

EXECUTIVE SUMMARY

The purpose of this action is to remove Gulf of Alaska (GOA) Pacific cod sideboard limits for the freezer longline vessels restricted by these sideboard limits. These sideboard limits were established by the crab rationalization program in 2005. These sideboard limits were calculated using GOA Pacific cod catch history from 1996 to 2000. The sideboard limits were aggregated across all gear types at the inshore and offshore level. Of the 82 vessels that are restricted by GOA Pacific cod sideboard limits, six were freezer longline (FLL) vessels.

With GOA Pacific cod sideboards aggregated across all gear types, the sideboard limits provided an opportunity for sideboard restricted vessels to participate in the GOA Pacific cod fishery even if the vessel had limited history in the fishery in the past. During the 2005 to 2011 period, most of the six FLL sideboard restricted vessels participated in the GOA Pacific cod sideboard fishery. Collectively, the FLL vessels that participated in the GOA Pacific cod during the 2005 to 2011, harvested a greater share of TAC annually relative to their catch history in this fishery during the 1996 to 2000 period.

In 2012, as part of the GOA Pacific cod sector split (Amendment 83), the Pacific cod sideboard limits were disaggregated to create gear type and operation type limits. Since the six restricted FLL vessels had limited GOA Pacific cod history, the hook-and-line catcher processor (CP) and pot CP sideboard limits were very small. In 2012 and 2013, National Marine Fisheries Service (NMFS) determined that the sideboard limits were insufficient to support a direct fishery, so the fishery was closed for the entire year, thus eliminating these six sideboarded FLL vessels from the GOA Pacific cod fishery. To allow these six FLL vessels to once again participate in the GOA Pacific cod fishery, in June 2012, the Council proposed to remove the sideboard limits for these six FLL vessels.

Problem Statement

In June 2012, the Council developed the following problem statement for the proposed action:

The narrowing of the sideboard limit under Amendment 83 from a non-gear sideboard to a sector specific sideboard, significantly reduced non-American Fisheries Act (AFA) crab Gulf of Alaska Pacific cod sideboards for sideboarded freezer longline vessels active in the Gulf of Alaska Pacific cod fishery prior to the Pacific cod sector split. A recalculation of the Pacific cod sideboards resulted in the loss of fishing opportunities, future revenues, and an ability to participate in the Gulf of Alaska cooperative fishing efforts.

Under Amendment 83, the freezer longline sector has a direct allocation of Pacific cod, and due to the harvesting capacity available to participate in the Gulf of Alaska, the freezer longline sector must establish cooperative harvest control measures in order for NMFS to make the sector TAC available for directed fishing. Therefore, the need for catcher processor hook-and-line GOA Pacific cod sideboards to limit the catch of these vessels may no longer exist.

Removal of the non-AFA crab GOA Pacific cod sideboards for freezer longliners would restore to the sideboarded vessels the ability to participate in the GOA Pacific cod fishery. Removing sideboard limits for the freezer longline vessels, however, may adversely impact GOA only freezer longline vessels, and to the extent practicable, there is a need to minimize the impact.

Description of Alternatives

In June 2012, the Council proposed an action alternative to remove the GOA Pacific cod sideboard limits for the FLL vessels. In February 2013, the Council added a new option under Alternative 2 to permanently remove GOA Pacific cod sideboard limits when all GOA FLL vessels agree to the removal of the limits. The Council also included a suboption that would suspend rather than permanently remove the sideboard limits.

Provided below are the alternatives and options along with a description of the proposed action.

Alternative 1: No action

Alternative 2: Remove freezer longline non-AFA crab GOA Pacific cod sideboards

Option: Permanently remove sideboard limits on the affected License Limitation Program (LLP) permits and vessel/Federal Fisheries Permits (FFP) when all GOA FLL endorsed LLP holders notify the NMFS of an agreement to remove the sideboards. The LLP holders would have 3 years from the effective date of the rule to provide notification to NMFS.

Suboption: Sideboard limits would be suspended rather than permanently removed. If in the future, not all FLL GOA endorsed LLP license holders agree to the removal of the GOA Pacific cod FLL sideboard limits, these sideboard limits would be reinstated.

The no action alternative would leave in place the current freezer longline Pacific cod sideboard created under the crab rationalization program in the Western GOA and Central GOA and further narrowed under Amendment 83. **Alternative 2 would remove only the non-AFA crab hook-and-line CP sideboard limit for Pacific cod in both Western GOA and Central GOA. All other non-AFA crab sideboard limits for GOA Pacific cod would remain in effect, and other GOA sideboard limits applicable to the freezer longline sector would remain in effect.** This alternative would require a change to the Bering Sea and Aleutian Islands King and Tanner crab FMP and the regulations supporting GOA Pacific cod sideboards created under the crab rationalization program.

The option under Alternative 2 would permanently remove GOA hook-and-line CP Pacific cod sideboard limits for the affected FLL vessels and LLP licenses when all GOA FLL endorsed LLP holders reach an agreement to remove these sideboard limits and notify NMFS of this agreement. The agreement notification must be completed within 3 years of implementation of the rule. The language in the option was modified by including vessel along with FFP for purposes of clarity. The regulations state that the sideboarded is attached to the vessel and the LLP license that originated on the qualified vessel, but NMFS applied the sideboard to the FFP since these permits are permanently assigned to vessel and must be on board the vessel when the vessel is harvesting groundfish. Adding the sideboard language to the FFP was essentially done as a tool for ease of enforcement during boardings.

The Council also included a suboption that would suspend the sideboard limits rather than permanently remove these limits. If in the future not all FLL GOA endorsed LLP license holders agree on the removal of the GOA Pacific cod sideboard limits, the sideboard limits would be reinstated.

Potential Effects of the Alternatives

Alternative 1: No Action

Under this alternative, six freezer longline vessels and five hook-and-line catcher/processor licenses will continue to be restricted by GOA Pacific cod sideboards. National Oceanic and Atmospheric Administration (NOAA) Fisheries implemented inshore and offshore sideboard limits on GOA Pacific cod simultaneously with the implementation of the crab rationalization program. As part of the GOA Pacific cod sectors splits (Amendment 83) implemented in 2012, these sideboard limits were modified from inshore and offshore limits share by all gears to an operator and gear sideboard limit. This modification limited the six sideboarded FLL vessels to their historic catch of GOA Pacific cod during the 1996 through 2000 period using hook-and-line gear. Since the participation of the sideboarded FLL vessels using hook-and-line gear in the GOA Pacific cod fishery was very limited during the years used to calculate the sideboard (1996 through 2000), NOAA Fisheries has to-date maintained that the revised sideboard are insufficient to support a sideboard fishery, thus eliminating these vessels from the GOA Pacific cod fishery using hook-and-line gear.

Prior to the 2012 season, five of the six sideboarded vessels capitalized on the aggregate GOA Pacific cod sideboard limits to increase their catch of GOA Pacific cod fishery using hook-and-line gear relative to their modest fishing effort using this same gear during the 1996 through 2000 period. Since the hook-and-line CP sideboards were set based on the historical catches of these vessels using hook-and-line gear during 1996 through 2000, additional catches by these vessels arose from increasing their harvests relative to sideboarded vessels in other sectors (such as trawl catcher processors and pot catcher processors).

Given that sideboard freezer longline vessels will in all likelihood be precluded from using hook-and-line gear in the GOA Pacific cod fishery, these vessels could shift fishing effort in other fisheries to make up for lost GOA Pacific cod revenue. However, the ability for these sideboard vessels to recoup lost GOA hook-and-line Pacific cod revenue in other GOA and Bering Sea and Aleutian Islands (BSAI) fisheries is limited. In the GOA Pacific cod pot CP fishery for 2012 and 2013, the sideboard limit was deemed insufficient for a direct fishery, so NMFS closed the fishery for the entire year. In the BSAI Pacific cod fishery, the cooperative members determine their allocations based on their historical BSAI Pacific cod fishing activity and the cooperative calculation is fixed. Cooperative members assert that no potential exists for renegotiation in the future to compensate for loss of revenues to sideboard vessels in the GOA Pacific cod fishery.¹ Fishing opportunities other than Pacific cod appear limited for the sideboarded vessels. Likely, the only opportunity would be BS and AI Greenland turbot, but freezer longline vessels assert that they have difficulty generating profits in that fishery (pers. Comm., Kenny Down, BSAI Freezer Longline Conservation Cooperative (FLCC) January, 2013).

From the perspective of the non-sideboarded cooperative member vessels and non-cooperative, non-sideboarded vessels, the hook-and-line CP sideboard limit for those sideboarded FLL vessels provides more opportunities for these other freezer longline vessels to expand their fishing effort in the GOA Pacific cod fishery. For the non-sideboarded cooperative vessels, any additional GOA Pacific cod catch as is relatively modest compared to their BSAI Pacific cod catch. In addition, to the extent that the cooperative has defined the available catch in the GOA Pacific cod fishery for its members, the additional

¹ It is unclear whether the cooperative could choose to recognize the history of these sideboarded vessels in the GOA, regardless of whether the sideboard is lifted. Under such an arrangement, the sideboarded vessel could trade the cooperative recognized GOA Pacific cod history with non-sideboarded cooperative vessels active in the GOA for additional harvests in the Bering Sea. Sideboarded vessels would be precluded from fishing in the GOA, but would realize additional harvests in the Bering Sea. Given that the cooperative has demonstrated the ability to negotiate the distribution of its members' catches in the Bering Sea and GOA Pacific cod fisheries without Council involvement, a modified agreement might be reached to provide the sideboarded vessels with additional access to Bering Sea Pacific cod, while other cooperative vessels direct additional effort to the GOA Pacific cod fishery.

harvests available may be limited. For non-cooperative freezer longline vessels, this increased opportunity in the GOA Pacific cod fishery could be significant assuming continued coordination in the GOA amongst FLCC members.

Overall, if the current GOA Pacific cod sideboard limit for hook-and-line CPs is maintained, six freezer longline vessels and five licenses restricted by this GOA Pacific cod sideboard limit will no longer be allowed to participate in the GOA Pacific cod fishery using hook-and-line gear. If recent GOA Pacific cod fishing is an indication of future lost revenue, the GOA Pacific cod sideboard restrictions could result in an approximate three percent loss of annual revenue for these vessels, based on releasable data. The additional fishing opportunities in the GOA Pacific cod will likely have little impact on other cooperative vessels not restricted by sideboard limits, but could be significant for non-cooperative freezer longline vessels if they increase their fishing effort assuming continued coordination in the GOA amongst FLCC members.

Alternative 2: Remove GOA Sideboards

The Council defined GOA Pacific cod sideboards as a part of the crab rationalization program to limit the ability of vessels receiving crab allocations from using the security of those allocations to increase their GOA Pacific cod harvests above historical levels. Under crab rationalization, vessel owners have the flexibility to fish for snow crab whenever they want or lease their crab individual fishing quota (IFQ) and not fish at all. This increases the incentive for vessel owners to augment effort in the GOA groundfish fisheries. The Council recognized such a fishing behavior change could negatively affect other participants in those fisheries, for example participants that target GOA Pacific cod with hook-and-line gear.

In the years after the sideboards were implemented, sideboarded vessels that benefited from crab rationalization have changed their fishing behavior by increasing their effort in the GOA Pacific cod fishery. This increase was possible because the sideboarded vessels may have leased their crab quota thereby freeing up potential fishing for the GOA Pacific cod fishery. In addition, GOA Pacific cod were implemented at the inshore/offshore level and sideboarded vessels operating with other gear did not maintain their harvests at historical levels. With the recent implementation of sector specific GOA Pacific cod allocations (and the division of sideboard limits by gear and operation type) sideboard freezer longline vessels are limited to the share of the GOA Pacific cod fishery using hook-and-line and pot gear harvested in the sideboard defining years.

Impacts to Sideboarded Vessels

There are six freezer longline vessels and five hook-and-line catcher/processor licenses that are limited by GOA Pacific cod sideboards from crab rationalization. Four of the six sideboarded vessels have been active in the BSAI snow crab fishery since 1996. Since implementation of the GOA Pacific cod sideboards in 2005, only two of the sideboarded vessels have participated in the BSAI snow crab fishery, although five of the six vessels still retain their crab endorsed LLP license. Of those two sideboarded vessels participating in the BSAI snow crab since 2005, only one vessel has been active in the GOA Pacific cod fishery during this period.

Five sideboarded freezer longline vessels were active in the GOA Pacific cod fishery from 1996 through 2012. During this fifteen year period, the number of sideboarded freezer longline vessels active in the GOA Pacific cod fishery on an annual basis has ranged from a zero vessels in 1996 and 2012 to high of five in 2001, 2005, 2010, and 2011. All six of the GOA Pacific cod sideboarded vessels participated in the BSAI Pacific cod fishery since 1999. One sideboarded vessel was not active in the GOA Pacific cod fishery since it lacked a LLP license with a GOA area endorsement. Nearly all of catch activity is from hook-and-line gear since pot gear is not used by these vessels to any great extent.

The majority of catch of the GOA sideboarded freezer longline vessels over the past fifteen years was BSAI Pacific cod. GOA Pacific cod catch and first wholesale revenue for the sideboard freezer longline

vessels was relatively modest. GOA Pacific cod catch relative to total Pacific cod catch in both GOA and BSAI was on average 3% during the 1996 through 2011 period. Relative to GOA Pacific cod TAC, catch of GOA Pacific cod was on average less than one percent during the fifteen year period. First wholesale revenue for the GOA Pacific cod fishery was on average 3.5% relative to the total first wholesale revenue during this same period. In aggregate over the 15 years, no vessels had greater than 8% of the total revenue come from the GOA Pacific cod fishery. On few occasions, a vessel would generate more than 10% of their total revenue from GOA Pacific cod for that year.

Removing the GOA Pacific cod sideboard limits for the freezer longline vessels would allow these vessels to expand their effort in the GOA Pacific cod fishery. The cooperative agreement may constrain the harvests of sideboarded vessels to some extent, but not to the extent of the current sideboards. More likely, any cooperative imposed limit would constrain their harvest to levels observed during the 2001 through 2011 period. The cooperative could also permit the sideboarded vessels to increase their fishing effort in the GOA Pacific cod fishery beyond their 2001 through 2011 period. Not all six sideboarded vessels participated in the GOA Pacific cod fishery every year, but these vessels have consistently participated in the BSAI Pacific cod fishery. Their consistent and significant participation in the BSAI Pacific cod fishery relative to the GOA Pacific cod fishery is reflected in that their GOA Pacific cod catch was on average only 3% of their total catch of BSAI and GOA Pacific cod. In other words, despite having the ability to lease some or all of their BSAI Pacific cod to expand their effort in the GOA Pacific cod fishery, these vessels have continued to focus the majority of their effort in the BSAI Pacific cod fishery. This pattern has likely arisen from the profitability of the BSAI Pacific cod fishery relative to both the GOA Pacific cod fishery plus the potential revenue received from leasing BSAI Pacific cod.

In the future, if the cooperative no longer coordinates their activities in the GOA Pacific cod fishery, the incentive to “race for fish” increases as more freezer longline vessels chase a fixed allocation of GOA Pacific cod. In an environment with no cooperative coordination, the absence of sideboards would allow these once restricted vessels to expand their effort in the GOA Pacific cod fishery, and thereby potentially impacting other freezer longline vessels participating in the GOA fishery. In addition, a “race for fish” environment could shorten the seasons relative to the no action alternative. A truncated fishing season could impact other freezer longline vessels participating in the fishery by reducing profits from the fishery.

In June 2012, the Council took final action on Amendment 99 that would adjust the maximum length to accommodate larger replacement vessels. Amendment 99 increases the maximum length overall (MLOA) on LLP licenses endorsed to catch and process Pacific cod with hook-and-line gear in the BSAI, including all members of the FLCC. The Council recommended that NMFS increase the MLOA specified on eligible LLP licenses, to accommodate replacement vessels up to 220 feet (67 meters) length overall (LOA). Amendment 99 also amends the FMP to allow vessels in this sector to exceed length, tonnage, and power limits established under the AFA. There are currently 36 LLP licenses eligible to catch and process Pacific cod with hook-and-line gear in the BSAI and only 33 unique vessels that actively participated. Seventy-five percent of the eligible licenses also had endorsements to use hook-and-line gear to target Pacific cod in the GOA. Although Amendment 99 intended to relieve many of the capacity limits established by the AFA and the LLP, Amendment 99 was not intended to increase the fishing effort of CPs using hook-and-line in the BSAI or GOA. At the time of final action, the Council anticipated that management constraints such as sector allocations in the BSAI and GOA and sideboards would limit the overall capitalization of this subsector and the potential for the subsector to disadvantage other sectors.

However, with the advantage of cooperative fishing amongst the BSAI freezer longliners, combined with larger, purpose-built replacement vessels, the BSAI-endorsed LLP license holders that are restricted by GOA Pacific cod sideboards could consolidate BSAI harvests within the cooperative, and use their increased processing capacity to garner a greater proportion of the GOA Pacific cod sector allocation, relative to their historical catch. These vessels are also less sensitive to weather conditions, which can limit opportunities for smaller vessels (such as the GOA-only endorsed freezer longline vessels). This has

the potential to negatively impact the three GOA-only freezer longline vessels. Note, however, that vessels that fish in the BSAI are all larger than those that are only GOA-endorsed, and some of them substantially so. The cooperative has the ability to preempt fishing opportunities by the exclusively GOA-endorsed vessels, as the GOA Pacific cod catcher/processor sector allocation is relatively small, compared to the number of vessels that are endorsed to participate in the sector. However, the combination of sideboard removal and the ability to increase the length of the vessel may nonetheless negatively impact other freezer longline vessels active in the GOA Pacific cod fishery.

Impacts to non-sideboarded cooperative member vessels

Under Alternative 2, it is likely some of the FLL vessels currently sideboarded in the GOA Pacific cod fishery would likely enter this fishery, which could increase competition for a fully utilized sector allocation and negatively impact non-sideboarded BSAI cooperative member vessels. The number of non-sideboarded BSAI cooperative vessels active in the GOA Pacific cod fishery has ranged from a low of nine in 2011 to a high of 19 in 2003.

Currently, the BSAI cooperative coordinates the fishing activity of its member vessels in the GOA Pacific cod fishery, including the five sideboarded freezer longline vessels. Coordination of its cooperative member vessel activities in the GOA Pacific cod fishery protects cooperative vessels that are not sideboarded subject to the terms of the agreement. The agreement also reduces the incentive for a “race for fish” within the freezer longline sector if the sideboards were removed, but only to the extent that the agreement constrains the currently sideboard vessels. If the currently sideboarded vessels are not constrained, non-sideboarded cooperative member vessels could suffer either a loss of harvests or be compelled to race to maintain their current share of the harvests in the GOA Pacific cod fishery.

Despite the advantages of cooperative coordination in the GOA Pacific cod fishery to member vessels, there is the possibility that the members could choose to no longer coordinate their activities in the GOA fishery. The loss of cooperative coordination could result in a “race for fish” amongst freezer longline vessels. Absent sideboard limits, non-sideboard member vessels could be negatively affected as vessels currently sideboarded could increase their share of the catch without limit.

Impacts to non-sideboarded non-member vessels

The number of non-member freezer longline vessels that have participated in the GOA Pacific cod fishery has ranged from zero prior to 2004 to a high of three vessels in 2008, 2009, and 2010. Non-members vessels also participated in the halibut IFQ program in the GOA and BSAI.

Although cooperative coordination can maintain opportunities for non-member vessels, coordination of fishing among cooperative members could also be used to reduce opportunities for vessels that are not in the cooperative. These efforts to preclude opportunities for non-member vessels may arise whether sideboards are removed or not. With sideboards removed, sideboarded vessels could expand their effort in the GOA Pacific cod fishery, directly affecting fishing opportunities for non-member vessels. With the sideboards in place, the cooperative could coordinate fishing to increase their catches in the GOA Pacific cod fisheries. The cooperative’s ability to preclude fishing opportunities of non-members is increased by the removal of sideboards, as the sideboarded vessels that have shown an interest in increasing their efforts in the GOA Pacific cod fishery in recent years have additional fishing opportunities with the sideboards removed.

Shifting fishing effort by the sideboarded vessels from the BSAI Pacific cod fishery to the GOA Pacific cod fishery due to reduced total allowable catch (TAC) in the BSAI could negatively impact non-member FLL vessels active in the GOA Pacific cod fishery. Vessels that are not cooperative members are more vulnerable to increases in GOA Pacific cod fishing effort by sideboarded vessels since these vessels have no agreement with the sideboard vessels. Cooperative coordination provides members the ability to coordinate their effort in the BSAI and GOA Pacific cod fisheries so as to reduce the harm to any member vessels from reduce TACs in one or both areas.

Finally, removing the GOA Pacific cod sideboards combined with Amendment 99, which increases the maximum length overall (MLOA) specified on the LLP licenses, could enable sideboard restricted FLL vessels negatively affect the three non-member FLL vessels active in the GOA Pacific cod fishery. Amendment 99 could increase the incentive for the eligible six FLCC vessels to increase the length of their vessels and disadvantage other participants in the fishery. Larger vessels can incorporate larger freezer holds thus allowing a vessel to stay at sea for longer periods, while smaller vessels generally require more trips to travel to and from fishing grounds to offload product. Fewer trips could increase vessel efficiency by reducing fuel consumption and minimize transit time, which would allow vessel owners to minimize the time required to harvest their allocation. With this larger vessel advantage combined with cooperative fishing, BSAI-endorsed LLP license holders could consolidate BSAI harvests within the cooperative, and use their increased processing capacity to harvest a greater proportion of the GOA Pacific cod sector allocation, relative to their 2001 through 2011 historical catch. This has the potential to negatively impact the three non-member GOA Pacific cod vessels.

Option and suboption

Sideboard negotiations

Negotiating the terms of the GOA Pacific cod hook-and-line CP sideboards will likely involve FLCC members operating as one voice, and the non-member vessel owners representing their individual interests. Currently there are 30 GOA FLL endorsed LLP holders. Of those 30 LLP holders, 28 are members of the FLCC. Six of these FLCC GOA LLP holders are sideboard restricted in the Pacific cod fishery. The remaining two GOA FLL endorsed LLP holders are not members of FLCC.

The negotiation leverage between the two groups varies, in part, on whether the sideboards are permanently removed or temporarily suspended. In both cases, the negotiation leverage tends to be held by the two owners who are not members of the vessel cooperative. However, permanently removing sideboards would likely shift negotiation leverage from these non-member vessel owners to FLCC member vessel owners. The degree to which FLCC members want the sideboards removed is obviously a factor in the negotiating an agreement. If removal of the GOA Pacific cod sideboards is a lesser priority for the FLCC, then the potential negotiation leverage held by either of the two non-member vessel owners is substantially diminished. If follows immediately that the reverse is likely true.

As noted above, any negotiating leverage that exists, *ex ante*, appears likely to shift from non-member vessel owners, to FLCC vessel owners, once unanimous agreement is reached and sideboards are permanently removed. Because a "one-time only" decision to agree to remove sideboards carries a high level of uncertainty as to the future prospects for the non-member vessel operators in the GOA Pacific cod fishery, attainment of unanimity could be very difficult to negotiate and achieve.

Alternatively, agreeing to suspend GOA Pacific cod hook-and-line CP sideboards subject to the prospect of a future reversal, should the fishery develop in a way that disadvantageous any signatory to the agreement to suspend the sideboards, alleviates most of the uncertainty. This approach also lowers the transaction costs of negotiating concurrence, and increases the probability of achieving unanimity of the parties to the negotiation. Furthermore, recognizing that, any future date, on the action of one operator, sideboards could be reinstated in the following year, and beyond, which should provide a substantial economic incentive to maintain a copasetic operating environment within the GOA FLL sector.

Relative to a permanent removal of sideboards, this approach would maintain the potentiality of negotiation leverage on behalf of those that are not, under status quo, restricted by GOA Pacific cod hook-and-line CP sideboards. This would include the two non-member vessels, but it also could include FLCC vessels that are not restricted by these sideboards. If in the future, the loss of FLCC coordination in the GOA Pacific cod hook-and-line CP fishery results, the non-sideboard FLCC vessels would also likely

have some negotiation leverage with the sideboarded FLCC vessels in both BSAI and GOA Pacific cod fisheries.

Implementation

Alternative 2 would remove freezer longline non-AFA crab GOA Pacific cod sideboards. As noted in Section 1.4.4, sideboarded vessels are identified by endorsements placed on their FFP and /or LLP. Currently NMFS establishes the sideboard limits by gear and operational type, as specified under Amendment 83, through the harvest specification process and notice and comment rulemaking. Office of Law Enforcement (OLE) then enforces the sideboard allocation harvests during the fishing year. Although the complete removal of the sideboards language from the FFP and the LLP would simplify the catch accounting of sideboard allocations, there would likely be impacts on other GOA Pacific cod fisheries. Should NMFS remove the subject-to- sideboard endorsement from an FFP and LLP, sideboarded FLL vessels endorsed to catch and process Pacific cod with other gear types (i.e. pot gear) would not be subject to the sideboard limits and could compete with historic participants for that sector's TAC allocation.

Another option would be for NMFS to only remove the hook-and-line non-AFA Crab sideboard requirement from the regulations authorizing the harvest specifications. In this situation NMFS would not promulgate regulations to modify or remove the sideboard language from the FFP or LLP licenses and sideboarded vessels would remain subject to all other sideboard restrictions applicable to the harvest of Pacific cod in the GOA. Such a regulatory change would not be immediately effective and would instead be implemented during the next TAC setting and harvest specifications cycle. This would require a regulatory change to the harvest specifications process.

The option under Alternative 2 would modify the removal of the sideboards by requiring participants to notify NMFS that an agreement to remove the sideboards has been reached prior to removing the sideboards. To implement this option, NMFS would promulgate regulations to establish that the non-AFA crab sideboards would remain in effect unless NMFS receives notification from all required participants to permanently remove the sideboards from the harvest specifications, as noted above. The second part of the option would establish a 3-year deadline for participants to provide the necessary notification to NMFS that an agreement has been reached. **It is likely a request for sideboard removal approaching the 3-year deadline would trigger a new or supplemental impact analysis.** The dynamic nature of these fisheries may alter the impacts of sideboard removal such that the implementation of a measure in subsequent years may no longer meet the purpose and need for this action. **A more immediate deadline that coincides with the annual harvest specifications process would be more likely to be implemented without further impact analysis.**

The suboption under Alternative 2 would suspend rather than permanently remove the sideboards. NMFS notes that inseason management authority to open and close fisheries is structured to ensure that TAC and sideboard allocations established under the harvest specification process are not exceeded. Revisions to the final harvest specifications are difficult to accomplish in a timely manner because such a revision requires notice and comment rulemaking. Thus, any action to suspend or reinstate sideboards could not be implemented inseason and would need to be implemented annually through the harvest specifications process. NMFS has implemented such annual provisions, for example, under the incentive plan agreements under Amendment 91 to the BSAI FMP. To implement the suboption, NMFS would need to annually receive notice from participants that an agreement to remove sideboards has been reached. If such notice is given to NMFS and the agreement is approved by NMFS, like the regulations implementing Amendment 91, prior to the publication of the proposed harvest specifications (September deadline), NMFS could suspend the sideboards for the upcoming fishing year. NMFS would modify regulations to ensure that the sideboard allocations would be established annually for the hook-and-line sector unless the notice of agreement is received and approved by NMFS; therefore, no notice is needed

to reinstate the sideboards should an agreement not be reached in any given year. **Implementation of the suboption would likely increase the administrative burden beyond that of Alternative 2 or the option.**

C-2 GOA Freezer Longline Pacific cod sideboards

The AP recommends that the Council adopt for final action Alternative 2 with the revised option (in **bold/underline**) as noted below:

Alternative 2 – Remove freezer longline non-AFA crab GOA Pacific cod sideboards

Option: Permanently remove sideboard limits on the affected License Limitation Program (LLP) permits and vessel/Federal Fisheries Permits (FFP) when all GOA FLL endorsed LLP holders notify the NMFS of an agreement to remove the sideboards. The LLP holders would have 3 years from the effective date of the rule to provide notification to NMFS. **The Central and Western Gulf may be considered separately so that cooperative formation and sideboard removal can occur independently in each area.**

Motion passed 14-6.

Rationale:

- The vessel owners in the group have more than twenty five year of continuous history operating HAL C/P's in the GOA Central and Western management areas. The GOA represents a very large percentage of history for side boarded vessels. The GOA HAL C/P Side boarded Vessels have significant and undisputed recent catch history.
- Non-AFA crab side boards are no longer necessary for protection of vessels in the GOA P-Cod fishery following the A-83 sector Splits and the creation of a GOA COOP.
- The removal of the GOA HAL C/P vessels from the GOA was an unintended consequence of 2005 Crab Rationalization and A-83 Sector Splits.
- Sideboard removal and allocative considerations are not related.
- Allocative considerations are outside the scope of this analysis and should be addressed through a COOP and based on historic participation.
- As a condition for sideboard removal all GOA FLL must notify the NMFS.
- Bifurcation of WGOA and CGOA allows for sideboard removal and COOP formation independently without the requirement of an agreement in the other region.

Minority Report on C-2: *The minority supported a substitute motion to select Alternative 2 with the suboption. We will not have meaningful negotiations without each party having incentives to bring this issue to a timely conclusion. The suboption provides cooperative participants a fluid process and mechanism for GOA participants to negotiate. The suboption also provides leverage for all participants to cooperate with each other, and provides long term benefits for GOA dependent fishing operations. The minority felt that the permanent language in the option left the non-nons vulnerable if a co-op dissolves. Signed by: Alexis Kwachka, Tim Evers, Theresa Peterson, Ernie Weiss, Becca Robbins-Gisclair, John Crowley, Jeff Farvour*