BS endorsement and 48 trawl CV licenses with an AI endorsement. Of those 148 licenses with a BS endorsement, 102 have only a BS endorsement and 46 have both BS and AI endorsements. Of those 48 licenses with an AI endorsement, 2 have only an AI endorsement and 46 have both BS and AI endorsements. Thus, the total number of licenses with a BS and/or AI endorsement is 150 (102 + 2 + 46).

Table E-1 Number of trawl CV LLPs endorsed for the BS, AI, CG, and WG

All Trawl CVs	235 licenses	All Trawl CVs	235 licenses
BS	148	BS only	102
AI	48	AI only	2
CG	176	BS and AI	46
WG	160	CG only	58
		WG only	42
		CG and WG	118

Source: NMFS Restricted Access Management LLP file (Jan 6, 2008)

Table E-2 Number of trawl CP LLPs endorsed for the BS, AI, CG, and WG

All Trawl CPs	64 licenses	All Trawl CPs	64 licenses
BS	62	BS only	9
AI	54	AI only	1
CG	27	BS and AI	53
WG	26	CG only	11
		WG only	10
		CG and WG	16

Source: NMFS Restricted Access Management LLP file (Jan 6, 2008)

In the review process to date, several decisions have been made to simplify the proposed action. The current suite of alternatives, components, and options is provided in Section 2.4.

Table E-6 of this executive summary provides a general outline of the alternatives, components, and options under consideration.

There are three primary alternatives under consideration in this analysis. **Alternative 1** (no action) would not make any changes to the current License Limitation Program. **Alternative 2** would remove the subarea (BS, AI, WG, and/or CG) endorsements on trawl LLPs unless the license meets a minimum landing threshold in the overall management area (BSAI and/or GOA). **Alternative 3** would remove the subarea (BS, AI, WG, and/or CG) endorsements on trawl LLPs unless the license meets a minimum landing threshold in the specified subarea. Thus, the only difference between Alternative 2 and Alternative 3 is the basis for applying the landing thresholds. Alternative 2 would remove subarea endorsements on latent licenses by applying the threshold criteria at the management area level, i.e. BSAI and GOA. Alternative 3 would remove subarea endorsements on latent licenses by applying the threshold criteria at the management subarea level, i.e., BS, AI, WG, and CG.

In effect, if the license at issue has only one area endorsement and it does not meet the landing threshold selected, the entire license is extinguished. If the license at issue has multiple area endorsements and it does not meet the landing threshold for a specific area, the license would be reissued with only the area endorsements for which it qualifies. The area endorsement for which the license does not qualify would be removed.

There are several exemptions to the action proposed under Alternatives 2 and 3. BSAI LLP endorsements originally issued to AFA vessels and any non-AFA BSAI LLP endorsements assigned to AFA vessels not having any other license are exempt. In addition, Central Gulf endorsements on Central Gulf rockfish pilot program LLPs are exempt. Finally, BSAI LLP endorsements originally issued to qualified Amendment 80 vessels and LLPs used for eligibility in Amendment 80 are exempt.

There are four components that outline the details of the action alternatives; the exact same components are applicable under Alternative 2 and Alternative 3. **Component 1** describes the minimum landing thresholds that trawl licenses would need to meet in order to retain their area or subarea endorsements. These thresholds are either one or two landings in the specified area, during the period 2000-2005 or 2000-2006. As noted in the respective tables for the various fleets, the number of licenses meeting the one landing and two landings thresholds are relatively similar. Component 1 includes an option to exempt BSAI endorsements on LLPs with an MLOA of <60' with trawl or non-trawl landings in the BSAI directed Pacific cod fishery during 2000-2005.

Component 2 is a provision, in that the Council previously determined that groundfish harvest history will be credited to each LLP that is stacked on a single vessel at the time of the landing. This decision was essential to staff being able to complete the analysis of impacts. A suboption to this provision would require that at the time of implementation of the proposed rule, stacked licenses would remain linked and could not be severed back into separate licenses. There are several outstanding questions associated with this suboption.

Component 3 provides an option to exempt GOA LLP endorsements originally issued to vessels qualified under Amendment 80 and those used for eligibility in Amendment 80 from the GOA landing thresholds.

Component 4 proposes to create new AI endorsements on trawl LLPs that meet specified criteria. An option is proposed to award AI endorsements to non-AFA trawl catcher vessel LLPs with an MLOA of <60' if landing thresholds are met in the Aleutian Islands parallel Pacific cod fishery during 2000-2006. A second option would award AI endorsements to non-AFA trawl catcher vessel LLPs with an MLOA of ≥60' if they have one landing in the Aleutian Islands parallel Pacific cod fishery during 2000-2006 or

Aleutian Islands State water Pacific cod fishery and meet landings thresholds in the BSAI Pacific cod fishery in 2000–2006. A third option would allow all of the new AI endorsements created under this component to be severable from the overall license and transferable to any non-AFA trawl CV LLP with the appropriate length designation (<60' or ≥60').

Overall, Component 4 would potentially add an estimated range of 12 to 15 new AI endorsements, awarded to eligible non-AFA trawl CV LLPs. This is the possible range if Option 1 and Option 2 are both selected under the preferred alternative. Note that under Option 3 these AI endorsements would be severable and transferable, unlike any other endorsement in the current License Limitation Program. Currently, endorsements are not severable from the overall license. This option was proposed to create more opportunity for the endorsements to be used in the AI.

Thus, Component 1 and Component 4 are diametrically opposed management actions (i.e., extinguishing area endorsements under Component 1, while creating new AI endorsements under Component 4), which creates some incongruity in the supporting analysis. The Council's problem statement for the proposed action (see Section 2.1) provides the primary rationale for including Component 4. In effect, there is concern that there is a need to increase the number of valid non-AFA trawl LLPs in the Aleutian Islands management area, such that a resident fishing fleet can develop in Adak and participate in the Pacific cod, Pacific Ocean perch, and Atka mackerel fisheries in the AI. Due to this identified need, the Council agreed to consider different criteria for trawl CV area endorsement eligibility in the AI. However, the action is not limited to proposing criteria that are less restrictive in the AI than those proposed for other areas; options are instead proposed to create new AI endorsements for the non-AFA trawl CV sector.

The primary action under consideration is the removal of trawl LLP area endorsements. Table E-3 is a summary table for the trawl CV sector; it shows the effect of applying the landings criteria (Component 1, Options 1–3) proposed under Alternatives 2 and 3 to the trawl CV sector. This table accounts for the three exemptions described above that are provisions of this action. Table E-3 applies to the trawl CV sector and therefore excludes AFA licenses from the BSAI endorsement thresholds, and CG rockfish pilot program licenses from the CG endorsement thresholds.

Table E-3 Number of trawl CV licenses that qualify under Component 1, Options 1–3, with exemptions applied

Alternative	Endorsement	Harvest Area ¹	Number of endorsements	Option 1 2000-2005		Option 3 2000-2006	
				1 Landing	2 Landings	1 Landing	2 Landings
ALT 2	AI	AI or BS	6	1	1	1	1
ALT 3	AI	AI only	6	1	1	1	1
ALT 2	BS	AI or BS	47	14	13	15	14
ALT 3	BS	BS only	47	14	13	15	14
ALT 2	CG	CG or WG	130	78	72	80	72
ALT 3	CG	CG only	130	49	39	49	39
ALT 2	WG	CG or WG	160	96	86	98	86
ALT 3	WG	WG only	160	79	65	82	65

¹Harvest area means the management area in which the landings must be made in order to keep the endorsement.

Source: ADF&G fishfcket files merged to a January 6, 2008 RAM Division LLP file.

Note: This table excludes trawl CV licenses that are exempt under this action (CG rockfish licenses are excluded from the CG; AFA licenses, as well as 2 non-AFA licenses attached to AFA CVs, are excluded from the BSAI).

In sum, for the universe of trawl CV LLPs subject to Component 1:

- The number of AI endorsed licenses would be reduced from 6 to 1 under Alternative 2 or 3
- The number of BS endorsed licenses would be reduced from 47 to 13–15 under Alternative 2 or 3

- The number of CG endorsed licenses would be reduced from 130 to 72–80 under Alternative 2 or 39–49 under Alternative 3
- The number of WG endorsed licenses would be reduced from 160 to 86–98 under Alternative 2 or 65–82 under Alternative 3

Under Alternative 3, there is a separate option (Option 5) that would allow trawl CV licenses to retain both their WG and CG endorsements if they have a significant number of landings (20, 30, or 40 landings) in at least one of the Gulf areas in recent years (2005, 2006, or 2007). Option 5 thus allows more licenses to qualify to retain their Gulf endorsements than Alternative 3 alone, but fewer to qualify than under Alternative 2.

Table E–4 shows the effect of applying the landings criteria under Alternative 3, Component 1, Option 5, to the trawl CV sector. This table shows the *additional* number of trawl CV licenses that would qualify to retain their Gulf endorsements, over and above those that qualify under Alternative 3, Options 1–3.

Table E–4 Number of additional trawl CV licenses with WG or CG endorsements that do not qualify under Alternative 3, Options 1, 2, or 3, but qualify under Alternative 3, Option 5

Endorsement	Option under Alternative 3 & number of qualifying licenses	Additional licenses that qualify under Option 5 Landings in either 2005 or 2006 or 2007		
		20 landings	30 landings	40 landings
CG	Option 1 2000-2005, 1 landing (49 licenses)	10	2	0
CG	Option 2 2000-2005, 2 landings (39 licenses)	11	2	0
CG	Option 3 2000-2006, 1 landing (49 licenses)	10	2	0
CG	Option 3 2000-2006, 2 landings (39 licenses)	11	2	0
WG	Option 1 2000-2005, 1 landing (79 licenses)	10	7	2
WG	Option 2 2000-2005, 2 landings (65 licenses)	12	9	3
WG	Option 3 2000-2006, 1 landing (82 licenses)	10	7	2
WG	Option 3 2000-2006, 2 landings (65 licenses)	12	9	3

Source: ADF&G fishticket files merged to a January 6, 2008 RAM Division LLP file.

Note: This table excludes trawl CV licenses exempt under this action (CG rockfish licenses are excluded from the CG).

Table E–4 shows that if Alternative 3 is selected as the overall preferred alternative, Option 5 would qualify several additional CG and WG endorsed licenses. In sum:

- 2 to 11 additional CG endorsed trawl CV licenses qualify under Alternative 3, Option 5
- 2 to 12 additional WG endorsed trawl CV licenses qualify under Alternative 3, Option 5

Note that although the language of the option is somewhat complicated, the intent under Option 5 is that a license holder could still qualify to retain their CG and WG endorsements simply by meeting the one or two landings criteria under Alternative 3. However, for those license holders that only meet the one or two landings criteria under Alternative 3 for one Gulf subarea (e.g., CG), Option 5 allows them an opportunity to retain both their CG and WG endorsements if they have 20, 30, or 40 landings in either Gulf area in 2005, 2006, or 2007. Thus, participants with recent landings in only one Gulf area can retain both their CG and WG endorsements by meeting the higher threshold proposed in Option 5. This option was proposed in part to allow active participants in the CG to keep their WG endorsements, as several of the Western Gulf TACs (e.g., pollock, flatfish, Pacific cod) have not been fully harvested in recent years.

The Council may want to consider modifying the language of Option 5 to better reflect the intent as stated at the time the option was added. As it is currently written, it is possible that it could be interpreted to mean that a license holder cannot qualify to keep their WG endorsement and CG endorsement simply by meeting the one or two landings criteria under Alternative 3, which is not the

intent. Option 5 was proposed for the license holder that only has (many) landings in one Gulf subarea, as a way to retain both Gulf area endorsements. Staff suggests the following revisions to the language of Option 5 (additions are underlined; deletions are stricken):

Option 5. (applicable only under Alternative 3)

One can also ~~in order to~~ retain both GOA subarea endorsements if significant landings ~~must~~ have been made in one of the management areas (e.g., WG or CG). The trawl CV LLP must meet the landing criteria selected (Options 1, 2, or 3 above) for a specific subarea (e.g., WG), plus the license must have participation in the same ~~either~~ subarea (e.g., WG ~~or CG~~) in 2005 or 2006 or 2007 of at least:

Suboption 1: 20 landings

Suboption 2: 30 landings

Suboption 3: 40 landings

Table E-5 is the summary table for the trawl CP sector. It takes into account all of the primary exemptions, and therefore excludes AFA licenses from the BSAI endorsement thresholds; CG rockfish pilot program licenses from the CG endorsement thresholds; and Am. 80 licenses from the BSAI endorsement thresholds. Note that throughout the analysis, CP licenses are credited with their landings whether they were operating as a CP or CV at the time of the landing.

Table E-5 Number of trawl CP licenses that qualify under Component 1, Options 1-3, with exemptions applied

Alternative	Endorsement	Harvest Area	Number of endorsements	Option 1 2000-2005		Option 3 2000-2006	
				1 Landing	2 Landings	1 Landing	2 Landings
ALT 2	AI	AI or BS	8	4	4	4	4
ALT 3	AI	AI only	8	2	2	2	2
ALT 2	BS	AI or BS	7	3	3	3	3
ALT 3	BS	BS only	7	3	3	3	3
ALT 2	CG	CG or WG	10	5	5	5	5
ALT 3	CG	CG only	10	5	3	5	3
ALT 2	WG	CG or WG	26	21	20	21	20
ALT 3	WG	WG only	26	19	19	19	19

¹Harvest area means the management area in which the landings must be made in order to keep the

Source: ADF&G fish ticket files and WPR landings data merged to a January 6, 2008 RAM Division LLP file.

Note: This table excludes trawl CP licenses that are exempt under this action (AFA and Am. 80 licenses are excluded from the BSAI; CG rockfish licenses are excluded from the CG).

In sum, for the universe of trawl CP LLPs subject to Component 1:

- The number of AI endorsed licenses would be reduced from 8 to 4 under Alternative 2 or from 8 to 2 under Alternative 3
- The number of BS endorsed licenses would be reduced from 7 to 3 under Alternative 2 or 3
- The number of CG endorsed licenses would be reduced from 10 to 5 under Alternative 2 or 3-5 under Alternative 3
- The number of WG endorsed licenses would be reduced from 26 to 20-21 under Alternative 2 or 19 under Alternative 3

Analysis of the entire suite of action alternatives, components, and options is provided in Section 2.7.

Table E-6 Summary of the Alternatives, Components, and Options under Consideration

COMPONENT	ALTERNATIVES and OPTIONS		
	<p>ALTERNATIVE 1. No action.</p>	<p>ALTERNATIVE 2. Remove the subarea (BS, AI, WG, and/or CG) endorsements on trawl LLPs unless the license meets a minimum landing threshold in the overall management area (BSAI or GOA).</p>	<p>ALTERNATIVE 3. Remove the subarea (BS, AI, WG, and/or CG) endorsements on trawl LLPs unless the license meets a minimum landing threshold in the specified subarea.</p>
<p>Component 1: Landings thresholds</p>	<p>N/A</p>	<p>Option 1. One groundfish landing during 2000–2005.</p> <p>Option 2. Two groundfish landings during 2000–2005.</p> <p>Option 3. [One or two] groundfish landings during 2000–2006. Suboption: Apply Op. 3 only to BSAI endorsements</p> <p>Option 4. Exempt BSAI endorsements on trawl LLPs with MLOA <60' with trawl or non-trawl landings in the BSAI directed P.cod fishery of [one landing, two landings, or 200 mt, in any one year 2000–2005].</p> <p>Option 5. (Only applicable under Alternative 3). To retain both GOA area endorsements, the trawl CV LLP must meet the landings criteria selected under Alternative 3, Options 1, 2, or 3, for a specific subarea, plus have participation in either subarea in 2005, 2006, or 2007 of at least [20, 30, or 40] landings.</p>	
<p>Component 2: Stacked LLPs</p>	<p>N/A</p>	<p>Provision: Groundfish harvest history is credited to each LLP stacked on a single vessel at the time of the landing. Suboption: At the time of implementation, stacked LLPs will remain linked and cannot be severed back into separate LLPs.</p>	
<p>Component 3: Amendment 80 GOA exemption</p>	<p>N/A</p>	<p>Option to exempt LLPs originally issued to vessels qualified under BSAI Am. 80 and LLPs used for eligibility in Am. 80 from the GOA landing thresholds.</p>	
<p>Component 4: Adding new AI endorsements to trawl LLPs</p>	<p>N/A</p>	<p>Option 1. Award AI endorsements to non-AFA trawl CV <60' MLOA LLPs if they have landings of at least [50 mt, 250 mt, or 500 mt] in the AI parallel P.cod fishery in 2000–2006.</p> <p>Option 2. Award AI endorsements to non-AFA trawl CV ≥60' MLOA LLPs if they have at least one landing in the AI parallel groundfish fishery or AI State water P.cod fishery in 2000–2006, and [500 mt or 1,000 mt] in the BSAI P.cod fishery in 2000–2006.</p> <p>Option 3. All AI endorsements issued under Component 4 shall be severable and transferrable. The AI endorsements can only be transferred to a non-AFA trawl CV LLP with an MLOA of <60' or ≥60', as applicable.</p>	
<p>Exemptions [Note: these are provisions, not options.]</p>	<p>N/A</p>	<ul style="list-style-type: none"> • Exempt BSAI LLP endorsements originally issued to vessels qualified under the AFA and any non-AFA BSAI LLPs assigned to AFA vessels not having any other license. (Applies to CPs and CVs). • Exempt CG subarea endorsements on CG rockfish pilot program qualified licenses. (Applies to CPs and CVs). • Exempt BSAI LLP endorsements originally issued to vessels qualified under Am. 80 and BSAI LLPs used for eligibility in Am. 80. 	

Note: This table provides a general summary outline of the components, alternatives, and options. See Section 2.4 for the exacting wording of the alternatives and options under consideration.

**Alternatives and Options for BSAI and GOA Trawl LLP Regulatory Amendment
revised February 10, 2008**

Alternative 1. No action. All trawl LLPs currently issued with a BSAI and/or GOA area endorsement will continue to be valid for the BSAI and/or GOA trawl groundfish fisheries.

Alternative 2. Remove the subarea (BS, AI, WG, and/or CG) endorsements on trawl LLPs unless the license meets a minimum landing threshold in the overall management area (BSAI or GOA).

Alternative 3. Remove the subarea (BS, AI, WG, and/or CG) endorsements on trawl LLPs unless the license meets a minimum landing threshold in the specified subarea.

Alternatives 2 and 3 apply to all trawl CV and CP LLPs in the areas specified except for those identified in the following exemptions:

AFA exemption from BSAI landings thresholds: Exempt BSAI LLP endorsements originally issued to vessels qualified under the AFA and any non-AFA BSAI LLPs assigned to AFA vessels not having any other license. (Applies to CPs and CVs).

Central Gulf Rockfish Pilot Program exemption from CG landings thresholds: Exempt CG subarea endorsements on CG rockfish pilot program qualified licenses. (Applies to CPs and CVs).

Amendment 80 exemption from BSAI landings thresholds: Exempt BSAI LLP endorsements originally issued to vessels qualified under Am. 80 and BSAI LLPs used for eligibility in Am. 80.

The following components are applicable to Alternative 2 and Alternative 3.

Component 1 – Landings thresholds¹ in the specified area²

Option 1. At least one landing of groundfish during 2000 – 2005.

Option 2. At least two landings of groundfish during 2000 – 2005.

Option 3. At least [one or two] landings of groundfish during 2000 – 2006.

Suboption: Apply Option 3 only to BSAI endorsements.

Option 4. Exempt BSAI endorsements on trawl LLPs with MLOA of <60' that have trawl or non-trawl landings in the BSAI directed Pacific cod fishery³ (in any one year 2000 – 2005) of:

Suboption 1: one landing

Suboption 2: two landings

Suboption 3: 200 mt

Option 5. (applicable only under Alternative 3)

In order to retain both GOA subarea endorsements, significant landings must have been made in one of the management areas (e.g., WG or CG). The trawl CV LLP must meet the landing criteria selected (Options 1, 2, or 3 above) for a specific subarea (e.g., WG), plus the license must have participation in either subarea (e.g., WG or CG) in 2005 or 2006 or 2007 of at least:

Suboption 1: 20 landings

Suboption 2: 30 landings

Suboption 3: 40 landings

¹Note that the landings thresholds under both Alternative 2 and Alternative 3 include landings in the parallel and Federal groundfish fisheries.

²Catcher processor licenses are credited with their landings whether they were operating as a catcher processor or a catcher vessel at the time of landing.

³Option 4 is analyzed using retained Pacific cod harvest (discards are not included). Landing dates were used to determine whether the landing was counted as harvest in the directed fishery.

Component 2 – Multiple LLPs stacked on a single vessel. Groundfish harvest history is credited to each LLP stacked on a single vessel at the time of landing.

Suboption: Stacked licenses will remain linked and cannot be severed back into separate licenses (effective at the time of implementation).

Component 3 – Option: Exempt LLPs originally issued to vessels qualified under Amendment 80 and LLPs used for eligibility in Amendment 80 from the GOA landing thresholds.

Component 4 – Adding new AI endorsements to trawl LLPs

Option 1. Award AI endorsements to non-AFA trawl CV <60' MLOA licenses if they meet the landing thresholds in the AI parallel P. cod fishery during 2000 – 2006 of at least:

Suboption 1: 50 mt

Suboption 2: 250 mt

Suboption 3: 500 mt

Option 2. Award AI endorsements to non-AFA trawl CV ≥60' MLOA LLPs if they have at least one landing in the AI parallel groundfish fishery or AI State water P. cod fishery in 2000 – 2006 and meet the following threshold in the BSAI P. cod fishery in 2000 –2006:

Suboption 1: 500 mt

Suboption 2: 1000 mt

Option 3. All Aleutian Islands endorsements issued under Component 4 shall be severable and transferable. The AI area trawl endorsements can only be transferred to a non-AFA trawl CV LLP with a trawl CV designation and an MLOA of <60' or ≥60', as applicable under Option 1 or 2.

**HANDOUT FOR AGENDA ITEM C-4: TRAWL LLP RECENCY ANALYSIS
APRIL 2008 COUNCIL MEETING**

Below is an expanded version of Table 33 from the public review draft of the Trawl LLP recency analysis (March 2008, p. 49) showing the 2008 and 2009 allocations of Atka mackerel and Pacific Ocean perch to the BSAI trawl limited access fleet under Amendment 80, as well as the AFA CV and AFA CP sideboards for those species. The allocations and sideboards are based upon the 2008 and 2009 ITACs.

Table 33b. Trawl limited access AFA CV, CP, and non-AFA CV Atka mackerel and Pacific Ocean perch allocations under Amendment 80 and AFA sideboards

Species	Year	Area 541 (eastern AI)			Area 542 (central AI)			Area 543 (western AI)		
		trawl limited access allocation	AFA CV sideboard	AFA CP sideboard	trawl limited access allocation	AFA CV sideboard	AFA CP sideboard	trawl limited access allocation	AFA CV sideboard	AFA CP sideboard
Atka mackerel	year 1 (2008)	2%	0.32%	0%	2%	0.01%	11.5%	0	0%	20%
	year 2 (2009)	4%	0.32%	0%	4%	0.01%	11.5%	0	0%	20%
POP	year 1 (2008)	5%	0.77%	2%	5%	0.25%	0.1%	2%	0%	0.4%
	year 2 (2009)	10%	0.77%	2%	10%	0.25%	0.1%	2%	0%	0.4%

Note: Allocations and sideboards are percentages of the 2008 and 2009 ITACs. The ITAC excludes the CDQ allocation, incidental catch allowances, and the Atka mackerel jig allocation in the EAI/BS.

March 13, 2008

Mr. Eric Olson
Chairman
North Pacific Fisheries Management Council
605 West 4th Ave.
Anchorage, AK

RECEIVED

MAR 24 2008

N.P.F.M.C.

Re: Trawl LLP Recency *April meeting*

Dear Chairman Olson;

Magic Fish Co. is an Alaskan corporation that owns two trawl /non-trawl LLPs for the WG, CG and BS areas. We are active participants in all three areas using different gear types during different years.

The following comments pertain to a preferred alternative for trawl catcher vessels:

I believe the proposed trawl recency action may have some merit. However, I also agree with the staff analysis that, "The action would not result in production efficiencies to LLPs that meet the threshold criteria of the nature generally ascribed to a rationalization program." For that reason I think that it may be a step towards something, but the Council should not get carried away trying to weed out latent trawl LLP's thinking they are creating something when they are not. **The goal should be to allow those licenses that are currently participating in the fisheries to continue with the flexibility to react to changing biomasses across areas, to changing markets and to individual participant's changing business conditions.** Keep in mind, "The number of latent LLPs to be removed under any of these choices was not based on a predetermined 'optimum' capacity for the trawl groundfish fleet. The action should be regarded as a modest step in the fisheries management continuum between the status quo and a rationalized trawl groundfish fishery. It is one step, rather than a comprehensive approach, to fully resolve long-term participation issues in the trawl groundfish fishery." We lost a boat in 2002 that fully participated in the groundfish fisheries in the GOA and BSAI. We sat at the table for three or four years during the GOA groundfish rationalization meetings thinking it would not be wise to recapitalize if rationalization was imminent. Instead we formed partnerships that didn't pour more steel into the fisheries, but allowed flexibility and provided efficiencies to fish multiple areas during the year and from year to year.

I support using the most recent year analyzed (2006) for all purposes in this action (2000-2006) – Support Component 1, option 3 with two landings.

I support Alternative 2.

2.7.2.2 Option 4

Option 4 under Component 1 would exempt BSAI endorsements on trawl LLPs with an MLOA of <60' and trawl and non-trawl designations from the BSAI landings thresholds, if the LLP had associated trawl or non-trawl landings in the BSAI directed Pacific cod fishery in any one year 2000–2005. The landings requirements are: Suboption 1—one landing; Suboption 2—two landings; and Suboption 3—200 mt. This option would thus allow some trawl licenses that may not qualify

under Component 1, Options 1-3 and 5, to qualify using their non-trawl landings in the BSAI Pacific cod fishery.

I support Option 4 under Component 1 with either suboption 1 or 2, one or two landings.

Our trawl gear and pots are stored at both Akutan and King Cove. We have only used fixed gear in the BS during 2000-2006, but again we have a history right there, and we want the flexibility to change gear depending on markets and fish stocks.

2.7.3 Component 2 – Multiple LLPs stacked on a single vessel

I support Component 2 and the action by the Council at the June 2006 meeting.

I do not support the suboption that links licenses. If this suboption was chosen it makes the entire proposed action unworkable for our small business. I would prefer Alternative 1.

I agree with the staff analysis:

“How does the Council intend to address ownership issues? Currently, for example, two LLPs can be held by different persons, and a third person can own the vessel named on those two LLPs. Thus, stacked LLPs may not be connected in any way except through the vessel designation. Many license owners have engaged in temporary partnerships of this sort in order to use their licenses in the most efficient way possible. If the intent of the suboption is to link the LLPs in perpetuity, NMFS RAM Division will need more direction as to how to implement this provision and determine appropriate ownership of the resulting license.” Also, “the suboption under Component 2 is unlikely to have its intended effect. In addition, it is likely that multiple LLPs are sought and held for their utility in gaining area endorsements or gear endorsements necessary for the vessel to operate in the fisheries as intended under its business plan. This is necessary because endorsements are not severable under the existing LLP. Thus, if one wants to expand vessel operations into a new area for which their current license is not endorsed, one must purchase a whole new license with the appropriate area endorsement and designate the same vessel on that new license (i.e., stack two licenses). An evaluation of the 38 trawl licenses that are currently stacked shows that most stacked licenses do not mirror each other’s endorsements. Most licenses are differentiated by a trawl or non-trawl endorsement and/or one or more area endorsements. It is the construct of the current LLP, in that endorsements are not severable, that necessitates stacking. There does not appear to be an incentive to purchase an additional LLP and designate a vessel for its use, solely for speculative purposes, at this time. The proposed action does not use catch history for any purpose other than qualifying a license to retain its area endorsement.”

Under Component 4:

Although a vessel I owned has fished around Adak, I have neither an AI endorsement nor have we fished the parallel fishery there. However, we are currently considering a plan to fish there depending on how markets and season lengths. This is a fishery that is just developing. I will not qualify for a new AI LLP under component 4, but having a program with a transferable and severable area endorsement for the AI (Option 3) would help us in the future to possibly obtain the AI endorsement.

Thank you for your consideration of these issues.

Sincerely,



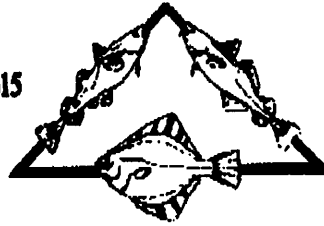
Michael B. LAUKITTS
Magic Fish Co.
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Groundfish Data Bank

Alaska

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Julie Bonney, Executive Director jbonney@gci.net
Katy McGauley, Fisheries Biologist agdb@gci.net



Eric A. Olson, Chairman
North Pacific Fishery Management Council
605 W 4th Avenue, Suite 306
Anchorage, AK 99501-2252

MAR 26 2008

March 26, 2008

Re: Trawl LLP Recency - Final Action

Dear Mr. Olson,

This letter contains comments on the Trawl LLP recency amendment package and Alaska Groundfish Data Bank's (AGDB) position on a preferred alternative for final action. AGDB is a member organization representing shoreside trawlers and shoreside processors. AGDB vessel members are trawl vessel owners / operators that have made significant investments, have long catch histories, and are dependent upon BSAI and GOA groundfish resources. Our members need protections from those permit holders that could re-enter the fisheries in the future using a latent license. It is time for the Council to take final action on this amendment package.

There is a huge amount of latency in the Gulf of Alaska trawl fishery. For example in 2006 there were 48 CV that participated in the Central GOA trawl fisheries, however there are 176 LLP Central GOA subarea endorsed permits that could participate. The biggest difference for the trawl recency latent action among the alternatives and options is in the Central Gulf and Western Gulf endorsements. In the case of the Gulf, there is a difference between one or two landings, and there is a notable difference between alternative 2 and alternative 3. The choices selected below balance the economic dependency of active LLPs and give active participants options for future participation in the North Pacific fisheries.

AGDB preference for the alternatives, components and options are outlined in this letter. The preferred alternative as outlined was unanimous agreed by the AGDB vessel members.

Choice of Alternatives:

Alternative 1. No Action

Alternative 2. Remove the subarea (BS, AI, WG, and / or CG) endorsements on trawl LLPs unless the license meets a minimum landing threshold in the overall management area (BSAI or GOA).

Alternative 3. Remove the subarea (BS, AI, WG, and / or CG) endorsements on trawl LLPs unless the license meets a minimum landing threshold in the specified subarea.


Chose Alternative 3

Component 1 (landing threshold):*Option 1. One groundfish landing during 2000 – 2005**Option 2. Two groundfish landing during 2000 – 2005**Option 3. [One or two] groundfish landing during 2000 – 2006**Suboption: Apply opt 3 only to BSAI endorsements***Chose Option 3 – Two groundfish landings during 2000 – 2006***Option 4. Exempt BSAI endorsements on trawl LLPs with MLOA <60' with trawl or non-trawl lands in the BSAI directed P. cod fishery of (in any one year 2000 – 2005) of:**Suboption 1: one landing**Suboption 2: two landings**Suboption 3: 200 MT***Chose Option 4 – Suboption 3. 200 MT***Option 5. (Applicable only under Alternative 3)-revised as recommend by Council staff**One can also ~~In order to~~ retain both GOA subarea endorsements if significant landings ~~must~~ have been made in one of the management areas (e.g. WG or CG). The trawl CV LLP must meet the landing criteria selected (Option 1, 2, or 3 above) for a specific subarea (e.g., WG) plus the license must have participation in the same either subarea (e.g., ~~WG or CG~~) in 2005 or 2006 or 2007 of at least:**Suboption 1: 20 landings**Suboption 2: 30 landings**Suboption 3: 40 landings***Chose Option 5 – Suboption 1: 20 landings****Component 2 (stacked LLPs)***Provision: Groundfish harvest history is credited to each LLP stacked on a single vessel at the time of the landing.**Suboption: At the time of implementation, stacked LLPs will remain linked and cannot be severed back into separate LLPs.***Accept Provision do not chose suboption.****Component 3 (Amendment 80 GOA exemption)***Option to exempt LLPs originally issued to vessels qualified under BSAI AM. 80 and LLPs used for eligibility in Am. 80 from the GOA landing thresholds.***Do not Chose Component 3****Component 4 (Adding new AI endorsements to trawl LLPs)****No position**

The net effective of choosing this alternative plus the components and options is to reduce latent LLPs in both the BSAI and the GOA. The number of GOA LLPs that will remain valid will be more than double the present number of LLPs that are actively fishing. It is important to note that the latency test is extremely low with only 2 landings required over a seven year period. Additionally as the staff analysis states, "This amendment will not result in production efficiencies to LLPs that meet the threshold criteria, of the nature generally ascribed to a rationalization program. Following implementation of the amendment, each qualified LLP holder will still have an incentive to expand effective fishing effort, and thereby maximize their respective share of the gross revenues to be earned in the trawl groundfish fisheries." In other words, the "race for fish" will continue.

Thank you for the opportunity to comment on the trawl recency amendment package.

Sincerely,


Julie Bonney
Executive Director, AGDB

March 17, 2008

Mr. Olson
Chairman NPFMC
605 West 4th Ave.
Anchorage Alaska.

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MAR 20 2008
N.P.F.M.C.

Trawl LLP Recency:
Chairman Olson;

I represent Cape Reliant Fisheries, that is the holder of the original issued trawl/and nontrawl LLP for the under 60 feet. Issued for WG, CG, and SE. I have actively participated in the trawl and nontrawl fishery for p-cod since 1992 in all these areas using 3 different gear types. I also use a 2nd party LLP for the BS p-cod fishery.

I have long felt that some sort of action to control or slow down the growth of the fleet in the p-cod fishery is essential.

The trawl recency plan may help achieve this goal. The plan should also continue to allow for those that have moved from area to area to continue to do so. The plan should not cause multiple LLPs from being severed if a recency plan is instituted. Partnerships have been temporarily formed based upon efficiencies while we have waited for a long drawn out rationalization for ground fish this allowed us to fish more areas and more gear types in the interim.

The AI area is another issue. This area for the under 60 fleet has been constrained by markets and the availability to find an LLP. I would like to see participation credit given thru 2008 to the under 60 fleet even if it is a non transferable permit. This area needs the ability to expand its small boat fleet.

I would like to see the council support recency using the years 2000 thru 2006 in the WG, CG, and BS.

I would also like to see the council allow for the AI area under 60 feet use the years 2000 thru 2008.

I would like to see the council support Alternative 3 along with 2.7.2.2 option 4.

I would like to see the councils support on option 4 under component 1 using either sub option 1 or 2 landings.

I would like to see the council support component 2, but eliminate the sub option that would link any license from severability.

Thanks for you time.
Sincerely





Trawl Recency C-4

Ocean Fisheries, LLC

F/V Ocean Hunter

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Lakewood, WA 98499

(253) 582-2580

Fax 589-0508

jstonecrab@aol.com



March 26, 2008

MAR 26 2008

Eric Olson, Chair
 North Pacific Fisheries Management Council
 605 W. 4th Avenue, Suite 306
 Anchorage, Alaska 99501-2252

Re: Agenda C-4 Trawl LLP Recency, April 2008, Anchorage

Dear Chairman Olson:

We recommend the Council to use 2006 landings to qualify for BSAI CV Trawl Licenses. This would be Alternative 2 or 3, component 1, Option 3 (one or two landings).

We have testified many times. Below is a brief outline listing the reasons we feel 2006 should be used so that our vessel will qualify;

- 1) Ocean Hunter began Trawling, Scalping and Crabbing as a new vessel in 1980, Trawling has been a large component of our business model ever since.
- 2) We made no Trawl landings between 2000- 2005. We made pot cod landings and thought this would maintain our groundfish LLP. At the time there was no differentiating between Trawl or Pot Cod licenses, they where both called "groundfish"
- 3) In April of 2005 we decided to make a \$300,000 investment and upgrade our vessel and equipment, to participate in the 2006 Bering Sea trawl fishery.
- 4) Council made December 11, 2005 a control date for landings to qualify for trawl recency. We did not testify at this meeting as we were unaware of this action.
- 5) On January 20, 2006 (The first opening since the Control date and only 40 days after it's implementation) we began trawling Bering Sea.
- 6) Using 2006 will only increase qualified Licenses in BSAI by one, over using 2005 as the cut-off.
- 7) If we loose our trawl license in final action, the cost for us to re-enter the BSAI fishery by purchasing a qualifying trawl license could possibly be as much as \$500,000 or more, perhaps a lot more.
- 8) We are currently fishing our third season (or 34 landings and counting), since the control date and have proven that we are not "Latent" but rather active participants, in the BSAI Trawl fishery.

Regards, Jim Stone



March 26, 2008

Eric Olsen, Chairman
North Pacific Fishery Management Council
605 W. 4th Ave., Suite 306
Anchorage, AK 99501

RECEIVED
MAR 2 2008
MEMPHIS

RE: Agenda Item C-4, Trawl LLP Recency

Dear Mr. Chairman,

United Catcher Boats (UCB) represents 65 active trawl vessels with LLPs in the BSAI and GOA fisheries. This proposed action to modify the BSAI and GOA Trawl Groundfish Limited License Program will have a direct and immediate impact on our members by affecting the current and future value of their fishing permits and vessels as well as future access to the fishery resource.

UCB supports Component 1 and Component 2 of the proposed modifications to the BSAI and GOA Trawl Limited License Program which seek to remove latent licenses. UCB opposes Component 4 which seeks to increase endorsements in the Aleutian Islands. This action originated to eliminate truly inactive licenses to protect the investments of current participants. Component 4 was added later and, in proposing to add up to 15 new federal area endorsements to the LLP program, is diametrically opposed to the original action. It not only extinguishes the value of Component 1, it *diminishes* the investment of current participants by trading old *inactive* permits for *active* new permits.

Alternative 2 or 3: Removal of LLPs at the management or subarea level.

UCB prefers Alternative 2 that removes the subarea (AI, BS, WG, and/or CG) endorsements on trawl LLPs unless the license meets a minimum-landing threshold in the overall management area (BSAI or GOA). Note that choosing either Alternative 2 or 3 for the BSAI results in the same number of LLP endorsements remaining. However, there is a fairly large difference for the GOA trawl fisheries if either Alternative 2 or 3 is chosen.

Component 1 - BSAI

United Catcher Boats' original intent in requesting the NPFMC undertake a recency requirement for trawl LLPs was to take away the opportunity of truly unused, or latent LLPs to enter into fully utilized fisheries. By unused, we mean permits that were not active within the past decade. The reason for this request was we did not want additional,

new effort to enter into the remaining, un-rationalized trawl fisheries. Our intent was not to eliminate any LLP endorsements that are currently in use. The minimum thresholds for retaining an LLP under the current Component 1 for the BSAI are very liberal. Only one or two landings are required in a six or seven year period, depending on which options are chosen. Any permit that has not been used to make at one or two landings during a six or seven year period demonstrates no dependence on these regional fisheries. **For this reason we support Option 3 under Component 1 (Landings Thresholds) with a one landing requirement during the 7 year period from 2000-2006.** Option 3 under Component 1 will eliminate 33 Bering Sea LLP endorsements.

Component 1 – GOA

Component 1, as originally structured, included alternatives that began with the year 1995 and so captured the historical participation of AFA vessels in the GOA before SSL regulations prohibited participation in both the BSAI and GOA pollock fisheries. Specifically, AFA vessels were prohibited from participating in GOA pollock fisheries if they landed BSAI pollock that same season. The measure was designed to reduce fishing pressure in the GOA so that SSL mitigation measures in the GOA would not have to be as severe. Using the start year of 1995 also included years prior to the enactment of the AFA. In an effort to assist the primary GOA participants, eager for implementation of action that would reduce LLPs, UCB agreed to support elimination of those alternatives if the AFA GOA and BSAI sideboard amounts remained intact and accessible to AFA coops. This issue was discussed during extensive public testimony. Elimination of the alternatives beginning in 1995 eliminated an additional 55 endorsements from the WG and 54 endorsements from the CG. Many of the endorsements eliminated by dropping the alternatives that begin in 1995 are endorsements held by UCB members. UCB asks the Council to remember this cooperation made in good faith by our members when the Council later takes up GOA sideboards.

With the above in mind, UCB does not have a position on Option 5 that provides for minimum landing in one area of the GOA to retain its endorsement in the other area even if it does not meet the landing threshold in that subarea.

Component 2 – Stacked Licenses.

UCB supports the stacking provision but not the "permanent link" sub-option. In its earlier actions the Council established a provision that credits catch to all applicable licenses stacked on a single vessel at that time that a landing was made. UCB concurs with the rationale to establish this provision and notes that this action establishes or maintains access to trawl fisheries by holders of LLPs that meet the criteria but does not establish specific allocations based on catch history. UCB would not support the "double counting" of catch history for the purpose of determining some future allocation.

UCB does not support the sub-option that would permanently link licenses that meet the qualification criteria. Such a policy would likely undermine existing components of the LLP program (multiple gear types on one LLP) and raise questions of ownership when stacked licenses would be joined as one LLP. While one might argue that a failure to link

LLPs may bring additional capacity into the fishery, this situation always remains a possibility within a program that allows the stacking of permits.

Component 4 - Addition of New AI endorsements

This alternative proposes to add 8 to 15 new AI area endorsements. All would have access to the BSAI P. cod fishery, extinguishing any benefit from the removal of latent licenses under Component 1.

The Purpose and Need Statement specific to Component 4 identifies four reasons for this incongruous action:

- 1) Economic development of Adak,
- 2) Development of a fleet to catch AI Atka mackerel and POP
- 3) Development of an under 60 foot vessel fleet to harvest the AI pollock quota given to the Aleut Corporation, and
- 4) Development of a resident fleet for Adak.

Two of these goals are unnecessary and the other two cannot be gained by this action and may aggravate it.

Under a suite of alternatives, Component 4 actions propose to create up to 10 new endorsements for vessels under-60 feet and up to 5 new endorsements for vessel over-60 feet. It also proposes an option that these endorsements be *severable and transferable*. *That means that up to 15 vessels now participating in the BSAI P. cod fishery in the parallel or state water fishery can sell or lease their new endorsement and continue to participate in other state water or federal fisheries.*

Non-Severable Endorsements

It has been argued that there is a need for up to 15 vessels to be issued federal area endorsement for the AI to access fish outside 3 miles. Even if the endorsements were not severable, this action would allow those vessels to have increased access to the BSAI P. cod fishery to the detriment of the current federal participants.

Increased participation in the AI sub-area would increase fishing pressure in relation to the regional distribution of BSAI P.cod biomass. As reported by NMFS, P. cod was harvested in disproportionately high numbers last year in relation to the exploitable biomass in the AI. The issuance of new AI endorsements would aggravate that disproportionate harvest and could help trigger a split of the BSAI P. cod fishery into two areas. A preliminary analysis of the allocative options of the proposed split indicates there are no simple ways to split this fishery into sub-regions without negative impacts to current participants in either the Eastern Bering Sea or AI. Islands cod fisheries. Actions that unnecessarily provoke this reallocation will hurt all participants in the P. cod fishery including fixed gear participants.

Four of the under-60' vessels and four of the over-60' vessels already have BS endorsements and so are current participants in the federal BSAI P.cod fishery. Issuance

of AI area endorsements to those vessels would represent a shift in their participation from the BS to the AI. Specifically, most of these vessels either did not participate in the AI fishery this year or if they did, they preferred to deliver to processors other than Adak Fisheries.

Further, the issuance of federal endorsements to those currently participating in the state water and parallel fisheries assumes that sufficient fish are unavailable for harvest within 3 miles. Review of the 2007 and 2008 Aleutian Islands State Water P. cod fisheries indicate that the catch rates and quickness of the season indicates that there are plenty of fish available for harvest within 3 miles and that current participants have had no trouble finding them, making access to the federal fishery outside 3 miles, unnecessary.

Severable and Transferable Endorsements

At the other end of the spectrum, *most harm would be caused by issuance of new area endorsements that were severable and transferable*. This huge windfall to vessels that have harvested as little as 50 tons is contrary not only to the original purposes of this action, it profoundly contradicts the purpose of the LLP program which prohibits the severability and transfer of split endorsements because it will increase rather than limit participation. In creating this wave of new endorsements, Adak would be hurt because the influx of new participants would likely cause the CV trawl P. cod fishery to be shortened. In doing so, the fishery might end before the P.cod showed-up in the AI which is generally later in the season. And, again, there is no guarantee that these vessels would deliver to Adak Fisheries. However, there is guaranteed harm done to current participants who will have their historic participation in the fishery diluted by having to share it with up to 15 new participants.

Component 4 - Purpose and Need not met.

- 1) This action will not contribute to the economic development for Adak. Because most participants in the AI fishery, including those that would receive new endorsements, have chosen *not* to deliver to Adak, increasing participation by issuing new federal endorsement could negatively impact Adak by closing the fishery earlier without increasing deliveries to Adak Fisheries.
- 2) No new AI endorsements are needed to harvest AI Atka Mackerel and POP by Non- Amendment 80 and Non-AFA vessels. As shown in the analysis, these fisheries are fully harvested by current participants. It has been argued that under A. 80 implementation this year in conjunction with AFA sideboards, there will be a portion of those Non-Amendment 80 Atka Mackerel/POP quotas which will go unharvested unless new endorsements are issued. That is simply untrue as proven by the harvest of these species in Area 541, 543 and 543 during the 2008 season.
- 3) No new under-60 foot endorsements are needed to harvest AI pollock allocated to the Aleut Corporation. While the legislated allocation of pollock to the Aleut Corporation does require that at least 50% of the allocation is harvested by

vessels under-60 feet by a date certain, an AI endorsement is not required for those vessels. Earlier Council action clarified that in the case of this allocation, the term "fishery endorsement" meant a Federal Fisheries Permit, USCG fishery endorsement and ADF&G number. The Council specifically determined that it did not mean an AI LLP area endorsement.

- 4) Creation of up to 15 new AI area endorsements will not develop a resident fleet of vessels for Adak. None of the vessel owners slated to receive the new endorsements are residents of the Adak or the AI. The owners of the vessels that participated in the State Water AI Is. P. cod fishery either live in Washington state or Gulf of Alaska communities. More importantly, all have LLPs in other regions and are more dependent on these other fisheries.

CONCLUSION

UCB supports the following actions:

1. Alternative 2, Component 1, Option 3 with one landing to reduce latent licenses in the BSAI and GOA
2. Component 2 that will credit stacked licenses on a vessel at the time of the qualifying landing but not support the sub-option to require these LLPs to be permanently linked.

UCB does not support the following actions: Component 4. Options 1-3. Especially Option 3 which would create 8-15 new endorsements making them severable and transferable.

Thank you for consideration of our comments.

Sincerely,


Brent Paine
Executive Director



Gulf of Alaska Coastal Communities Coalition (GOAC3)
PO Box 201236, Anchorage Alaska 99520
Phone: (866) 561-7633 or (907) 561-7633 Fax: (907)561-7634
Web: www.goac3.org Email: goaccc@alaska.net

**TESTIMONY TO
THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL**

April 4, 2008

**Regarding: C4- GROUNDISH LICENSE LIMITATION PROGRAM (LLP)
TRAWL RECENCY FOR THE GULF OF ALASKA
Proposed Final Rule**

Chairman Olsen and members of the Council: My name is Gale Vick and I am the Executive Director of the Gulf of Alaska Coastal Communities Coalition (GOAC3.). With me is Fred Christiansen, Chairman of the GOAC3.

Today we are addressing issue C4 – groundfish LLP trawl recency reduction for the Gulf of Alaska federal statistical areas 610, 620, 630 and 649.

The GOAC3 objects to any trawl LLP reductions until the issues of community impacts and consultation have been adequately addressed for affected GOA communities.

Because it seems that many of the stakeholders are satisfied with the AP's recommendations for the BSAI, the GOAC3, therefore, proposes the following:

- (1) Bifurcate the proposed BSAI and GOA trawl recency action
- (2) Reject all alternatives for the Gulf of Alaska except the status quo
- (3) Conduct the required consultation with communities AND with associated tribal entities
- (4) Revisit community options for the affected Gulf of Alaska communities

The GOAC3 views the alternatives to eliminate latent catcher-vessel trawl licenses in the affected areas as an unnecessary burden to future ~~productivity~~ *participation* and a definite barrier to access because this action proposes to:

- reduce the existing number of groundfish trawl catcher-vessels licenses by over 50%, thereby giving control of over 22¹ species of trawl-caught groundfish to an extraordinarily small group of owners
- eliminate many existing LLPs owned by community-based residents, especially those under 60', an impact on community-owned fleets already hit hard by Steller sea lion mitigation measures

Further, this action:

- Has the potential for creating a significant increase in value for the remaining licenses, thus raising entry barriers for adjacent coastal communities to an unreasonable level
- Ignores the consequences of this regulatory amendment and a combined Pacific cod sector split and a fixed-gear latency reduction that will encourage creation of a closed-class, thus creating additional formidable economic barriers for community participation in the future
- Has not been adequately analyzed within the context of the MSRA² socio-economic requirements for fishery management plan amendments and NEPA requirements for Social Impact Assessment (SIA)³
- Has not conducted the required consultations with affected communities and tribes
- Has not considered the *cumulative*⁴ impacts of this action, as required by MSRA
- Is described as “a modest step in the fisheries management continuum between the status quo and a rationalized trawl groundfish fishery.”⁵ *This is a step toward rationalization without benefit of appropriate analysis within the context to further steps and within the context of a fully applied limited access privilege program (LAPP) AND, does not therefore, address the cumulative economic and social impacts*
- Is not sufficiently supported by the problem statement⁶ and is, therefore, in violation of National Standard #5

The 2006 Magnuson-Stevens Re-authorization Act (MSRA) has mandatory requirements for the contents⁷ of an FMP to “include a fishery impact statement for the plan or amendment ... which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for participants in the fisheries and fishing communities affected by the plan ~~or amendment and/or participants in the fisheries conducted in adjacent areas under the authority of an FMP, and/or participants in the fisheries conducted in adjacent areas under the authority of an FMP, and/or participants in the fisheries conducted in adjacent areas under the authority of an FMP.~~” In addition, NEPA⁸ requires consultation with affected tribal entities *and* consideration of *cumulative* impacts. **As far as we know, no such consultations have occurred.**

In the March 7, 2008 NPFMC redraft of the EA/RIR on this issue, the revised recommendation under National Standard #8 states “one may contend that the value of the remaining (qualifying) trawl licenses could increase as result of this action, thus making it more difficult for individuals and communities to purchase a trawl license”⁹ The GOAC3 suggests that it will make the task virtually impossible both because of cost of entry and because communities’ ability to purchase is limited by law to specific area and species.

What is best for communities? We are in a war of perceptions. **Fisheries-dependent communities are not the same as individual residents of those communities.** While the individual residents make up the community, they often make decisions that are independent of long-term community

[REDACTED]

needs. The GOAC3 believes the intent of Congress in drafting the community provisions language of MSRA was to provide protection for *communities – not necessarily individuals*. Measures that may have a direct benefit to community residents at the moment do not necessarily equate to long term protection of the community itself. There should be protections for both current community resident participants *and* for the communities so that the current and future economic health of the community is not unnecessarily compromised.

The only way to anchor fishing effort in a community (or group of like communities) is to provide for guaranteed access – ownership or control¹⁰ – well into the future. **There must be legal constructs to do this.** In the Gulf of Alaska, the only legal construct for communities to purchase fishing effort is through the qualified communities of the halibut and sablefish CQE¹¹ program. There is no such construct for any other species of fish. And there is no available funding for remote site CQE programs with no assets. We have seen this over and over again. Why do we think that small fishing communities of the Gulf of Alaska will ever be able to regain participation in a groundfish fishery without current product, appropriate funding or other asset as well as a vehicle to legally allow purchase? Why do we think that individual residents of those communities will be able to buy into a fishery that will most surely have a dramatic increase in cost?

The 19¹² small communities affected by this action are under 1500 in population, remote, and not connected to a road system. They have varying combinations of resident fishing vessel owners, skipper, crew, and processors. Their residents are likely to combine commercial, charter and subsistence fishing in order find viable options for employment and keeping their families fed. **All of these communities are fisheries-dependent in the truest sense and have few other options than making a living from the sea.**

In February, the GOAC3 recommended several options that would have mitigated the impact on the 19 affected smaller communities. The Council chose not to consider those options, even for analysis. The current alternatives do not have benefit of appropriate analyses of any mitigating options or of the national standard applications for socio-economic considerations, specifically NS#8¹³, NS#4¹⁴ and NS#5. The GOAC3 is reasonably sure that the future balance on the trawl groundfish participation will *not* be benefiting either adjacent Alaskan fishing communities¹⁵ or state residents.

It is simply unjust to continue down a path of rejecting options to alleviate the situation of escalating community deterioration when creating FMP changes. The law requires social and economic considerations and consultations. And it is simply unnecessary to move this agenda too quickly, if at all.¹⁶

We won't realize the full impact of these proposed (and combined actions) until long after they are in place. The issues are more complex than is indicated. Previous councils are now revisiting past cumulative actions *precisely* because they did not provide appropriate time for the unintended consequences to be fully considered.

We therefore urge the Council to provide additional time and consultation to address community impacts and options. Our sincerest thank you.

¹¹ The groundfish species that may be harvested under the current LLP include all species of trawl groundfish harvested in the Aleutians Islands, Bering Sea, Western Gulf of Alaska and Central Gulf of Alaska, specifically:

arrowtooth flounder—*Atheresthes stomias*
Atka mackerel—*Pleurogrammus monopterygius*
sablefish—*Anoplopoma fimbria*
deep water flatfish—includes dover sole (*Microstomus pacificus*),
Greenland turbot (*Reinhardtius hippoglossoides*) and deep-sea
sole (*Embassichthys bathybius*)
demersal rockfish—an assemblage of rockfishes including canary
rockfish (*Sebastes pinniger*), China rockfish (*Sebastes*
nebulosus), copper rockfish (*Sebastes caurinus*), quillback
rockfish (*Sebastes malinger*), rosethorn rockfish (*Sebastes*
helvomaculatus), tiger rockfish (*Sebastes nigrocinctus*) and
yelloweye rockfish (*Sebastes ruberrimus*).
flathead sole—*Hippoglossoides elassodon*
northern rockfish—*Sebastes polyspinus*
other flatfish—miscellaneous flatfish not included in the deep water
and shallow water assemblage
other rockfish—miscellaneous rockfish species not identified
individually or aggregated as an assemblage
Pacific cod—*Gadus macrocephalus*
Pacific Ocean perch—*Sebastes alutus*
pelagic shelf rockfish—a mixed assemblage comprised of dusky
rockfish (*Sebastes cilatus*), yellowtail rockfish (*Sebastes*
flavidus) and widow rockfish (*Sebastes entomelas*)
rex sole—*Errex zachirus*
northern rock sole—*Lepidopsetta polyxystra* n. sp.
shallow water flatfish—an assemblage that includes northern rock
sole (*Lepidopsetta polyxystra*), southern rock sole (*Pleuronectes*
bilineata), yellowfin sole (*Pleuronectes asper*), starry flounder
(*Platichthys stellatus*), butter sole (*Pleuronectes isolepis*),
English sole (*Pleuronectes vetulus*), Alaska plaice (*Pleuronectes*
quadrituberculatus) and sand sole (*Psettichthys melanostictus*)
shortraker rockfish—*Sebastes borealis*
rougheyeye rockfish—*Sebastes Aleutianus*
other slope rockfish—miscellaneous species assemblage including
sharpchin rockfish, redstripe rockfish, harlequin rockfish,
silverygrey rockfish, redbanded rockfish, and a number of minor
species not identified individually (not including shortraker and
rougheyeye rockfish)
thornyhead rockfish—*Sebastes alakanus*
turbot walleye pollock—*Theragra chalcogramma*
yellowfin sole—*Limanda aspera*

² Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006

³ “Guidance for Social Impact Assessment”, Peter Fricke, Ph.D., Office of Sustainable Fisheries, NOAA/ National Marine Fisheries Service, Silver Spring, MD

- a. Social and cultural systems are sensitive to change
- b. Small changes can have large cumulative impacts on fishery participants

⁴ “Analysis of the potential cumulative effects of a proposed action and its alternatives is a requirement of NEPA. Cumulative effects are those combined effects on the quality of the human environment that result from the incremental impact of the proposed action when added to other past, present, and reasonably foreseeable future actions, regardless of what Federal or non-Federal agency or person undertakes such other actions (40 CFR 1508.7, 1508.25(a), and 1508.25(c)). Cumulative impacts can result from individually minor, but collectively significant, actions taking place over a period of time. The concept behind cumulative effects analysis is to capture the total effects of many actions over time that would be missed by only evaluating each action individually. At the same time, the CEQ guidelines recognize that it is not practical to analyze the cumulative effects of an action on the universe but to focus on those effects that are truly meaningful.” March 7, 2008 , Public Review Draft, EA/RIR trawl LLP regulatory amendment, NPFMC, page 73

⁵ March 7, 2008 , Public Review Draft, EA/RIR trawl LLP regulatory amendment, NPFMC, page 4

⁶ National standard #5 states you cannot regulate purely for economic reasons – “**104-297** (5) Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.”

⁷ **109-479** (9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for— (A) participants in the fisheries and fishing communities affected by the plan or amendment; (B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and (C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;

⁸ National Environmental Policy Act

⁹ p. 69 . March 7, 2008 EA/RIR

¹⁰ Highlights of GAO-04-277, a report to congressional requesters

“New Entry Require Periodic Evaluation” p.2

“Several methods are available for protecting the economic viability of fishing communities and facilitating new entry into IFQ fisheries. The easiest and most direct way to help protect communities under an IFQ program is to allow the communities themselves to hold quota. Fishery managers can also help communities by adopting rules aimed at protecting certain groups of fishery participants. Methods for facilitating new entry principally fall into three categories: (1) adopting transfer rules on selling or leasing quota that help make quota more available and affordable to new entrants; (2) setting aside quota for new entrants; and (3) providing economic assistance, such as loans and subsidies, to new entrants.”

¹¹ Community Quota Entity

¹² Per the *Federal Register*, April 30th, 2004 (Amendment 66) the CQE communities in federal statistical reporting area 610 (Western GOA Regulatory Area, Shumagin District)

King Cove

Sand Point

620 (Central GOA Regulatory Area, Chirikof District)

Chignik

Chignik Lagoon

Chignik Lake

Ivanoff Bay

Perryville

630 (Central GOA Regulatory Area, Kodiak District)

Old Harbor

Ouzinkie

Karluk

Larson Bay
Port Lions
Akhiok
Port Graham
Seldovia
Nanwalek
Tyonak
649 (Prince William Sound)
Chenega
Tatitlek

¹³¹³ National Standard #8 104-297, 109-479 Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2), in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

¹⁴ National Standard #4: Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

¹⁵ DEFINITIONS 104-297 (17) The term "fishing community" means a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such community.

¹⁶ **2.5 Expected Effects of the Alternatives p. 18... EA/RIR March 7, 2008**

The impetus for this action originated with existing participants in the trawl groundfish fishery, concerned over possible future entry of 'latent' capacity (i.e. those that have not participated in the fishery in recent years). In looking at potential economic benefits from reduced capacity, one typically anticipates benefits from increased efficiency (with respect to productive capability and reduced costs for vessels assigned to the respective LLPs), improved safety, potential for reduction in non-targeted species bycatch or prohibited species bycatch or impacts. In this instance, the action alternatives (Alternatives 2 and 3) will prevent a possible future re-entry of recently latent trawl license holders, but it will not result in any immediate exclusion (reduction) of effort. Therefore, the near term effects on efficiency as a result of the action would be anticipated to be negligible. In the longer term, the action may forestall the possible situation where re-entry of recently latent licenses could exacerbate crowding, and/or vessel costs, resulting in reduced efficiency of the harvesting sector (i.e. crowding externalities). However, since one will never know, what (if any) proportion of the extinguished latent licenses might ever have re-entered the trawl groundfish fishery, these attributable impacts cannot be quantified.

In general terms, there is a continuum of management measures, working from a total open-access fishery towards full rationalization. In this process, the Council goes through a number of interim steps, typically beginning with implementation of a moratorium, assigning limited entry licenses, and then in some cases moving to a rationalized management regime. For BSAI and GOA trawl groundfish, the first two steps, a moratorium on new entry and assignment of LLPs, have been completed. The current action is essentially an 'update' of the assignment of LLPs, with the intent to remove area endorsements for those LLPs that have not recently participated in these fisheries.

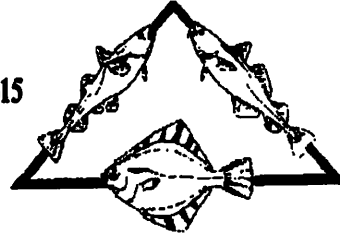
Julie Bonney
C-4
April 2008

Alaska Groundfish Data Bank

Alaska

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CONCERNS REGARDING LENGTH OF APPEALS PROCESS

Background: NMFS has established an appeals process to provide fishermen with due process for the existing LLP licenses, quota permits, and for other reasons. However, past experience suggests that the appeal process can be overly long, particularly for the LLP. While an LLP is under appeal it is still valid and may be used until the appeals process is completed. If the appeal process is lengthy, the net effect is that a regulation intended to reduce latent capacity does not fully accomplish its goal.

The regulations in place for the Pacific groundfish fishery require appeals to be resolved within 30 or 45 days upon receipt by the NMFS Appeals Officer unless there is good cause (e.g., a particularly complex case), but for simple appeals such as whether a person applied on a timely basis, or whether there is any record that a person met the minimum landing requirements, appeals would be resolved within 45 days, a much shorter time than is currently the case.

The following information is derived from data available from the Office of Administrative Appeals (OAA) on the NMFS Alaska Region website (www.fakr.noaa.gov). This information makes it clear that more timely resolution of LLP appeals is needed.

Total number of LLP appeals issued (all crab and groundfish LLPs): 105¹
Average time to issue LLP appeal once received (rounded to nearest 0.25 year): 2.25 yrs
Percentage of LLP appeals overturning original RAM decision: 26 %²

Number of Total Appeals Resolved per Year & Appeals Resolved per OAA Judge

Year	Number of Appeals Issued	Number of Appeals issued per OAA Judge (3 OAA Judges)
2007	16	1 appeal/Judge every 2.25 months
2006	17	1 appeal/Judge every 2.18 months
2005	22	1 appeal/Judge every 1.63 months
2004	40	1 appeal/Judge every 0.9 months
2003	21	1 appeal/Judge every 1.71 months

AGDB has raised this issue in hopes that NMFS will resolve Appeals as a result of this action as quickly as possible.

¹ Reconsideration and initial appeal decision counts as one appeal decision

² Vacated or partially vacated RAM decisions