


# Public Testimony Sign-Up Sheet

Agenda Item C-3 TRAWL LLP Recency

|    | NAME (PLEASE PRINT) | AFFILIATION              |
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| 2/ | LORI SWANSON        | GROUNDFISH FORUM         |
| 3/ | BRENT PAINE         | UCB                      |
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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: Council, SSC and AP Members  
FROM: Chris Oliver   
Executive Director  
DATE: March 21, 2007  
SUBJECT: BSAI & GOA Trawl LLP Recency Analysis

|                           |
|---------------------------|
| ESTIMATED TIME<br>2 HOURS |
|---------------------------|

**ACTION REQUIRED**

- a) Progress report on interactions with other limited entry programs.
- b) Review discussion paper on implementation issues, and take action as necessary.

**BACKGROUND**

Staff has been proceeding with analyses of a possible amendment to address latent capacity by trawl catcher vessels and trawl catcher processor vessels in the BSAI and GOA. The current list of alternatives, components, and options is attached as Item C-3(a).

In February, the Council requested two discussion papers to provide new information regarding the alternatives and components associated with the proposed amendment. Specifically, the discussion papers were to: (1) evaluate how elimination of endorsements will impact access to allocations and sideboards established under AFA/Am80/GOA rockfish, and (2) analyze the effects of different alternatives for gear/area endorsement criteria on LLP program, the process necessary to provide the necessary data to support the alternatives under consideration, and preliminary assessment of implementation issues.

The first discussion paper was not completed prior to the Council meeting. As the analyst worked through the LLP data, additional complex data issues arose that could not be addressed in the limited amount of time available. Consequently, staff is developing a new data base to more effectively address the potential effects of eliminating LLPs. At the February meeting, staff presented preliminary results on the numbers of LLPs that would meet the threshold criteria and those that would not meet the threshold criteria, under the various alternatives, components and options. At the June meeting, updated results will be presented using the new data set, along with the completed discussion paper evaluating interactions with other limited entry programs.

The second discussion paper, prepared by NMFS staff, examines issues related to implementation of alternatives and components in the proposed amendment. At the February 2007 meeting, the Council discussed the effects of the different alternatives for gear/area endorsements for this amendment. The feasibility of revisions to the structure of NOAA Fisheries RAM Division LLP area/gear data files was raised, and the attached discussion paper (Item C-3(b)) is the response to that inquiry.

Currently the proposed amendment provides a choice of two approaches related to achievement of the threshold groundfish landings. Alternatives 2 & 4 base achievement of the threshold criteria on trawl groundfish landings. The drawback of this approach is the potential unintended consequence of

extinguishing non-trawl area endorsements for LLPs trawling in other areas. Alternatives 3 & 5 base achievement of the threshold criteria on **both trawl and non-trawl landings**. The drawback of this approach is the potential unintended consequence of allowing future trawl gear use in areas where the LLP has been inactive with trawl gear in the qualifying period. Since this amendment addresses the problem of latent effort in the trawl groundfish fishery, this could be an undesirable result.

Although the Council has not expressed a preference between these two approaches, the discussion paper presents new information on data issues relating to this decision, and discusses the potential for structural changes within the RAM Division data that would link area and gear designations on an LLP to resolve the issues noted above. In addition, the discussion paper provides information on data limitations related to, and the level of effort required, if the Council chooses the longer qualification period (1995-2005) vs. the later qualification period (2000-2005). The new information presented may assist the Council with the decision of an appropriate qualification period for the amendment.

## APPENDIX 1 – COUNCIL MOTION FOR THE TRAWL RECENCY AMENDMENT: PURPOSE STATEMENT AND ALTERNATIVES, COMPONENTS AND OPTIONS

### Introduction

The proposed amendment applies threshold landings criteria to trawl groundfish fisheries in the Bering Sea, Aleutian Islands, the western Gulf of Alaska and central Gulf of Alaska. The intent of the amendment is to prevent latent trawl groundfish fishing capacity, comprised of LLPs from the respective areas that have not been utilized in recent years, from future re-entry into the fishery.

In December 2005, in preparation for consideration of provisions under this proposed amendment, the Council set a control date of December 11, 2005 for participation in the BSAI Pacific trawl CV fishery. The control date was notice to the public that participation in trawl groundfish fisheries by recently unutilized LLPs after this date may not be considered for future allocation or eligibility. Since this initial action, the focus of the amendment has expanded to include all groundfish species, options were added to consider application to CP LLPs and the area of implementation was expanded to include groundfish trawl CV and CP fisheries in the GOA. The moratorium as initially established by the Council does not correspond to the current formulation of the amendment.

The groups likely to be affected by the proposed amendment include trawl CV and trawl CP groundfish LLP permit holders in the abovementioned areas, as well as those holders of LLP permits, that would have groundfish area endorsements extinguished under provisions of the amendment. Under options being considered in the amendment, the Council may choose to expand application of the threshold criteria to both CV and CP trawl groundfish LLPs in the BSAI and GOA. The alternatives in the action apply the harvest thresholds to trawl groundfish LLPs at the management district level (BSAI & GOA) or at the submanagement district level (AI, BS, WG and CG). Note that under LLP area designations, the CG submanagement area includes west Yakutat.

The rationale for this action is concern over the impacts possible future entry of latent effort would have on the LLP holders that have exhibited participation and dependence on the groundfish fisheries. Latent effort, as addressed by this amendment, is comprised of valid LLPs that have not been utilized in the trawl CV groundfish fishery and the trawl CP groundfish in the BSAI & GOA in recent years. Recency, as defined in the alternatives, has been determined by the Council to be either: (a) participation during the 11 year period from 1995-2005 or (b) participation during the 6 year period from 2000-2005. The Council also specified that the analysis include 2006 non-AFA trawl groundfish harvests for the Aleutians Islands submanagement area (see Component 5 in the descriptions of alternatives below). In their discussions on this issue, the Council noted that LLP holders currently fishing the BSAI and GOA groundfish trawl fisheries have made significant investments, had long catch histories and are dependent on the groundfish resources from these areas. The Council believes these current participants need protection from LLPs that could re-enter the fisheries in the future.

As noted above, the management areas included under this program are the Bering Sea/Aleutian Islands (BSAI) and Gulf of Alaska (GOA). The management subareas areas included are the Bering Sea (BS), the Aleutian Islands (AI), the western Gulf of Alaska (WG), and the Central Gulf of Alaska (CG). The species included in the amendment include all species of trawl groundfish harvested in the above areas. Invertebrates (squid and octopus) crab, prohibited species (salmon, herring, halibut and steelhead), other species (sculpins, skates and sharks) and forage fish are not included and should not be affected by this amendment.

The Council's adopted the following draft problem statement on June 11, 2006.

*Trawl catcher vessel eligibility is a conflicting problem among the Bering Sea, Gulf of Alaska and Aleutian Islands. In the Bering Sea and Gulf of Alaska, there are too many latent licenses and in the Aleutian Islands there are not enough licenses available for trawl catcher vessels.*

*In the Bering Sea and GOA, the trawl catcher vessel groundfish fisheries in the BSAI and trawl vessel groundfish fisheries in the GOA are fully utilized. In addition, the existence of latent licenses may exacerbate the disadvantages to GOA dependant CVs resulting from a lack of comprehensive rationalization in the GOA. Competition for these resources is likely to increase as a result of a number of factors, including Council actions to rationalize other fisheries, favorable current market prices and a potential for TAC changes in future years. Trawl vessel owners who have made significant investments, have long catch histories, and are dependent upon BSAI and GOA groundfish resources need protection from others who have little or no recent history and with the ability to increase their participation in the fisheries. This requires prompt action to promote stability in the trawl catcher vessel sector in the BSAI and trawl vessel sector in the GOA until comprehensive rationalization is completed.*

*In the Aleutian Islands, previous Congressional and Council actions reflect a policy encouraging economic development of Adak. The opportunity for non-AFA CVs to build catch history in the AI was limited until markets developed in Adak. The analysis indicates that there are only six non-AFA CV trawl AI endorsed LLPs. The Congressional action to allocate AI pollock to the Aleut Corporation for the purpose of economic development of Adak requires that 50% of the AI pollock eventually be harvested by <60' vessels. The Council action under Am. 80 to allocate a portion of AI POP and Atka mackerel to the limited access fleet does not modify AFA CV sideboard restrictions, thus participation is effectively limited to non-AFA vessels with AI CV trawl LLP endorsements. A mechanism is needed to help facilitate the development of a resident fishing fleet that can fish in both state and federal waters. The Council will consider different criteria for the CV Eligibility in the AI.*

It is important to note that the main focus of the amendment is to reduce the future potential for increases in trawl groundfish fishing effort from LLPs currently unused or underutilized in all areas. However the last paragraph on the problem statement addresses the need to increase the number of valid non-AFA trawl LLPs in the Aleutian Islands area, and is therefore different in its objective from other management areas included in the amendment.

In addition to the main portion of the amendment that addresses numbers of LLPs meeting the harvest threshold over different qualification periods (Component 1, Options 1 & 2 with suboptions), it address a number of other aspects of LLPs in the BSAI and GOA groundfish fisheries, including: an alternative to exempt LLPs assigned to vessels less than 60 feet in length (Component 1-Option 3); an alternative to apply the threshold criteria to the group of LLPs assigned to trawl CPs in the BSAI that are neither part of the AFA sector nor qualified under Amendment 80 (Component 1 – Option 4); a provision to deal with multiple (stacked) LLPs assigned to a single vessel (Component 2); an option to exclude AFA LLPs (Component 3); an option to exclude LLPs assigned to vessels qualified under Amendment 80 (Component 4); and an option for vessels with a catch history in the parallel waters or 2006 State waters Aleutian Island Pacific cod fishery that would be eligible, under the threshold criteria, to obtain an AI LLP on the basis of their past landings history for groundfish (Component 5).

# Key for Trawl Recency Alternatives

## Management area differentiation

- Alternatives 2 & 3 are based upon **BSAI/GOA** areas
- Alternatives 4 & 5 are based upon **AI, BS, WG, CG** areas

## Harvest means differentiation

- Alternatives 2 & 4 specify only trawl groundfish harvests
- Alternatives 3 & 5 specify both trawl and non-trawl (fixed gear) harvests of groundfish

## Qualification period/threshold level differentiation

- **Component 1 - Option 1** includes groundfish harvests for the period 2000-2005 (requires at least one landing)
- **Component 1 - Option 1, suboption 1** includes groundfish harvests for the period 1995-2005 (requires at least one landing)
- **Component 1 - Option 2** includes groundfish harvests for the period 2000-2005 (requires at least two landings)
- **Component 2 - Option 2, suboption 1** includes groundfish harvests for the period 1995-2005 (requires at least two landings)

**Alternative 1 – No Action:** Under this alternative the existing situation will continue. All LLPs currently issued will continue to be valid for the BSAI and GOA trawl groundfish fisheries. There would also be no change in the number of non-AFA trawl CV LLPs for the Aleutian Islands area, which could occur under Component 5.

**Alternatives 2, 3, 4, and 5** are differentiated by two main factors: whether or not the program is implemented at the management area or subarea designation, and secondly whether the landings history is based upon trawl groundfish landings or total groundfish landings, including the amount harvested by fixed gear, which is included in the cumulative catch for the appropriate qualification period. The specification of these two main factors is shown for each respective alternative below:

*Alternative 2 would implement LLP threshold criteria based upon BSAI and GOA management areas. It would specify application of all trawl groundfish harvests within these areas for the respective qualification period.*

*Alternative 3 would implement LLP threshold criteria based upon BSAI and GOA management areas. It would specify application of groundfish harvests (trawl and fixed gear) within these areas for the respective qualification period.*

*Alternative 4 would implement LLP threshold criteria based upon BS, AI, WG and CG subdistrict management areas. It would specify application of trawl groundfish harvests within these areas for the respective qualification period.*

*Alternative 5 would implement LLP threshold criteria based upon BS, AI, WG and CG subdistrict management areas. It would specify application of groundfish harvests (trawl and fixed gear) within these areas for the respective qualification period.*

**Component/Option Choices Common to Each Action Alternative (2-5).**

Each of the four action alternatives has a common set of five components that will form the remainder of choices for this amendment. The Council can choose to include and apply any combination from these components to any one of the alternatives identified above. The respective components address the issues of qualification period; landing criterion applied to determine qualified LLPs; multiple LLPs registered to a single vessel; potential exclusion of AFA qualified vessels; potential exclusion of Amendment 80 vessels; and options for separately addressing LLPs in the Aleutian Islands groundfish fishery.

**Component 1** includes a number of possible choices for landings criteria to be applied to the current LLP holders for existing trawl LLPs in the respective areas. The varying factors under Component 1 are the choice of qualification period (2000-2005 or 1995-2005); choice of threshold criteria to be applied (at least one landing for the qualification period or at least two landings for the qualification period); and a final choice to exempt vessels with an overall length less than 60 feet from application of the threshold criteria. The choices for Component 1 are as follows:

*Component 1 – Option 1 requires at least one landing of groundfish during the qualification period of 2000-2005.*

*Component 1 – Option 1 - Suboption 1 requires at least one landing of groundfish during the qualification period of 1995-2005.*

*Component 1 – Option 2 requires at least two landings of groundfish during the qualification period of 2000-2005.*

*Component 1 – Option 2 – Suboption 1 requires at least two landings of groundfish during the qualification period of 1995-2005.*

**Component 1 – Option 3** provides a choice to exempt trawl LLPs in the BSAI or GOA assigned to vessels less than 60 feet in overall length from application of the threshold criteria. Selection of this option can be independent of other Component 1 options.

**Component 1 – Option 4** provides a choice of whether to include non-AFA & non-Amendment 80 BSAI CPs in application of the groundfish threshold landings criteria.

**Component 2** provides a choice where there are multiple LLPs registered to a single vessel, also known as ‘stacking’ of LLPs. The Council has specified a provision to deal with this situation as follows:

**Component 2** – will fully credit groundfish harvest history to all stacked licenses, each carrying its own qualifying endorsements and designations.

**Component 3** provides a choice of whether to exclude AFA vessels from LLP qualification under the amendment. The Council identified a single option as follows:

**Component 3 – Option 1** will exclude LLPs originally issued to vessels qualified under the AFA and LLPs used for eligibility in the AFA.

**Component 4** addresses consideration of excluding Amendment 80-qualified vessels from LLP qualification under the amendment. The Council identified a single option as follows:

**Component 4 – Option 1** will exclude LLPs originally issued to vessels Qualified under Amendment 80 and LLPs used for eligibility in Amendment 80.

**Component 5** is different from other parts of the proposed amendment. It evaluates the effect of adding new LLPs to the Aleutian Islands non-AFA trawl groundfish CV fishery based on harvests during the respective qualification periods. Harvests for the parallel waters fishery in the Aleutian Islands and also the 2006 State waters fishery are included in the basis for qualification. The options for Component 5 are slightly different from Component 1 to provide inclusion of 2006 groundfish harvests.

**Component 5 - Option 1:** requires at least one landing of groundfish during the qualification period of 2000-2006.

**Component 5 – Option 1 - Suboption 1:** requires at least one landing of groundfish during the qualification period of 2000-2005.

**Component 5 - Option 2:** requires at least one landing of groundfish during the qualification period of 1995-2006.

**Component 5 – Option 2 - Suboption 1:** requires at least one landing of groundfish during the qualification period of 1995-2005.

**Component 5 - Option 3:** requires at least two landings of groundfish during the qualification period of 2000-2006.

**Component 5 – Option 3 – Suboption 1:** requires at least two landings of groundfish during the qualification period of 2000-2005.

**Component 5 - Option 4:** requires at least two landings of groundfish during the qualification period of 2000-2006.

**Component 5 – Option 4 – Suboption 1:** requires at least two landings of groundfish during the qualification period of 2000-2005.



**NMFS Comments on License Limitation Program (LLP) License Trawl Recency Modifications  
Alaska Region**

**I. Overview**

The following discussion details some of the administrative challenges and approaches to achieve the Council's goal to reduce the number of LLP licenses with trawl endorsements that may be used if those LLP licenses have not been used for trawl fishing recently. Obviously, the purpose and need statement (i.e., problem statement) for any action evolves over time, but NMFS has made an assumption about the Council's objectives, at this time, to frame this discussion.

The discussion and recommendations that follow seek to efficiently achieve the Council's identified goals and NMFS's administrative requirements by answering four questions:

- **What are the data concerns or challenges in assessing qualification for a trawl endorsement?**
- **Is there an implementation approach that could efficiently reduce latent effort?**
- **How long would it take to implement an LLP trawl recency modification?**
- **How might other actions currently under consideration by the Council (e.g., Aleutian Islands trawl LLP & GOA non-trawl LLP revisions) affect LLP trawl recency implementation?**

This paper provides the Council guidance on specific approaches that may be most efficient and frustrate the Council's overall goals.

**II. What are the data concerns or challenges in assessing qualification for a trawl endorsement?**

**A. General data concerns and issues**

The review of landings data for any modification to the LLP requires the same basic steps. NMFS would need to create an official record of trawl landings made by a vessel using landings data from ADF&G fish tickets and weekly production reports (WPRs). Because landings made by a vessel are recorded, at a minimum, by area (i.e., by management area -- BSAI, or GOA, and subareas -- BS, AI, WGOA, etc...), using a specific gear type (e.g., trawl, jig, hook-and-line), there is no additional effort to determine if a vessel made a landing using trawl gear in a specific management area or subarea during a defined period of time, than to determine if a vessel made a landing using trawl gear throughout the entire BSAI and GOA generally.

NMFS's catch accounting system tracks landings by vessel. Assigning a landing to a specific LLP license requires a series of steps that can be complex and subject to error, and therefore result challenges and possibly appeals depending on the choices made. LLP licenses under appeal are issued as interim LLP licenses which are valid and may be used until the appeal is resolved. Because the LLP was not implemented until January 1, 2000, there are a series of decisions that must be made when assigning landings to LLP licenses before 2000, and to some extent after 2000. For purposes of this discussion, there are four key time periods that must be considered: (1) From 2002 through the present; (2) 2000 and 2001; (3) from 1996 through 1999; and (4) 1995.

(1) From 2002 through the present. Beginning in 2002, NMFS required that an LLP license designate a specific vessel on which it was being used. This requirement allows NMFS to assign landings to a specific LLP license without having to make any assumptions. Either a vessel was designated on a specific LLP license during a specific period of time or it was not. Claims about use of an LLP license

aboard a specific vessel can be easily and independently verified by NMFS. When combined with landings records, NMFS can determine how many landings may be assigned to a specific LLP license during this time frame independently. If a vessel is designated on more than one LLP license, landings could be split, or otherwise apportioned among those licenses according to the criteria established by the Council. Potential errors in these data are limited. Modifications to the LLP based on landings data beginning in 2002 are more easily accommodated because NMFS does not have to interpret contracts concerning the use of LLP licenses, or use data provided by LLP holders.

- **If the Council wishes to minimize the time required to review applications and contrary claims, establish an official record that is least subject to challenge, and considers more recent participation patterns, use landings data not earlier than 2002.**

(2) 2000 and 2001. During the first two years of the LLP, NMFS did not track the use of LLP licenses aboard specific vessels. Although LLP licenses were required to be onboard vessels, there is no independent data source to verify which vessel used which LLP license. In the Central GOA Rockfish Program, NMFS has addressed this problem by assuming that the vessel that gave rise to the LLP license (i.e., the original qualifying vessel, or OQV, in the vernacular of the LLP), continued to use the LLP license derived from that OQV unless there is a clear and unambiguous contract or other written documentation that can be provided by an LLP holder to prove that this assumption is incorrect. This rebuttable presumption offers an opportunity for an LLP holder to challenge NMFS's official record, but limits the ability to rebut this assumption based merely on oral testimony or recollection.

Based on the most recent experience of assigning landings to LLP licenses in the Central GOA Rockfish Program, the assumption that LLP licenses issued in 2000 continued to be used on the OQV that gave rise to those LLP licenses throughout the remainder of 2000 and 2001 is correct in the vast majority of the cases (i.e., greater than 80 percent). However, it should be noted that the ambiguity of contracts or conflicting contractual claims about the use of an LLP licenses on a specific vessel can be a source of dispute and are subject to interpretation. This raises the potential for additional time delays in issuing revised LLP licenses to the fleet as a whole should such disputes be widespread.

(3) From 1996 through 1999. Prior to the issuance of LLP licenses, assigning a landing to an LLP license requires several assumptions. NMFS presents two methods of assigning a landing to an LLP license. The advantages and disadvantages of each are addressed briefly. However, given the complexity of the second method presented here, NMFS would not support its use for purposes of this proposed action.

The first method, recommended by NMFS, would assign a landing made by an OQV to the LLP license that was derived from that vessel. This method is similar to the method used to assign a legal landing to an LLP license in 2000 and 2001. NMFS maintained records about landings by a specific vessel during this time period. Further, NMFS would not need to interpret contracts concerning the attribution of a landing to a specific LLP license using this method which would minimize the time taken to process landings information, reduce potential counter claims, and limit possible delays in issuing revised LLP licenses should such disputes be common among the fleet.

Additionally, this approach could be used in the fourth time period (i.e., in 1995) as well. This would ensure a consistent approach to assigning landing to an LLP license for all pre-2000 landings. With this method, NMFS is not required to review any contracts about the private contractual transfers of catch history or harvest privileges. Parties subject to any such civil contracts that may be in dispute could resolve any such matters privately either through alternative arrangements or in court.

- **NMFS's recommends that landings made by a vessel prior to 2000 be assigned to the LLP license that was derived from that OQV.**

The second method, neither recommended nor supported by NMFS, would assign legal landings to an LLP license based on the landings that are assigned to a Vessel Moratorium Program (VMP) permit provided the landings assigned to that VMP permit are in turn attributed to an LLP license. This method has myriad complexities. From 1996 through 1999, NMFS required that vessel operators hold a VMP permit and use that permit onboard a vessel (Final Rule: August 19, 1995, 60 FR 40763). Unfortunately, because the VMP was intended to be a short-term program ultimately replaced by the LLP, NMFS did not maintain an electronic data base to directly link a landing made by a vessel, the VMP permit used on a vessel, and the attribution of the VMP permit to an LLP license. NMFS would have to obtain poor quality paper records from archives and manually sort data to make this linkage – a labor intensive and time consuming process.

In order to verify the linkage between a landing made by a vessel, the VMP permit used on that vessel, and the LLP license to which that landing/VMP permit is assigned would require LLP holders to provide information in an application about the use of a VMP permit onboard a specific vessel from 1996 through 1999. It is highly likely that many privately held VMP records may have been lost, destroyed, or are unavailable. Without written records of VMP permit use onboard a vessel, NMFS would have to make a series of rebuttable presumptions concerning the attribution of landings to VMP permits and then the attribution of landings on a VMP permit to specific LLP license. Given the complexities in assigning a landing to a VMP permit, the likelihood for error in assigning landings to a permit with the potentially poor quality of NMFS and private records, the increasing number of potential challenges that each of these decision points provide, and the likelihood that in a majority of cases the vessel that gave rise to an LLP license also used the VMP originally assigned to that vessel, there is little discernable value to using VMP permit records to assign legal landings to an LLP license.

(4) 1995. No VMP was in effect in 1995. NMFS would have to assign a landing made by vessel during 1995 to a specific LLP license using an assumption. The most reasonable assumption would be to employ the same assumption proposed as the first option for assigning landings from 1996 through 1999 – landings made by an OQV are assigned to the LLP derived from that OQV. Again, using this assumption for assigning a landing to an LLP license, minimizes the need to create a complex new method for assigning a landing to an LLP license.

Figure 1 describes NMFS's recommended approach for assigning landings to an LLP license from 1995 through 2005. Figure 2 describes the complexities of using an alternative method (not recommended by NMFS) that attempts to link landings/VMP permits and LLP licenses. In both figures, the text in italics indicates information or decisions that may be subject to challenge in NMFS's official record. In short, the fewer the number of italic notes, the fewer the potential decisions that have to be made, the fewer the potential sources of challenges, and the greater the likelihood of reducing latent trawl LLP licenses in a timely fashion.

#### **B. 1995 through 1999 data vs. 2000 through 2005 data**

As noted in the previous discussion, more recent data is less subject to interpretation, error, and challenge. If the overall goal is to reduce the number of trawl endorsed LLP licenses without "recent" participation, it might be worthwhile to review recency in the context of a potential implementation schedule. Any revisions to the LLP could not be effective earlier than 2009 (possible implementation schedules are described in Section IV).

Following is an example using an extreme case of an LLP receiving a trawl recency endorsement based on activities during 1995. This example is relevant, however, to relatively historic landings. If trawl

recency is based on landings from 1995 through 2005 and an LLP license is assigned landings only 1995 that meet the minimum threshold criteria, the LLP license holder would receive a revised LLP license in 2009 with a trawl endorsement based on landings that were made 14 years earlier. That does not appear to reflect most commonly understood definitions of "recent trawl participation." Should a person submit a claim for landings made onboard a vessel in 1995, the claim is inconsistent with NMFS's official record, the inconsistency is challenged by the applicant, an IAD issued by NMFS, and the IAD appealed, a person could be issued an interim LLP license based on landings claimed in 1995. Depending on the time required to resolve the appeal, that interim LLP license could be used for several years after implementation.

If the proposed action is to amend LLP licenses that have not been credited with trawl landings in recent years, than it may be appropriate to consider only landings after the implementation of the LLP in 2000. If the goal is to remove LLP licenses that have not been used recently, it is not clear why landings made by a vessel before the existence of the LLP would be considered as having been made by an LLP license that did not yet exist.

- **Landings data beginning in 2002, is most easily assigned to a specific LLP license, and may better constitute "recent" participation, particularly when considered in the context of a possible time line for the implementation of any regulations.**
- **Vessel landings prior to 2000 were made before the implementation of the LLP. It is not clear why landings not made under the authority of an LLP license should be assigned to an LLP as a "recent" landing made under the authority of an LLP license.**

C. Claims contrary to the official record and appeals.

Generally, claims for landings made by a vessel that have no record in the official data base can be decided relatively quickly without an extensive appeal process. Rarely has an applicant made a claim that a fish ticket or WPR has not been submitted or is incorrect and been successful on appeal. Claims concerning the use of an LLP license onboard a specific vessel during 2000 and 2001 are more likely to be subject to a thorough review and appeal process.

The fewer the potential sources of disputes, the fewer the potential claims contrary to the official record, and the fewer potential appeals. Should the Council choose to establish trawl endorsement for each subarea (i.e., WGOA, CGOA, SEO, BS, or AI) instead of a broader management area trawl recency standard (i.e., BSAI or GOA), the number of potential contrary claims increases substantially as does the potential for appeal. It is difficult to predict the number of appeals and the time required to resolve all appeals. However, there are still appeals pending from claims made shortly after the initial issuance of LLP licenses in 2000. The length of time to resolve appeals can be reduced both by reducing the potential number of appeals, and by more timely preparation of IADs and ruling on appeals. The potential number of appeals can be addressed by the Council through the design of the trawl recency provisions.

NOAA General Council has interpreted the Administrative Procedure Act (APA) to require NMFS to provide an interim LLP license to an LLP license holder while an appeal is pending. NMFS has consistently applied this interpretation to past modifications in the LLP (e.g., the crab LLP license recent participation requirements). NMFS would anticipate applying this interpretation of the APA to any trawl recency LLP licenses under appeal.

### **III. Is there an implementation approach that is best suited to meet that goal?**

#### **A. General approaches to accomplish the goal**

In terms of minimizing potential administrative burdens and meeting the overall goal of reducing latent trawl effort, one approach would be to modify the LLP to add a management area specific trawl endorsement based on an LLP license meeting a minimum landing threshold in the BSAI or GOA with specific exemptions provided to LLPs that are used in Limited Access Privilege Programs (LAPPs) such as the AFA Program, Central GOA Rockfish Program, and the forthcoming Amendment 80 Program.

NMFS proposes that an area specific trawl endorsement based on a minimum landing threshold in an area is most likely to accomplish the Council's goal with the greatest efficiency in terms of effectively removing latent trawl LLP licenses. Specific provisions to exempt AFA catcher vessels from the trawl recency requirements in the BSAI would allow those vessels to continue to participate in the AFA. Similar provisions could be used under the anticipated Amendment 80 program to ensure that Amendment 80 LLP licenses are not removed from the BSAI. An exemption could be granted to Central GOA Rockfish Program LLP licenses to ensure that those LLP licenses could continue to be used in the GOA, the Central GOA specifically. However, as an example, if an AFA endorsed LLP license did not meet minimum landing thresholds for trawl gear in the GOA, that AFA endorsed LLP licenses would not receive a GOA trawl endorsement. Clearly, other alternatives can and should be analyzed, however, the advantages of a relatively simple area specific trawl endorsement are provided below.

(1) Management Area Specific Trawl Endorsements. If the LLP is modified so that LLP licenses endorsed for trawl gear are restricted from being used in an area because those LLP licenses did not meet minimum landing thresholds for trawl gear in that area, those latent trawl LLP licenses are removed for use only in that area. Under this approach, NMFS would reissue LLP licenses with area specific trawl endorsements. Table 1 describes LLP license reissuance if a management area specific trawl endorsement were adopted.

As an example of this approach, if an LLP license currently endorsed for the CGOA, WGOA, and BS with a trawl gear endorsement met the minimum trawl landings threshold in the GOA (i.e., CGOA or WGOA), but not the BSAI (i.e., BS), that LLP license would be reissued as a CGOA and WGOA trawl endorsed LLP license. However, that LLP license would no longer be trawl endorsed in the Being Sea because it did not meet the minimum trawl landings threshold in the BSAI. NMFS would remove the BS endorsement from the LLP license because that endorsement in that area is no longer valid. As noted in Table 1, This approach modifies trawl/non-trawl endorsed LLP licenses so that if a trawl/non-trawl LLP license endorsed for an area did not meet the threshold for the minimum number of trawl landings in that area, that license would modified so that the LLP license would be designated only as a non-trawl license in that area. As an example, if an LLP license is trawl/non-trawl endorsed for the SEO, CGOA, and AI, and that LLP license met the minimum trawl landing threshold in the BSAI (i.e., AI), but not in the GOA (i.e., CGOA), that LLP license would be reissued for trawl/non-trawl gear in the AI, and non-trawl in SEO and CGOA. The LLP license area specific trawl endorsement would not affect the validity of LLP licenses with non-trawl endorsements.

NMFS would need to evaluate each claim made by an applicant that did not agree with NMFS's official record, and as is clear from Table 1, NMFS would have to run two tests for each LLP license: (1) Did the LLP license meet the minimum trawl landings threshold in any area in the GOA for which it is endorsed, yes or no?; and (2) Did the LLP license meet the minimum trawl landings threshold in any area in the BSAI for which it is endorsed, yes or no? There are approximately 300 LLP licenses endorsed for trawl or trawl/non-trawl gear in the GOA and BSAI. The number of LLP licenses that may be affected cannot be predicted at this time.

Table 1: Assigning management area specific trawl recency endorsement to LLP licenses.

| Area and gear endorsements... |                  | NMFS would reissue the LLP license with the following trawl area endorsements depending based on the answers to these questions... |                           |                              |                          |
|-------------------------------|------------------|--|---------------------------|------------------------------|--------------------------|
| Area Endorsement              | Gear Endorsement | Did the LLP license meet the minimum trawl landing threshold?  |                           |                              |                          |
|                               |                  | In the BSAI ?  |                           | In the GOA ?                 |                          |
|                               |                  | Yes  | No                        | Yes                          | No                       |
| GOA<br>(WGOA, CGOA, or SEO)   | trawl            | N/A  | N/A                       | GOA trawl endorsed           | No GOA trawl endorsement |
|                               | trawl/non-trawl  | N/A  | N/A                       | GOA trawl/non-trawl endorsed | GOA non-trawl endorsed   |
| BSAI<br>(BS or AI)            | trawl            | BSAI trawl endorsed  | No BSAI trawl endorsement | N/A                          | N/A                      |
|                               | trawl/non-trawl  | GOA trawl/non-trawl endorsed   | GOA non-trawl endorsed    | N/A                          | N/A                      |
| GOA and BSAI                  | trawl            | BSAI trawl endorsed  | No BSAI trawl endorsement | GOA trawl endorsed           | No GOA trawl endorsement |
|                               | trawl/non-trawl  | BSAI trawl/non-trawl endorsed  | BSAI non-trawl endorsed   | GOA trawl/non-trawl endorsed | GOA non-trawl endorsed   |

(2) Subarea specific trawl endorsements. A variant on the area trawl endorsement would be to establish minimum trawl landing thresholds for each subarea. Under this example, NMFS would assign a trawl endorsement for a subarea only if an LLP license met the minimum trawl landing threshold in that subarea (i.e., WGOA, CGOA, SEO, BS, and AI). This approach could substantially reduce the number of trawl licenses within a subarea and could limit the overall availability of trawl LLP licenses much more restrictively than a broader area specific approach might. NMFS would have to review more potential claims contrary to the official record under this approach which could provide additional sources for appeal.

**B. Exemptions for LLP licenses designating vessels in LAPPs**

One of the issues raised by the Advisory Panel during the January Council meeting were methods to accommodate LLP licenses that are assigned to LAPPs.

Regulations require that AFA Program participants maintain valid LLP licenses onboard any vessel that is used to engage in directed fishing for non-CDQ pollock in the Bering Sea. Furthermore, any catcher vessel that is assigned to an inshore cooperative must be named on a valid LLP permit authorizing

the vessel to engage in trawling for pollock in the Bering Sea subarea. If the vessel is more than 60 feet (18.3 m) LOA, the vessel must be named on a valid LLP permit endorsed for the AI to engage in trawling for pollock in the AI. These regulations are in effect even if that AFA catcher vessel is not actively fishing for the inshore cooperative. LLP licenses that are assigned to AFA vessels may not be assigned to non-AFA vessels. (See regulations at 50 CFR 679.4(k)(10), (l)(1)(i), and (l)(6)(1)(ii) for additional detail).

Under the Central GOA Rockfish Program, Rockfish QS is assigned to an LLP license endorsed for trawl gear with an area endorsement for the Central GOA. If an LLP license loses its area endorsement for the Central GOA or its trawl endorsement, it is not clear that the Rockfish QS affixed to that LLP license could still be assigned to that LLP license, or used, without changes to the Central GOA Rockfish Program regulations. (See regulations at 50 CFR 679.80 for additional detail).

Under the proposed Amendment 80 Program, in order to continue to participate in the Amendment 80 sector (i.e., the non-AFA trawl catcher/processor sector), a person must be issued a valid LLP license endorsed for Bering Sea or Aleutian Islands trawl catcher/processor fishing activity. This requirement is established in statute under Section 219 of the Consolidated Appropriations Act of 2005 (Public Law No. 108-447). If changes to the LLP resulted in such an LLP license being modified so that it no longer meets the criteria established under Section 219, it could no longer be used in the Amendment 80 sector, and could restrict a person from receiving an allocation privilege under the Amendment 80 Program. The Council has recommended that Amendment 80 LLP licenses could not designate non-Amendment 80 vessels.

There are two general approaches to address the concerns of LAPP participants with latent trawl LLP licenses: (1) a general exemption from the trawl endorsement for LLP licenses designating vessels in LAPPs; or (2) an area specific exemption from the trawl endorsement for LLP licenses designating vessels in LAPPs.

(1) General Exemption for LLP licenses designating vessels in LAPPs. A general exemption provided for LLP licenses designating vessels in LAPPs does not appear to specifically target the goal of the proposed action. If a modification to the LLP is designed so that any LLP license designating a vessel in a LAPP is not subject to trawl recency modification, that LLP license would retain its trawl endorsement. Any such LLP license could continue to be used in any management area in the future. As an example, if an AFA LLP license is exempted from the trawl recency requirement, and that AFA LLP license is endorsed for BS, WGOA, and CGOA, that AFA LLP license could be used on a trawl vessel in the GOA in the future even though that LLP license may not have otherwise met the minimum trawl landing threshold selected by the Council for all other non-LAPP LLP licenses. Any such AFA LLP license would still be valid in the BSAI, but would still be "latent" in the GOA.

(2) Area specific exemption for LLP licenses designating vessels in LAPPs. The primary advantage of modifying the LLP to provide an area specific trawl endorsement is that it appears to best target the goal of the proposed action. An area specific trawl endorsement exemption would permit LAPP LLP licenses to continue to be used in the LAPP and management area for which they are required even if those LLP licenses did not meet the minimum trawl landings threshold in that area. As an example, if an AFA LLP license was not assigned trawl landings in the BS that met the minimum landing threshold in the BSAI, NMFS would not modify the BS trawl endorsement for that AFA LLP license. This would not affect the ability of that AFA participant to continue to use that AFA LLP license while directed fishing for non-CDQ pollock in the Bering Sea, or assign that AFA LLP license to an inshore cooperative. However, if an AFA LLP license did not meet the minimum trawl landings threshold in the WGOA or CGOA, that AFA LLP license would be revised so that it would not receive a GOA trawl endorsement in the WGOA or CGOA. Table 2 illustrates how an area specific exemption for LLP licenses assigned to vessels in each of the LAPPs would function.

In terms of managing this provision, it would probably be necessary to include a clause that provided the area specific trawl recency exemption only so long as the exempt LLP license designated a vessel that is eligible for the applicable LAPP. This would limit the ability for LLP licenses that would be otherwise considered latent to retain an exemption if that LLP license is used on a non-LAPP vessel. Presumably, the goal of an exemption to the trawl recency requirement would apply only for use on vessels that are required to have a valid trawl license in a specific area for a specific LAPP. Under current regulations, AFA LLP licenses must be used on AFA vessels. The Council recommended that Amendment 80 vessels could only be used on Amendment 80 vessels. Because the universe of vessels that are eligible to use an AFA or Amendment 80 LLP license is defined and it would be easy to administer this provision for those LAPPs.

However, there is not a defined list of vessels eligible for the Central GOA Rockfish Program. There is a list of vessels that were used to make legal landings under the Central GOA Rockfish Program, and are therefore subject to Central GOA Rockfish Program sideboard limits. Potentially, that list of vessels could serve as a proxy for a list of eligible Central GOA Rockfish vessels for purposes of this provision. Alternatively, NMFS could limit the trawl recency exemption assigned to a Central GOA Rockfish Program LLP to be effective only if that LLP license is assigned to a rockfish cooperative, rockfish limited access fishery, or opt-out fishery. Effectively, that would limit the ability of a vessel to use a trawl recency exempt Central GOA Rockfish Program LLP license only if that LLP license is used in the Central GOA Rockfish Program. The Council should determine whether this limitation is necessary, and if so, how to define a list of vessels which can use an LAPP LLP that is granted a trawl recency exemption.

Table 2: Possible exemptions to LLP licenses assigned to vessels in the following LAPPs

| LAPP                         | If an LLP license assigned to the LAPP did NOT meet the minimum landing threshold in the   |  |
|------------------------------|--|--|
|                              | BSAI, then NMFS would...   | GOA, then NMFS would...  |
| AFA Program                  | Not remove the BSAI trawl endorsement - LLP trawl endorsement still valid in this area provided the LLP license designates an AFA vessel.          | Remove the GOA trawl endorsement   |
| Amendment 80 Program         | Not remove the BSAI trawl endorsement - LLP trawl endorsement still valid in this area provided the LLP license designates an Amendment 80 vessel. | Remove the GOA trawl endorsement   |
| Central GOA Rockfish Program | Remove the BSAI trawl endorsement  | Not remove the GOA trawl endorsement - LLP trawl endorsement still valid in this area provided the LLP license designates a Central GOA Rockfish Program vessel. |



#### **IV. How long would it take to implement an LLP trawl recency modification?**

NMFS provides two possible implementation schedules for modifications to the LLP in Figures 3 and 4. No regulations could be effective before 2009, and possibly later depending on the complexity of the modifications recommended by the Council.

Both timelines in Figures 3 and 4 incorporate the time required for public comment on the FMP amendment and proposed rule, and the required delay between the publication of a final rule and its effective date (i.e., the APA "cooling off" period). Both timelines assume that NMFS would not issue a trawl LLP endorsement mid-season to avoid undue disruption to the industry. Both timelines assume that NMFS would implement a trawl recency requirement in the same manner used to implement recency requirements for BSAI crab LLP licenses, and the Pacific cod LLP endorsement. After the effective date of the final rule, NMFS would issue a letter to all LLP license holders notifying the holder of the endorsements that an LLP license would receive. LLP holders would have 30 days to provide any evidence to counter that claim. NMFS would prepare an IAD, and send that IAD to the LLP holder if a counter claim was not accepted. The LLP holder would have a 60 day period after an IAD is issued to appeal an IAD. Both timelines assume that NMFS would want to ensure that the period to appeal an IAD has ended prior to the start of a fishing year to minimize the number of potentially outstanding claims, and interim LLP licenses that would have to be issued.

Figure 3 describes a timeline based on a relatively simple revision to the LLP to incorporate a management area (BSAI or GOA) trawl endorsement with specific exemptions provided for LLPs assigned to vessels in LAPPs. Figure 3 assumes that the Council recommends modifications to the LLP based on more recent data (i.e., ideally after 2002), and the minimum landings thresholds are based on number of landings and not thresholds of tons landed, which would require additional data tests and preparation. The timeline in Figure 3 assumes that the modifications recommended by the Council do not contain numerous exemptions or other complications. NMFS believes such a relatively straightforward action could be implemented by 2009 pending Council action by October 2007. Final Council action in December 2007 would be difficult to implement by 2009.

Figure 4 describes a timeline that would incorporate a more complex action which could include subarea specific trawl endorsements, landings data prior to 2000, exemptions for specific LLP licenses to accommodate unique conditions, or incorporation of other modifications to the LLP that are currently under consideration such as the Aleutian Islands trawl endorsement modifications. NMFS assumes that if the Council takes final action in early 2008, the earliest that any relatively complex LLP modification could be in effect is 2010.

#### **V. How might other actions currently under consideration by the Council (e.g., Aleutian Islands trawl LLP & GOA non-trawl LLP revisions) affect LLP trawl recency implementation?**

Some of the actions being considered by the Council, including adding additional options to qualify for an Aleutian Islands trawl endorsed LLP, or modifying the LLP to reduce the number of non-trawl latent licenses in the GOA could be coupled with this action. Combining these LLP changes into a single action would increase the time required to implement the changes, and would likely compromise the ability to implement a narrowly focused trawl recency LLP modification by 2009 as described in Figure 3. However, such changes could be incorporated if a later implementation timeline as described in Figure 4 is adopted. It is not clear if combining these actions would reduce the overall amount of administrative burden.

Each proposal submitted separately by the Council as a separate action has to have its own analytical document and rule making package with its dozens of associated memoranda, separate review process, publication in the *Federal Register*, public comment period, etc.... Sometimes, combining similar recommendations into one action can save time by consolidating analytical requirements and regulation development, particularly if actions have similar goals and modify similar portions of the same program. It

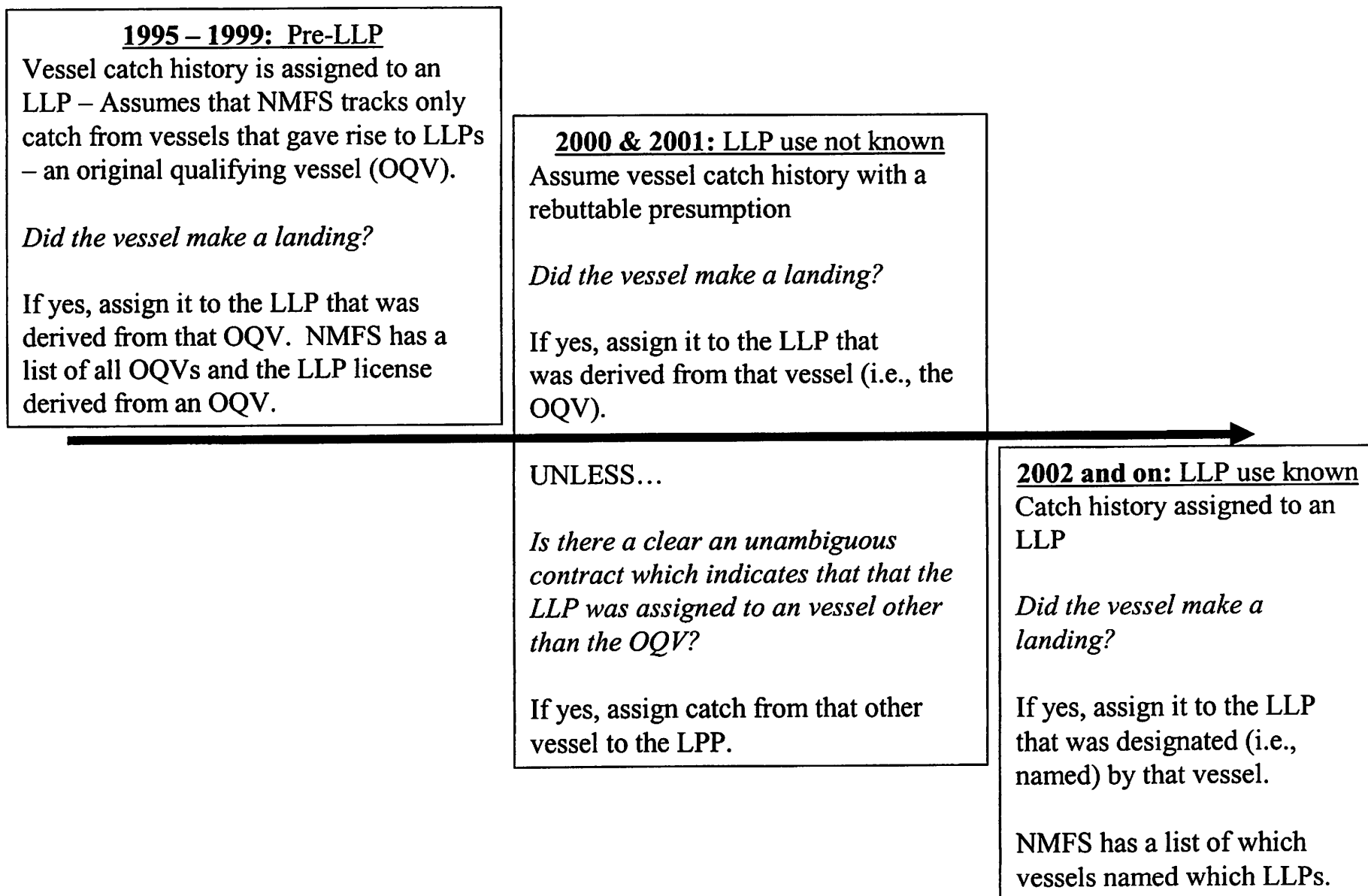
is often easier to link proposals that are integrated so the final rule timing of one action is not dependent on another. This could be accomplished by linking the actions in a single analysis and proposal or by publishing the actions at the same time. NMFS notes that if three separate LLP modifications are recommended by the Council at the same time, it is highly unlikely that all of the modifications could be implemented together by 2009. This concern is diminished somewhat with a later implementation timeline, provided the necessary staff are available.

If actions are complicated, and not closely related, the time saved in combining proposed actions into a single rule making may be minimal. It would be helpful to either ensure that packages are linked in one regulatory package or clearly recommend that NMFS should prepare actions in a specific sequence if they are codependent. Actions that are not linked can be treated as separate rule making packages.

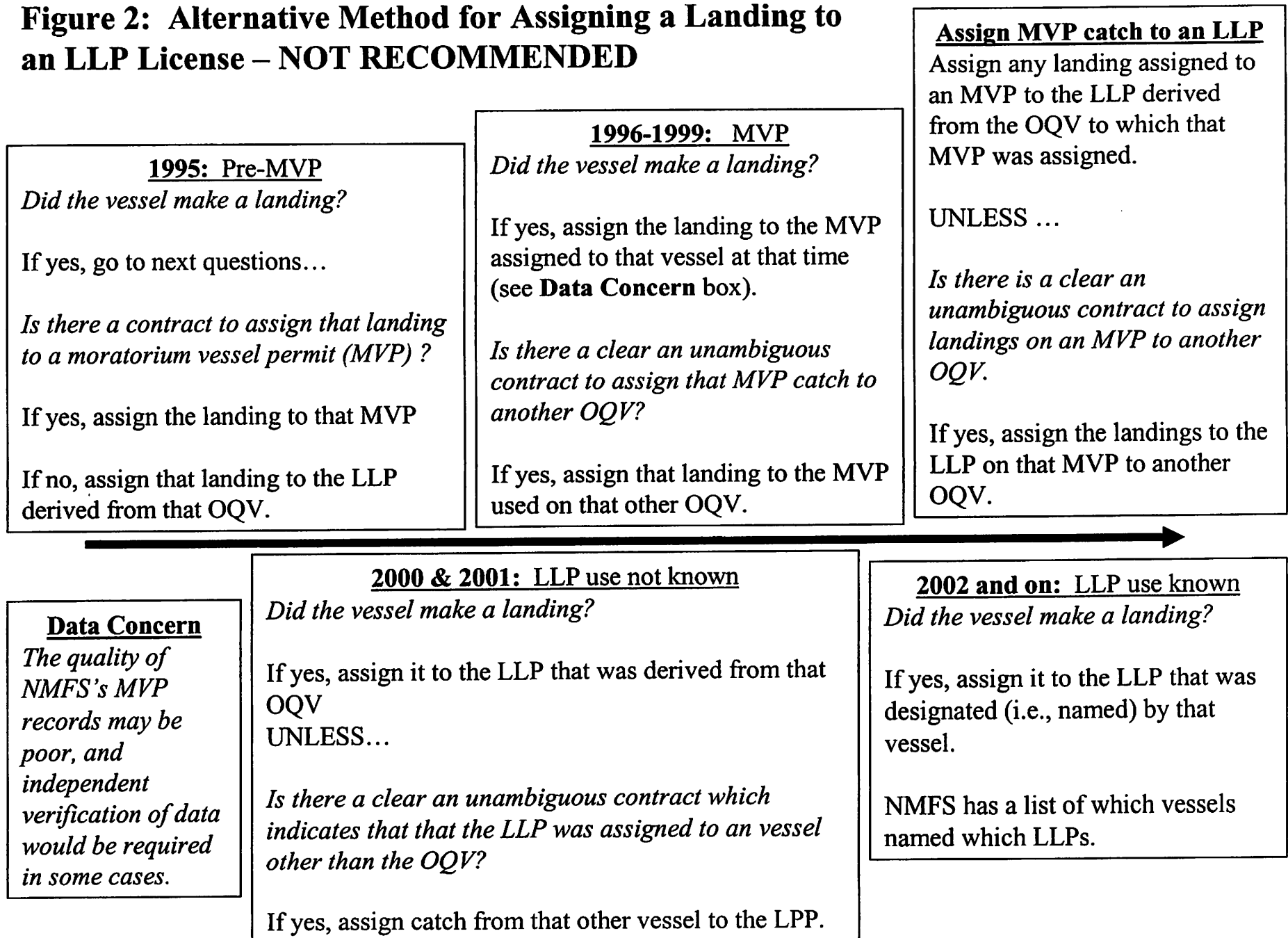
### **Recommendations**

- Use landings not earlier than 2000 to assign a legal landing to an LLP license. Preferably, use landings data beginning in 2002 if the goal is to eliminate LLP licenses without recent activity with the least administrative challenge.
- Assign trawl endorsements based on minimum landing thresholds within a management area (i.e., BSAI or GOA) with management area specific exemptions for LLP licenses assigned to LAPPs.
- Link actions that affect the LLP if those actions modify the same suite of licenses during the same time period, have similar goals, or affect each other.

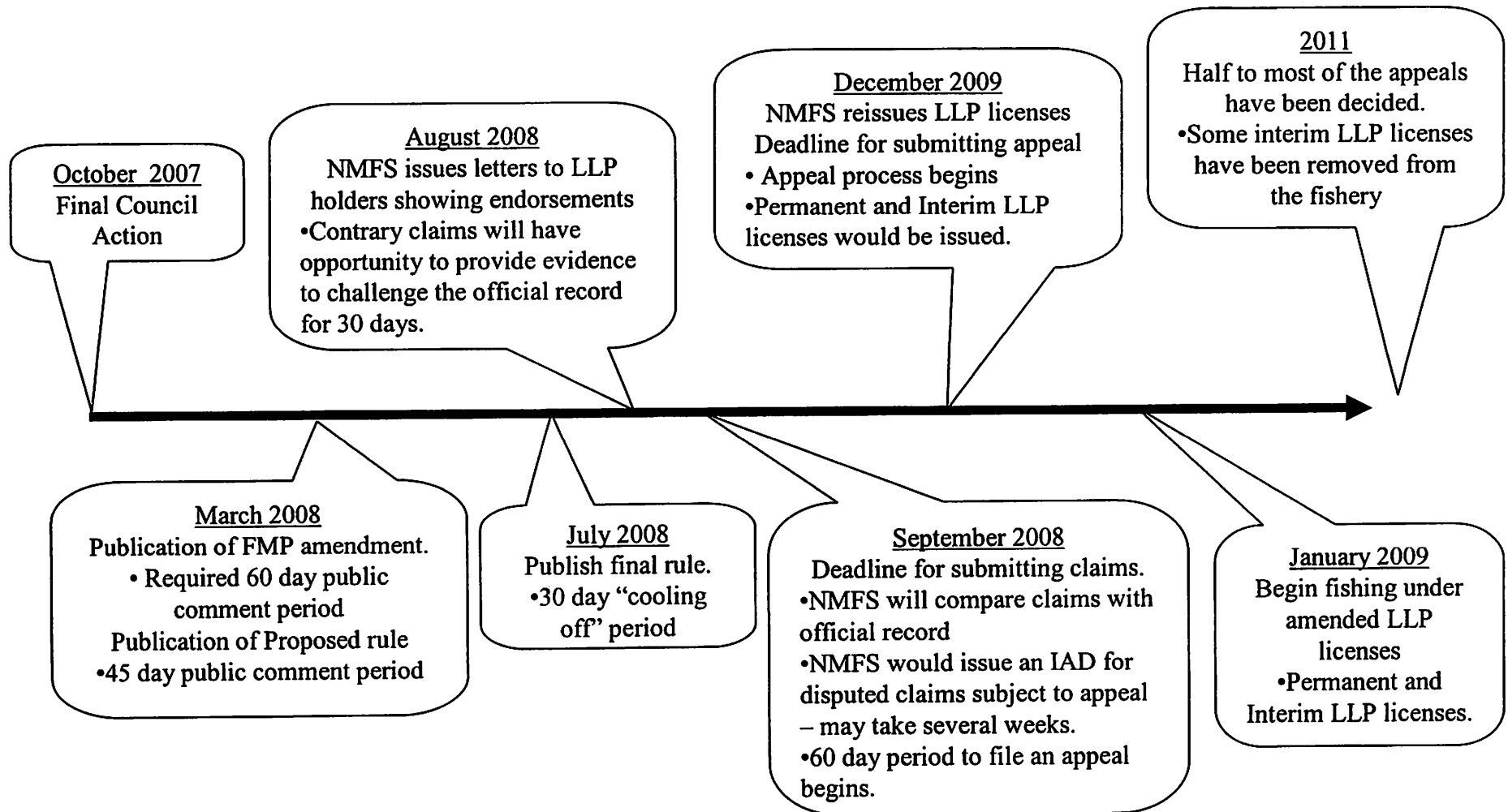
**Figure 1: Recommended Method for Assigning a Landing to an LLP License**



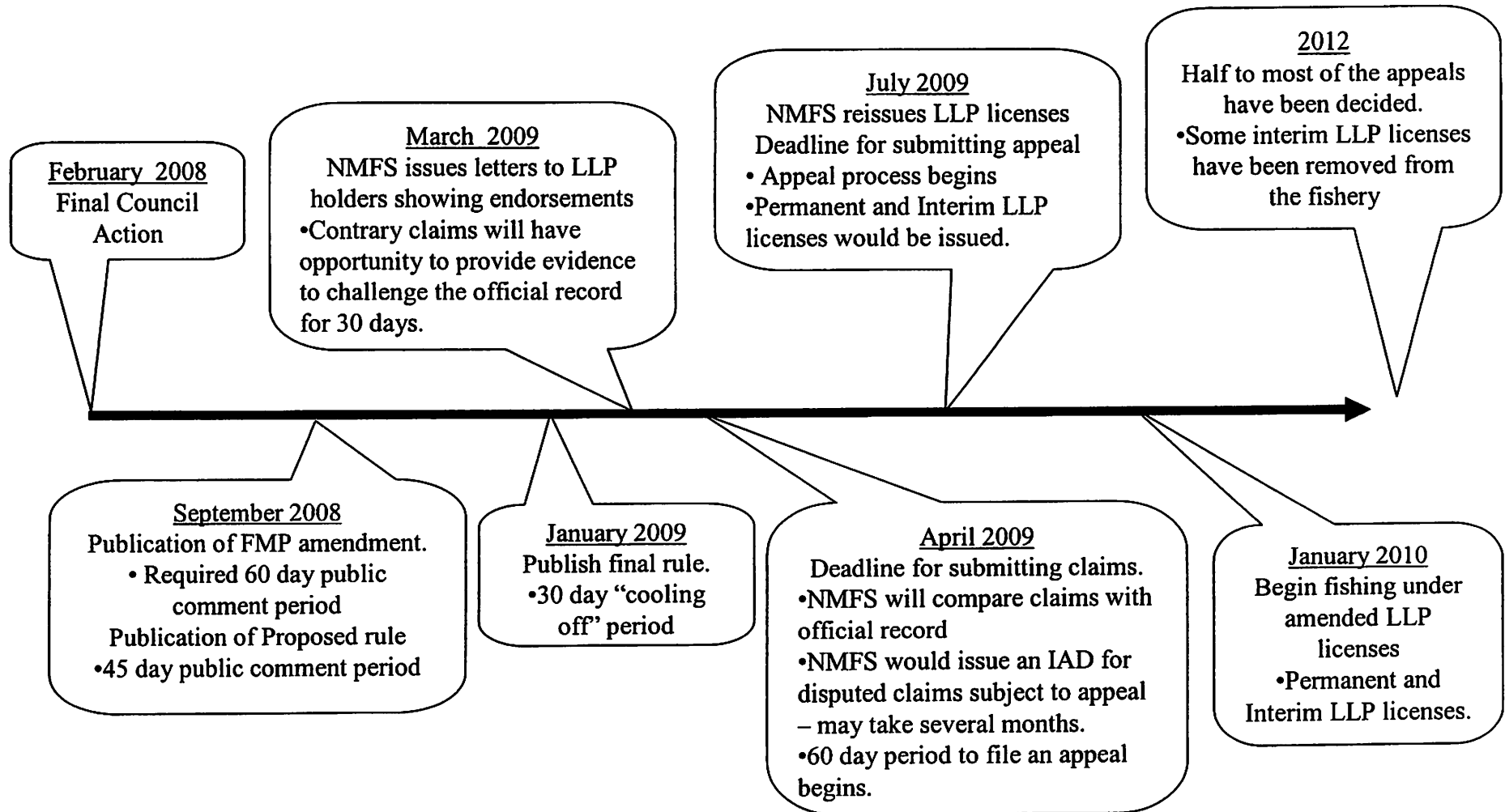
## Figure 2: Alternative Method for Assigning a Landing to an LLP License – NOT RECOMMENDED



**Figure 3: Possible LLP Trawl Recency Implementation Timeline  
Assuming a Focused & Limited Approach**



**Figure 4: Possible LLP Trawl Recency Implementation Timeline  
Assuming a Broader & Complex Approach**



# Ocean Fisheries, LLC

## F/V Ocean Hunter

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Lakewood, WA 98499  
(253) 582-2580  
Fax 589-0508  
jstonecrab@aol.com



March 17, 2007

VIA FACSIMILE (907) 271-2817 and Mail

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



**Re: North Pacific Fishery Management Council Meeting  
March 26 - April 2, 2007, Anchorage, Alaska  
Agenda C-3 Trawl LLP Recency**

Dear Chair Madsen:

Ocean Fisheries, LLC is the owner of the F/V Ocean Hunter, which is a Bering Sea, GOA sideboarded and Western Gulf of Alaska/Bering Sea trawler and crabber. The Ocean Hunter is a 102 foot, non-AFA vessel, built in 1980. She began fishing both Groundfish and Crab in 1980. We purchased her in 1997, made non-trawl groundfish landings in 1997 and 2000, and actively crab fished after that. We completely re-gearred her to be a better trawl vessel in the Spring of 2005 at a great expense, and have been working as both a trawler and crabber since our substantial reconstruction and re-gearing work. We have been making trawl landings ever since January 2006.

We ask that the Council insure that any Trawl Recency Proposal now under consideration include landings through January 2006. This would be a very minor adjustment to Alternatives 2 through 5 under consideration by the Council, and to Components 1, Options 1 and 2. In addition, an option under consideration by the Council for the AI fisheries would add a new series of years to be considered, and the revised set of options for Component 5, Option 1 recognizes the very period we are

Chair Stephanie Madsen  
March 17, 2007  
Page 2

asking for here, on a slightly more expanded basis. (Component 5, Option 1 would include all of 2006 as the period for required groundfish landings; we only seek a minor extension of the qualification period from 2000 through January 31, 2006, not all of 2006.)

The Ocean Hunter landed 46 metric tons of groundfish landings in January 2006 (*only three weeks after the 2000 to 2005 qualifying period*) and 450 metric tons of landings in the first quarter of 2006. Considering this information along with the Ocean Hunter's > 60 feet, non-AFA status, seems reasonable in light of the Council's Motion for changes to Component 5, to amend the landing period to be 2000 through January 2006. In the Bering Sea, it appears that this modification of the Option would only add one boat back in, and in the GOA using this suggested modification to the Option would have little to no impact on the Council's objective.

We believe that adopting our recommendation will meet the Council's goal of removing latent licenses, while recognizing those trawl vessel owners who have made significant investments, with long catch histories and who are dependent on BSAI and GOA ground fisheries.

Thank you for considering our proposal on this important issue.

Best regards,



Jim Stone



**Mr. & Mrs. William M. Bisbee**

P.O. Box 404  
South Bend, WA 98586

Ph: (360) 875-5672

Fax (360) 942-2157

March 21, 2007

Stephanie Madsen  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup>, Suite 306  
Anchorage, AK 99501

**RECEIVED**  
MAR 23 2007

Reference: Agenda Item C-3 (Trawl LLP Recency)

Dear Ms. Madsen:

**N.P.F.M.C.**

My name is Wig Bisbee and I own the trawl CV LLP license #2449. The license is a fully transferable non-AFA license that has sub-area endorsements for the AI, BS, CGOA and WGOA. I purchased the LLP at fair market value and did not receive it as an initial issuance. I purchased the license when I purchased the F/V Orion, which is the vessel that originally gave rise to the LLP. I have always intended to get the F/V Orion fixed up and back on the fishing grounds, we have started working on the vessel, but have not determined a completion date to return to its historic fisheries due to so many interruptions. The LLP license will be removed if the Council takes action on the trawl recency LLP amendment package.

I would prefer to keep my license then lose it, but if the Council treats all other license holders the same, then I can accept that I will lose my license. However, it is my understanding that the amendment package would also add additional non-AFA LLP licenses in the AI area. The problem statement suggests that there are not enough non-AFA licenses to encourage economic development in the community of Adak. So my question to you is why are you taking my license away which I purchased and then giving new licenses to others? To treat everyone equitably it would seem more appropriate to exempt non-AFA licenses from a landing requirement in the Aleutian Islands so that I can keep my LLP and use it in the Aleutian Islands sub-area. If the Council believes more licenses are needed then they can also add more licenses for the Aleutian Islands for those that would qualify.

Thank you for your help on this issue.

Sincerely,

Wig Bisbee  
William M. "Wig" Bisbee

faxed to 907-271-2817  
on 3/21/07 at 3:00 pm  
OK

APPENDIX 1 – COUNCIL MOTION FOR THE TRAWL RECENCY AMENDMENT:  
PURPOSE STATEMENT AND ALTERNATIVES, COMPONENTS AND OPTIONS

C-3  
NPFMC  
staff  
Revised

## Introduction

The proposed amendment applies threshold landings criteria to trawl groundfish fisheries in the Bering Sea, Aleutian Islands, the western Gulf of Alaska and central Gulf of Alaska. The intent of the amendment is to prevent latent trawl groundfish fishing capacity, comprised of LLPs from the respective areas that have not been utilized in recent years, from future re-entry into the fishery.

In December 2005, in preparation for consideration of provisions under this proposed amendment, the Council set a control date of December 11, 2005 for participation in the BSAI Pacific trawl CV fishery. The control date was notice to the public that participation in trawl groundfish fisheries by recently unutilized LLPs after this date may not be considered for future allocation or eligibility. Since this initial action, the focus of the amendment has expanded to include all groundfish species, options were added to consider application to CP LLPs and the area of implementation was expanded to include groundfish trawl CV and CP fisheries in the GOA. The moratorium as initially established by the Council does not correspond to the current formulation of the amendment.

The groups likely to be affected by the proposed amendment include trawl CV and trawl CP groundfish LLP permit holders in the abovementioned areas, as well as those holders of LLP permits, that would have groundfish area endorsements extinguished under provisions of the amendment. Under options being considered in the amendment, the Council may choose to expand application of the threshold criteria to both CV and CP trawl groundfish LLPs in the BSAI and GOA. The alternatives in the action apply the harvest thresholds to trawl groundfish LLPs at the management district level (BSAI & GOA) or at the submanagement district level (AI, BS, WG and CG). Note that under LLP area designations, the CG submanagement area includes west Yakutat.

The rationale for this action is concern over the impacts possible future entry of latent effort would have on the LLP holders that have exhibited participation and dependence on the groundfish fisheries. Latent effort, as addressed by this amendment, is comprised of valid LLPs that have not been utilized in the trawl CV groundfish fishery and the trawl CP groundfish in the BSAI & GOA in recent years. Recency, as defined in the alternatives, has been determined by the Council to be either: (a) participation during the 11 year period from 1995-2005 or (b) participation during the 6 year period from 2000-2005. The Council also specified that the analysis include 2006 non-AFA trawl groundfish harvests for the Aleutians Islands submanagement area (see Component 5 in the descriptions of alternatives below). In their discussions on this issue, the Council noted that LLP holders currently fishing the BSAI and GOA groundfish trawl fisheries have made significant investments, had long catch histories and are dependent on the groundfish resources from these areas. The Council believes these current participants need protection from LLPs that could re-enter the fisheries in the future.

As noted above, the management areas included under this program are the Bering Sea/Aleutian Islands (BSAI) and Gulf of Alaska (GOA). The management subareas included are the Bering Sea (BS), the Aleutian Islands (AI), the western Gulf of Alaska (WG), and the Central Gulf of Alaska (CG). The species included in the amendment include all species of trawl groundfish harvested in the above areas. Invertebrates (squid and octopus) crab, prohibited species (salmon, herring, halibut and steelhead), other species (sculpins, skates and sharks) and forage fish are not included and should not be affected by this amendment.

The Council's adopted the following draft problem statement on June 11, 2006.

*Trawl catcher vessel eligibility is a conflicting problem among the Bering Sea, Gulf of Alaska and Aleutian Islands. In the Bering Sea and Gulf of Alaska, there are too many latent licenses and in the Aleutian Islands there are not enough licenses available for trawl catcher vessels.*

*In the Bering Sea and GOA, the trawl catcher vessel groundfish fisheries in the BSAI and trawl vessel groundfish fisheries in the GOA are fully utilized. In addition, the existence of latent licenses may exacerbate the disadvantages to GOA dependant CVs resulting from a lack of comprehensive rationalization in the GOA. Competition for these resources is likely to increase as a result of a number of factors, including Council actions to rationalize other fisheries, favorable current market prices and a potential for TAC changes in future years. Trawl vessel owners who have made significant investments, have long catch histories, and are dependent upon BSAI and GOA groundfish resources need protection from others who have little or no recent history and with the ability to increase their participation in the fisheries. This requires prompt action to promote stability in the trawl catcher vessel sector in the BSAI and trawl vessel sector in the GOA until comprehensive rationalization is completed.*

*In the Aleutian Islands, previous Congressional and Council actions reflect a policy encouraging economic development of Adak. The opportunity for non-AFA CVs to build catch history in the AI was limited until markets developed in Adak. The analysis indicates that there are only six non-AFA CV trawl AI endorsed LLPs. The Congressional action to allocate AI pollock to the Aleut Corporation for the purpose of economic development of Adak requires that 50% of the AI pollock eventually be harvested by <60' vessels. The Council action under Am. 80 to allocate a portion of AI POP and Atka mackerel to the limited access fleet does not modify AFA CV sideboard restrictions, thus participation is effectively limited to non-AFA vessels with AI CV trawl LLP endorsements. A mechanism is needed to help facilitate the development of a resident fishing fleet that can fish in both state and federal waters. The Council will consider different criteria for the CV Eligibility in the AI.*

It is important to note that the main focus of the amendment is to reduce the future potential for increases in trawl groundfish fishing effort from LLPs currently unused or underutilized in all areas. However the last paragraph on the problem statement addresses the need to increase the number of valid non-AFA trawl LLPs in the Aleutian Islands area, and is therefore different in its objective from other management areas included in the amendment.

In addition to the main portion of the amendment that addresses numbers of LLPs meeting the harvest threshold over different qualification periods (Component 1, Options 1 &2 with suboptions), it address a number of other aspects of LLPs in the BSAI and GOA groundfish fisheries, including: an alternative to exempt LLPs assigned to vessels less than 60 feet in length (Component 1-Option 3); an alternative to apply the threshold criteria to the group of LLPs assigned to trawl CPs in the BSAI that are neither part of the AFA sector nor qualified under Amendment 80 (Component 1 – Option 4); a provision to deal with multiple (stacked) LLPs assigned to a single vessel (Component 2); an option to exclude AFA LLPs (Component 3); an option to exclude LLPs assigned to vessels qualified under Amendment 80 (Component 4); and an option for vessels with a catch history in the parallel waters or 2006 State waters Aleutian Island Pacific cod fishery that would be eligible, under the threshold criteria, to obtain an AI LLP on the basis of their past landings history for groundfish (Component 5).

## Key for Trawl Recency Alternatives

### Management area differentiation

- Alternatives 2 & 3 are based upon **BSAI/GOA** areas
- Alternatives 4 & 5 are based upon **AI, BS, WG, CG** areas

### Harvest means differentiation

- Alternatives 2 & 4 specify only trawl groundfish harvests
- Alternatives 3 & 5 specify both trawl and non-trawl (fixed gear) harvests of groundfish

### Qualification period/threshold level differentiation

- **Component 1 - Option 1** includes groundfish harvests for the period 2000-2005 (requires at least one landing)
- **Component 1 - Option 1, suboption 1** includes groundfish harvests for the period 1995-2005 (requires at least one landing)
- **Component 1 - Option 2** includes groundfish harvests for the period 2000-2005 (requires at least two landings)
- **Component 2 - Option 2, suboption 1** includes groundfish harvests for the period 1995-2005 (requires at least two landings)

**Alternative 1 – No Action:** Under this alternative the existing situation will continue. All LLPs currently issued will continue to be valid for the BSAI and GOA trawl groundfish fisheries. There would also be no change in the number of non-AFA trawl CV LLPs for the Aleutian Islands area, which could occur under Component 5.

**Alternatives 2, 3, 4, and 5** are differentiated by two main factors: whether or not the program is implemented at the management area or subarea designation, and secondly whether the landings history is based upon trawl groundfish landings or total groundfish landings, including the amount harvested by fixed gear, which is included in the cumulative catch for the appropriate qualification period. The specification of these two main factors is shown for each respective alternative below:

*Alternative 2 would implement LLP threshold criteria based upon BSAI and GOA management areas. It would specify application of all trawl groundfish harvests within these areas for the respective qualification period.*

*Alternative 3 would implement LLP threshold criteria based upon BSAI and GOA management areas. It would specify application of groundfish harvests (trawl and fixed gear) within these areas for the respective qualification period.*

*Alternative 4 would implement LLP threshold criteria based upon BS, AI, WG and CG subdistrict management areas. It would specify application of trawl groundfish harvests within these areas for the respective qualification period.*

*Alternative 5 would implement LLP threshold criteria based upon BS, AI, WG and CG subdistrict management areas. It would specify application of groundfish harvests (trawl and fixed gear) within these areas for the respective qualification period.*

**Component/Option Choices Common to Each Action Alternative (2-5).**

Each of the four action alternatives has a common set of five components that will form the remainder of choices for this amendment. The Council can choose to include and apply any combination from these components to any one of the alternatives identified above. The respective components address the issues of qualification period; landing criterion applied to determine qualified LLPs; multiple LLPs registered to a single vessel; potential exclusion of AFA qualified vessels; potential exclusion of Amendment 80 vessels; and options for separately addressing LLPs in the Aleutian Islands groundfish fishery.

**Component 1** includes a number of possible choices for landings criteria to be applied to the current LLP holders for existing trawl LLPs in the respective areas. The varying factors under Component 1 are the choice of qualification period (2000-2005 or 1995-2005); choice of threshold criteria to be applied (at least one landing for the qualification period or at least two landings for the qualification period); and a final choice to exempt vessels with an overall length less than 60 feet from application of the threshold criteria. The choices for Component 1 are as follows:

*Component 1 – Option 1 requires at least one landing of groundfish during the qualification period of 2000-2005.*

*Component 1 – Option 1 - Suboption 1 requires at least one landing of groundfish during the qualification period of 1995-2005.*

*Component 1 – Option 2 requires at least two landings of groundfish during the qualification period of 2000-2005.*

*Component 1 – Option 2 – Suboption 1 requires at least two landings of groundfish during the qualification period of 1995-2005.*

*Component 1 – Option 3 provides a choice to exempt trawl LLPs in the BSAI or GOA assigned to vessels less than 60 feet in overall length from application of the threshold criteria. Selection of this option can be independent of other Component 1 options.*

*Component 1 – Option 4 provides a choice of whether to include non-AFA & non-Amendment 80 BSAI CPs in application of the groundfish threshold landings criteria.*

**Component 2** provides a choice where there are multiple LLPs registered to a single vessel, also known as ‘stacking’ of LLPs. The Council has specified a provision to deal with this situation as follows:

*Component 2 – will fully credit groundfish harvest history to all stacked licenses, each carrying its own qualifying endorsements and designations.*

**Component 3** provides a choice of whether to exclude AFA vessels from LLP qualification under the amendment. The Council identified a single option as follows:

*Component 3 – Option 1 will exclude LLPs originally issued to vessels qualified under the AFA and LLPs used for eligibility in the AFA.*

**Component 4** addresses consideration of excluding Amendment 80-qualified vessels from LLP qualification under the amendment. The Council identified a single option as follows:

*Component 4 – Option 1 will exclude LLPs originally issued to vessels Qualified under Amendment 80 and LLPs used for eligibility in Amendment 80.*

**Component 5** is different from other parts of the proposed amendment. It evaluates the effect of adding new LLPs to the Aleutian Islands non-AFA trawl groundfish CV fishery based on harvests during the respective qualification periods. Harvests for the parallel waters fishery in the Aleutian Islands and also the 2006 State waters fishery are included in the basis for qualification. In February 2007, the Council revised Component 5 to the following:

*A – Component 5 to be retained within the trawl recency analysis*

*B – The options within Component 5 are as follows:*

- 1) For non-AFA vessels < 60 feet in length to receive an AI trawl endorsement, consider landing thresholds in the AI parallel cod fishery between 2000-2005 of at least:
  - a. 50 metric tons*
  - b. 250 metric tons*
  - c. 500 metric tons**
- 2) For non-AFA vessels > 60 feet in length to receive an AI trawl endorsement, consider landing thresholds of at least one landing in the AI parallel (groundfish fishery) or State water cod fishery between 2000 and 2006 plus landings in the BSAI cod fishery between 2000 and 2006 of at least: (a) 500 metric tons, or (b) 1,000 metric tons*