

MEMORANDUM

TO: Council, SSC and AP Members
FROM: Chris Oliver *DO for*
Executive Director
DATE: January 20, 2012
SUBJECT: Groundfish Issues/Miscellaneous

ESTIMATED TIME 8 HOURS (All D-1 items)
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ACTION REQUIRED

Review discussion paper on AFA vessel replacement.

BACKGROUND

On October 12, 2010, the Coast Guard Authorization Act of 2010 (Act) was signed into law. Section 602 of the Act addresses the replacement and removal of vessels eligible to participate in the Bering Sea pollock fishery under the American Fisheries Act (AFA). To assist in understanding the implications of the Act, the Council requested staff prepare a discussion paper on the Act and its potential impacts on the GOA groundfish sideboard fisheries. The discussion paper was mailed out on January 20, 2012 and is attached as (Item D-1(c)(1)).

As noted in the discussion paper, two ambiguities arise with the application of the GOA sideboards under the Act. The Act is silent on how to apply the GOA sideboard provisions to replacement vessels with multiple LLP licenses; and the Act is silent on the transfer of the sideboard privileges of removed AFA catcher vessels to assigned vessel or vessels in its cooperative. This absence of direction for both replacement vessels and removed vessels create ambiguities concerning the application of GOA sideboard restrictions. To address these ambiguities, two different approaches for each ambiguity were included in the discussion paper. Given that Act provides the Council with a relatively broad authority to address issues with respect vessel replacement including GOA sideboards, the Council can initiate a regulatory action utilizing the included approaches or other approaches that clarify the application of the GOA sideboards.¹ The authority provided in the Act also allows the Council to include measures to limit and/or control fishing capacity in the GOA groundfish fisheries, so the Council could also broaden the regulatory action to include measures to limit the expansion of capacity expansion in the GOA.

¹ It should be noted that in the absence of Council action directed to resolving these issues, NOAA Fisheries will likely develop regulations interpreting the Acts provisions to resolve these issues. Other ambiguities may also require resolution through rulemaking.

AFA Vessel Replacement on GOA Sideboards

Discussion Paper

February 2012

On October 15, 2010, the Coast Guard Authorization Act of 2010 (Act) was signed into law. Section 602 of the Act addresses the replacement and removal of vessels eligible to participate in the Bering Sea pollock fishery under the American Fisheries Act (AFA) (see Appendix 1 for a section 602 of the Act). To assist in understanding the implications of the Act on Gulf of Alaska (GOA) groundfish sideboard fisheries, the Council requested staff prepared a discussion paper on the Act and its potential impacts on the GOA sideboard fisheries. Provided below is brief description of the AFA vessel replacement Act, two possible ambiguities concerning the Act's implications for GOA sideboards, and a description of the Act's implications for GOA sideboards. Included in Appendix 2 of the discussion paper is a brief preliminary analysis of the Act, which was provided by NMFS Alaska Region staff (in consultation with NOAA GC Alaska) to the Council during the October 2011 meeting. Appendix 3 includes the current AFA sideboard regulations as well as sideboard usage in the GOA Pacific cod and pollock fisheries.

In reading through the discussion paper, keep in mind that the Act expressly authorizes the Council to recommend for approval by the Secretary of Commerce conservation and management measures, including size limits and measures to control fishing capacity, in accordance with the Magnuson-Stevens Act, as it considers necessary to ensure that this Act does not diminish the effectiveness of the fishery management of the Bering Sea and Aleutian Islands and the GOA. Consequently, the Council has relatively broad authority to address issues with respect to GOA sideboards arising as a result of vessel replacements.

Summary of Coast Guard Authorization Act of 2010

Section 602 of the Coast Guard Authorization Act of 2010 amends the AFA to allow for vessel replacing or rebuilding by authorizing the owner of an AFA vessel to rebuild or replace the vessel to improve vessel safety and operational efficiencies (including fuel efficiency). Prior to the Act, AFA vessels could only be replaced for actual total loss or a constructive total loss of the vessel. Under the act, the rebuilt or replacement AFA vessel will be eligible in the same manner as the replaced vessel and subject to the same restrictions as the replaced vessel. Fishing permits and licenses held by the owner of the replaced AFA vessel shall be transferred to the rebuilt vessel or replacement vessel. In addition, the Act prohibits replacement AFA catcher vessels from harvesting fish in any federal fishery outside of the North Pacific, except for the Pacific whiting fishery.

The Act also eliminates the size and horsepower limitations that apply to rebuilt vessel and replacement vessels. In other words, a rebuilt or replacement AFA vessel can exceed the maximum length overall (MLOA) specified on the assigned LLP license. However, to protect non-AFA GOA fishery participants from an influx of new capacity from rebuilt or replaced AFA vessels, the Act any vessel that is rebuilt or replaced that exceeds the MLOA specified on the license that authorizes fishing for groundfish from participating in the GOA groundfish fisheries. At a minimum, an AFA vessel must still be named on an LLP license with the appropriate endorsements and a sufficiently large MLOA to accommodate the vessel's length overall equal to or greater than vessel length to participate in the GOA.

The Act also limits the use of replaced AFA vessels. The Act stipulates that any AFA vessel that is replaced is prohibited from fishing in any fishery (unless that vessel is used to replace another AFA vessel).¹ So, it would appear that once replaced (if not used as a replacement vessel), a vessel loses not only its AFA fishing privileges, but also any fishing privileges in other fisheries, including sideboard fisheries. In other words, the vessel would not be permitted to fish under a sideboard and would appear to lose any sideboard exemption in the GOA.

The Act also provides for **vessel removal** by enabling owners of AFA catcher vessels that participate in inshore cooperatives to remove a vessel from the Bering Sea pollock fishery and assign its directed pollock fishing allowance to one or more vessels in its cooperative. When the catcher vessel is removed from the pollock fishery, its portion of the directed pollock fishing allowance derived from its qualifying pollock catch history would be assigned to the vessel chosen by the owner, or among selected catcher vessels participating in the same fishery cooperative. Those vessels selected to receive the directed pollock allowance must remain in the cooperative for a least one year after the catcher vessel is removed from the fishery. Once the vessel is removed from the pollock fishery, the vessel is prohibited from fishing in any fishery (unless that vessel is used to replace another AFA vessel). As a consequence, the removed vessel would also appear to lose any sideboard status associated with the fishing privilege.

Issues of Ambiguity Associated with GOA Groundfish Fisheries

Two ambiguities arise with the application of the sideboards under the Act. First, the Act authorizes a replacement vessel to participate in the GOA groundfish fisheries in the same capacity as the replaced vessel, as long the replacement vessel does not exceed the MLOA of the assigned LLP license. If the replacement vessel exceeds the MLOA, the vessel will be prohibited from participating in the GOA groundfish fishery in any capacity until, at a minimum, the vessel is named on a LLP license with the applicable MLOA and GOA endorsement. However, the Act is silent on how to apply these sideboard provisions to replacement vessels with multiple LLP licenses. A vessel with multiple licenses and with multiple endorsements confounds implementation of the GOA groundfish prohibition when a replacement vessel exceeds the MLOA of one of the two assigned LLP licenses. The second ambiguity arises on the removal of an AFA catcher vessel that participates in an inshore cooperative. The Act addresses the transfer of the pollock allowance, but the Act is silent on the transfer of the sideboard status to the assigned vessel or vessels in its cooperative. This absence of direction for both replacement vessels and removed vessels creates ambiguities concerning the application of GOA sideboard restrictions. To that end, this section of the discussion paper addresses these ambiguities as it relates to GOA groundfish sideboards.

The first ambiguity associated with GOA sideboards involves replacement vessels with multiple LLP licenses. Five AFA vessels had multiple LLP licenses on October 15, 2010, the effective date of the Act. Language from the Act makes it clear that a replacement vessel that exceeds the MLOA specified on the assigned groundfish LLP license is prohibited from participating in the GOA groundfish fisheries. However, the Act is unclear in the case of a replacement vessel with two LLP licenses, one endorsed for the BS and the other endorsed for the GOA. The Act itself does not expressly state whether exceeding the MLOA of the LLP license that authorizes fishing in the BS or the MLOA of the LLP license that authorizes fishing in the GOA would prevent a vessel from participating in GOA groundfish fisheries. Looking at the 5 AFA vessels with multiple LLP licenses, only 2 vessels have GOA endorsements and therefore would be subject to the ambiguity. The two vessels each have only one license that has GOA endorsements; one with a Central endorsement and one with both Central and

¹ Specifically, the Act states that a vessel that is replaced will no longer be eligible for a fishery endorsement under 46 U.S.C section 12113, unless the vessel in turn replaces another AFA vessel.

Western GOA endorsement. Both vessels are between 20' and 50' shorter than the MLOA for the GOA endorsed LLP licenses. With the respect to their BS endorsed LLP licenses, one vessel is within 10' of the MLOA of that LLP license, while the other vessel is between 100' and 125' shorter than the MLOA of that LLP license. Depending on how the Council addresses the ambiguity, the difference between a vessel's length and the applicable MLOA(s) is important in showing the amount by which a vessel's length could be increased, while maintaining the vessel's ability to fish in the GOA without securing another LLP license with a GOA endorsement and a sufficiently large MLOA. There are two likely alternatives to address the ambiguity associated with multiple LLP licenses:

- **Must be within the GOA MLOA (BS MLOA is not relevant)**
- **Must be within both BS and GOA MLOAs**

Currently, a vessel that is directed fishing in the GOA groundfish fishery must have an LLP license with an MLOA accommodating the vessel's length (see section 208(g)(6) of the AFA). Since an AFA vessel must meet these conditions in order to participate in the GOA groundfish fisheries, it is not unreasonable to apply these same requirements to an AFA replacement vessel. However, if the Council believes an additional prohibition is warranted to prevent an AFA replacement vessel from fishing in the GOA if it exceeds the MLOA of the BS endorsed LLP license for that vessel, the Council could consider such a restriction. Although this approach has limited use, this approach might hinder increases in GOA capacity for vessels with multiple LLP licenses when the MLOA for the GOA endorsed LLP license is significantly larger than the MLOA for the BS endorsed LLP license.

The second ambiguity makes no provision for the transfer of a sideboard exemption associated with a vessel that is removed from the fishery. The Act enables an owner of an AFA catcher vessel that delivers to a shoreside processor to remove the vessel from the Being Sea pollock fishery and assign the vessel's directed pollock fishing allowance to other vessels in its cooperative, but is silent on transfer of GOA sideboard exemption.

Based on the provisions included in the Act, when an AFA vessel is removed from the pollock fishery, for purposes of issuing cooperative quota, NMFS must assign its portion of the directed pollock fishing allowance to the vessel chosen by the owner, or among selected catcher vessels participating in the cooperative, provided the recipient vessel(s) remain(s) in the cooperative for at least one year after the vessel is removed from the fishery.² Since the Act makes provisions for the transfer of the pollock fishing allowance but not sideboard exemption, the Council may want to consider making a recommendation for the transfer of a GOA sideboard exemption for a removed AFA vessel.

GOA sideboard exemptions were developed for AFA vessels with a significant economic dependence on the GOA groundfish fisheries.³ The exemption applied to AFA trawl catcher vessels less than 125' LOA that landed less than 1,700 metric tons of BSAI pollock on average during 1995 through 1997 and made at least 40 GOA groundfish landings during the same time period. Since these vessels are exempt from GOA sideboards, the catch history of these vessels is not included in the determination of sideboard limits and catch does not count towards the sideboard limits. In addition, exempt vessels cannot lease their BS pollock if they exceed their 1995 through 1997 GOA harvest levels.

There are two likely alternatives for addressing GOA sideboard exemptions for removed AFA vessels.

- **In the case of 100% pollock allowance transfer, transfer sideboard exemption**
- **Extinguish sideboard exemption**

²This discussion assumes that a vessel can be removed or replaced but not both.

³ Sixteen AFA catcher vessels qualified for GOA groundfish sideboard exemption.

The first alternative would be to allow the transfer of the sideboard exemption of a removed AFA vessel to the vessel that received the transferred pollock allowance. **To mirror the original sideboard exemption conditions as best as possible, the transfer of the sideboard exemption could require that 100% of the pollock allowance be transferred to a single vessel in the cooperative and that the receiving vessel be less than 125' LOA. In addition, the receiving vessel could be required to abide by the original sideboard exemption agreement, which requires exempt vessels to harvest their BS pollock allowance if the vessel exceeds its 1995 through 1997 GOA groundfish history.** By mirroring the original sideboard exemption as best as possible, vessels receiving the transfer of sideboard exemptions, which may or may not be dependent on GOA groundfish, would still be restricted from leasing their BS pollock and thereby negatively affecting other participants in GOA groundfish fisheries.

The second alternative to address GOA sideboard exemptions for removed AFA vessels is to simply extinguish the exemption when an AFA vessel is removed. This approach would reduce the number of exempt vessels that could participate in the GOA groundfish fisheries as these vessels are removed from the fishery. The loss of the exemption would have no impact GOA groundfish sideboard limits since the catch history of the exempt vessels were not included in the sideboard calculations.

Implications of AFA Vessel Replacement on GOA Groundfish Fisheries

As noted above, the Act enables a vessel owner to rebuild or replace his or her AFA vessel with a vessel of any size, even if the replacement vessel's length exceeds the MLOA specified on the assigned LLP license. However, the Act prohibits a replacement or rebuilt vessel that exceeds the MLOA specified on the assigned LLP license from participating in the GOA groundfish fisheries, unless, at minimum, the vessel is named on an LLP license with GOA endorsements and a sufficiently large MLOA to accommodate the vessel length. This section provides information on the potential for increase vessel lengths to increase within the limits permitted for participation under the Act.

Table 1 shows the number of AFA CVs aggregated by reported vessel length and the relationship of the vessel length to the MLOA of the LLP license assigned on October 15, 2010. The difference between a vessel's length and the applicable MLOA shows the amount by which a vessel's length could be increased, while maintaining the vessel's ability to fish in the GOA. The table also shows the number of Central GOA and Western GOA endorsements for each vessel length category. As noted in Table 1, there are currently 16 AFA catcher vessels that are exempt from the GOA groundfish sideboards and 91 AFA catcher vessels that are restricted by GOA groundfish sideboards for a total of 107 AFA trawl catcher vessels. Of the 16 AFA exempt vessels, 6 are within 10' of their MLOA, so these 6 AFA exempt vessels could only increase their vessel length by at most 10' and maintain their ability to fish in the GOA. For the remaining AFA exempt vessels, 8 are between 10' and 20' shorter than their MLOAs, and 2 are between 21' and 50' shorter than their MLOAs. Each of the 16 exempt vessels has a Central GOA endorsement and 11 have Western GOA endorsements. Looking at the 91 non-exempt AFA CVs, 56 are within 10' of their MLOA, 24 are within 10' and 20' of their MLOA, and 11 are within 20' and 50' of their MLOA.

Narrowing the focus to only those non-exempt AFA CVs with Central GOA and Western GOA endorsements, 16 have Central GOA endorsements and 12 have Western GOA endorsements. Of the 16 non-exempt AFA vessels with Central GOA endorsements, 10 are within 10' of their MLOA, 5 are within 10' and 20' of their MLOA, and 1 is within 20' and 50' of the MLOA. Of the 12 non-exempt AFA vessels with Western GOA endorsements, 8 are within 10' of the MLOA, 2 vessels are between 10' and 20' of the MLOA, and 2 vessels are between 20' and 50' of their MLOA.

Table 1 Number of AFA CV vessels aggregated by vessel length and GOA endorsements

Vessel Length (CFEC reported length)	Number of AFA CV vessels	Number of AFA CV vessels within 10' of the MLOA	Number of AFA CV vessels between 10' and 20' of the MLOA	Number of AFA CV vessels between 20' and 50' of the MLOA	CGOA endorsement	WGOA endorsement
AFA exempt vessels	16	6	8	2	16	11
AFA non-exempt less than 100'	15	0	9	6	4	3
AFA non-exempt greater than or equal to 100' but less than 123'	36	23	11	2	8	9
AFA non-exempt greater than or equal to 124' but less than 150'	21	21	0	0	3	0
AFA non-exempt greater than or equal to 150' but less than 184'	19	12	4	3	1	0
Total	107	62	32	13	32	23

Source: AKFIN data set January 2012.

Potential implications to GOA groundfish fisheries also exist when a replacement or rebuilt vessel is longer than its LLP's MLOA and a different LLP license (with a greater MLOA and GOA endorsements) is assigned to the vessel to allow it to participate in the GOA. From the perspective of the GOA groundfish fisheries, naming the vessel on an LLP license to allow the longer vessel to enter the GOA could impact those GOA groundfish fisheries. The impact on GOA groundfish fisheries by sideboarded vessels is ultimately limited by those sideboard limits. However, within the sideboard limits, there is the potential for AFA vessels to impact non-AFA vessels. This is because the majority of the sideboard limits for GOA groundfish have gone unharvested by AFA sideboard limited vessels. The absence of AFA sideboard activity in the GOA groundfish fisheries has allowed non-AFA vessels to develop increased dependency on GOA groundfish fisheries. In addition, grounds crowding could be exacerbated, if the additional capacity allows more vessels to enter GOA fisheries. As a result, increasing vessel lengths could impact GOA groundfish dependent non-AFA vessels.

Looking at AFA exempt vessels, the ability to increase vessel lengths by assigning LLP licenses with larger MLOAs to replacements for AFA exempt vessels could also impact GOA groundfish fisheries. Recognizing their economic dependence on the GOA groundfish fisheries, these vessels were exempt from GOA groundfish sideboard limits. To limit their ability to expand their GOA groundfish history beyond their pre-AFA historic harvest, exempt vessels cannot lease their BS pollock if they exceed their 1995 through 1997 GOA harvest levels. Although the catch requirement limits their ability to lease their BS pollock so they can increase their GOA groundfish harvest, the requirement does not provide an upper limit on their GOA groundfish catch. As such, AFA vessel replacement through the influx of expanded capacity does have the potential to impact non-AFA GOA groundfish participants.

As noted in Table 1, nearly all of the AFA exempt vessels can increase their vessel length to some degree while maintaining their vessel's ability to fish in the GOA. Increasing the length of the vessel beyond the MLOA of the currently assigned LLP license and continuing to fish in the GOA would, at minimum, require naming the vessel on another LLP license with a greater MLOA and GOA endorsements. Table 2 provides the number of trawl CV LLP licenses by MLOA and GOA endorsement. As noted in the table, nearly all of the trawl CV LLP licenses with CG and WG endorsements have a MLOA less than 125' LOA. Since there is an absence of trawl CV LLP licenses with GOA endorsements greater than 125' MLOA, AFA exempt vessels would likely expand vessel lengths within their current LLP's MLOA thereby limiting the impact to non-AFA GOA groundfish participants from a significant influx of new capacity to some degree.

Table 2 Number of trawl CV LLP licenses by MLOA and GOA subarea endorsement

MLOA	CGendorsements	WGendorsements
50-74	33	40
75-99	20	12
100-124	43	26
125-149	1	0
Total	97	78

Conclusion

As noted in the discussion paper, two ambiguities arise with the application of the GOA sideboards under the Act. The Act is silent on how to apply the GOA sideboard provisions to replacement vessels with multiple LLP licenses; and the Act is silent on the transfer of the sideboard privileges of removed AFA catcher vessels to assigned vessel or vessels in its cooperative. This absence of direction for both replacement vessels and removed vessels create ambiguities concerning the application of GOA sideboard restrictions. To address these ambiguities, two different approaches for each ambiguity were included in the discussion paper. Given that Act provides the Council with a relatively broad authority to address issues with respect vessel replacement including GOA sideboards, the Council can initiate a regulatory action utilizing the included approaches or other approaches that clarify the application of the GOA sideboards.⁴ The authority provided in the Act also allows the Council to include measures to limit and/or control fishing capacity in the GOA groundfish fisheries, so the Council could also broaden the regulatory action to include measures to limit the expansion of capacity expansion in the GOA.

⁴ It should be noted that in the absence of Council action directed to resolving these issues, NOAA Fisheries will likely develop regulations interpreting the Acts provisions to resolve these issues. Other ambiguities may also require resolution through rulemaking.

Appendix 1

SEC. 602. VESSEL SIZE LIMITS.

(a) Length, Tonnage, and Horsepower- Section 12113(d)(2) of title 46, United States Code, is amended--

- (1) by inserting 'and' after the semicolon at the end of subparagraph (A)(i);
- (2) by striking 'and' at the end of subparagraph (A)(ii);
- (3) by striking subparagraph (A)(iii);
- (4) by striking the period at the end of subparagraph (B) and inserting a semicolon; and
- (5) by inserting at the end the following:

'(C) the vessel is either a rebuilt vessel or a replacement vessel under section 208(g) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-627) and is eligible for a fishery endorsement under this section; or

'(D) the vessel is a fish tender vessel that is not engaged in the harvesting or processing of fish.'

(b) Conforming Amendments-

(1) VESSEL REBUILDING AND REPLACEMENT- Section 208(g) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-627) is amended to read as follows:

'(g) Vessel Rebuilding and Replacement-

'(1) IN GENERAL-

'(A) REBUILD OR REPLACE- Notwithstanding any limitation to the contrary on replacing, rebuilding, or lengthening vessels or transferring permits or licenses to a replacement vessel contained in sections 679.2 and 679.4 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2010 and except as provided in paragraph (4), the owner of a vessel eligible under subsection (a), (b), (c), (d), or (e), in order to improve vessel safety and operational efficiencies (including fuel efficiency), may rebuild or replace that vessel (including fuel efficiency) with a vessel documented with a fishery endorsement under section 12113 of title 46, United States Code.

'(B) SAME REQUIREMENTS- The rebuilt or replacement vessel shall be eligible in the same manner and subject to the same restrictions and limitations under such subsection as the vessel being rebuilt or replaced.

'(C) TRANSFER OF PERMITS AND LICENSES- Each fishing permit and license held by the owner of a vessel or vessels to be rebuilt or replaced under subparagraph (A) shall be transferred to the rebuilt or replacement vessel or its owner, as necessary to permit such rebuilt or replacement vessel to operate in the same manner as the vessel prior to the rebuilding or the vessel it replaced, respectively.

'(2) RECOMMENDATIONS OF NORTH PACIFIC FISHERY MANAGEMENT COUNCIL- The North Pacific Fishery Management Council may recommend for approval by the Secretary such conservation and management measures, including size limits and measures to control fishing capacity, in accordance with the Magnuson-Stevens Act as it considers necessary to ensure that this subsection does not diminish the effectiveness of fishery management plans of the Bering Sea and Aleutian Islands Management Area or the Gulf of Alaska.

'(3) SPECIAL RULE FOR REPLACEMENT OF CERTAIN VESSELS-

'(A) IN GENERAL- Notwithstanding the requirements of subsections (b)(2), (c)(1), and (c)(2) of section 12113 of title 46, United States Code, a vessel that is eligible under subsection (a), (b), (c), or (e) and that qualifies to be documented with a fishery endorsement pursuant to section 213(g) may be replaced with a replacement vessel under paragraph (1) if the vessel that is replaced is validly documented with a fishery endorsement pursuant to section 213(g) before the replacement vessel is documented with a fishery endorsement under section 12113 of title 46, United States Code.

'(B) APPLICABILITY- A replacement vessel under subparagraph (A) and its owner and mortgagee are subject to the same limitations under section 213(g) that are applicable to the vessel that has been replaced and its owner and mortgagee.

'(4) SPECIAL RULES FOR CERTAIN CATCHER VESSELS-

'(A) IN GENERAL- A replacement for a covered vessel described in subparagraph (B) is prohibited from harvesting fish in any fishery (except for the Pacific whiting fishery) managed under the authority of any Regional Fishery Management Council (other than the North Pacific Fishery Management Council) established under section 302(a) of the Magnuson-Stevens Act.

'(B) COVERED VESSELS- A covered vessel referred to in subparagraph (A) is-

'(i) a vessel eligible under subsection (a), (b), or (c) that is replaced under paragraph (1); or

'(ii) a vessel eligible under subsection (a), (b), or (c) that is rebuilt to increase its registered length, gross tonnage, or shaft horsepower.

'(5) LIMITATION ON FISHERY ENDORSEMENTS- Any vessel that is replaced under this subsection shall thereafter not be eligible for a fishery endorsement under section 12113 of title 46, United States Code, unless that vessel is also a replacement vessel described in paragraph (1).

'(6) GULF OF ALASKA LIMITATION- Notwithstanding paragraph (1), the Secretary shall prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel that is rebuilt or replaced under this subsection and that exceeds the maximum length overall specified on the license that authorizes fishing for groundfish pursuant to the license limitation program under part 679 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2010.

'(7) AUTHORITY OF PACIFIC COUNCIL- Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management measures to protect fisheries under its jurisdiction (including the Pacific whiting fishery) and participants in such fisheries from adverse impacts caused by this Act.'

(2) REPEAL OF EXEMPTION OF CERTAIN VESSELS- Section 203(g) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-620) is repealed.

(3) FISHERY COOPERATIVE EXIT PROVISIONS- Section 210(b) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-629) is amended--

(A) by moving the matter beginning with 'the Secretary shall' in paragraph (1) 2 ems to the right; and

(B) by adding at the end the following:

'(7) FISHERY COOPERATIVE EXIT PROVISIONS-

'(A) FISHING ALLOWANCE DETERMINATION- For purposes of determining the aggregate percentage of directed fishing allowances under paragraph (1), when a catcher vessel is removed from the directed pollock fishery, the fishery allowance for pollock for the vessel being removed--

'(i) shall be based on the catch history determination for the vessel made pursuant to section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2010; and

'(ii) shall be assigned, for all purposes under this title, in the manner specified by the owner of the vessel being removed to any other catcher vessel or among other catcher vessels participating in the fishery cooperative if such vessel or vessels remain in the fishery cooperative for at least one year after the date on which the vessel being removed leaves the directed pollock fishery.

'(B) ELIGIBILITY FOR FISHERY ENDORSEMENT- Except as provided in subparagraph (C), a vessel that is removed pursuant to this paragraph shall

be permanently ineligible for a fishery endorsement, and any claim (including relating to catch history) associated with such vessel that could qualify any owner of such vessel for any permit to participate in any fishery within the exclusive economic zone of the United States shall be extinguished, unless such removed vessel is thereafter designated to replace a vessel to be removed pursuant to this paragraph.

(C) LIMITATIONS ON STATUTORY CONSTRUCTION- Nothing in this paragraph shall be construed--

(i) to make the vessels AJ (United States official number 905625), DONA MARTITA (United States official number 651751), NORDIC EXPLORER (United States official number 678234), and PROVIDIAN (United States official number 1062183) ineligible for a fishery endorsement or any permit necessary to participate in any fishery under the authority of the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 302(a)(1) of the Magnuson-Stevens Act; or

(ii) to allow the vessels referred to in clause (i) to participate in any fishery under the authority of the Councils referred to in clause (i) in any manner that is not consistent with the fishery management plan for the fishery developed by the Councils under section 303 of the Magnuson-Stevens Act.'

Appendix 2

Preliminary Analysis of AFA Vessel Replacement & Removal Provisions in the Coast Guard Authorization Act of 2010 (Pub. L. 111-281, Title VI, Sec. 602)

Prepared by: NMFS Alaska Region Staff in consultation with NOAA GCAK

INTRODUCTION

On October 15, 2010, the President signed into law the Coast Guard Authorization Act of 2010, Pub. L. 111-281 ("The Act"). Section 602 of the Act addresses the replacement and removal of vessels eligible to participate in the Bering Sea pollock fishery under the American Fisheries Act ("AFA").⁵ The Act enables AFA vessels to be replaced for reasons other than total or constructive loss, eliminates the size and horsepower limitations that had applied to rebuilt AFA vessels or vessels that replace AFA vessels, and imposes various limitations on the use in other fisheries of such replacement vessels and the AFA vessels that have been replaced. The Act also enables a vessel owner to remove a vessel from an inshore cooperative and assign the vessel's directed pollock fishing allowance (the basis for determining cooperative quota) to other vessels in the cooperative.

This paper discusses several provisions of the Act and identifies aspects of removal and replacement of AFA vessels under the Act that may necessitate agency rulemaking or that the Council and agency may wish to implement through rulemaking. The paper also provides general guidance regarding the types of vessel replacement or removal transactions that would be least likely to be affected by any subsequently issued regulations

There are four provisions of the Act that may call for NMFS to engage in rulemaking. Involvement of the North Pacific Fishery Management Council ("Council") in the rulemaking process may be appropriate under some, but not all, of these provisions.

One provision states that the owner of an AFA vessel may rebuild or replace that vessel "in order to improve vessel safety and operational efficiencies . . ." Amended AFA section 208(g)(1)(A). Such replacements may occur without limitations on the length, tonnage or horsepower of the replacement vessel. *Id.* This provision supplants previous replacement vessel provisions (former AFA section 208(g)) and eviscerates existing implementing regulations, which allowed for vessel replacement only in the event of actual total loss or constructive total loss of a vessel and imposed length, tonnage and horsepower limits on replacement vessels. *See* 50 C.F.R. § 679.4(1)(7); former AFA section 208(g). This provision creates an exception to several existing regulatory provisions by specifying that such replacement or rebuilding may occur "[n]otwithstanding any limitation to the contrary on replacing, rebuilding or lengthening vessels or transferring permits or licenses to a replacement vessel contained in sections 679.2 and 679.4 of title 50, Code of Federal Regulations" as of October 15, 2010. *Id.* The quoted language establishes an exception to existing regulations that otherwise prohibit the use of a groundfish license limitation permit by a vessel that exceeds the maximum length overall specified on the permit. *See* 50 C.F.R. §§ 679.4(k)(1)(i), (k)(3)(i), (k)(7)(ix). That is, the Act would allow a replacement vessel of any length to utilize a groundfish license limitation permit to fish for Bering Sea pollock under the AFA even if the vessel's length exceeds the MLOA specified on the license. **To avoid confusion, the existing AFA regulations should be modified to reflect the expanded bases on which an owner may replace or rebuild an AFA vessel. Similarly, existing regulations addressing LLPs should be modified to reflect the exceptions that have been created by the statute.**

⁵ The full text of section 602 of the Act is appended to this paper.

Another provision expressly directs the Secretary to act to “prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel that exceeds the maximum length overall specified on the license that authorizes fishing for groundfish pursuant to the license limitation program,” as that program was in effect on October 15, 2010. Amended AFA section 208(g)(6). This mandate could be implemented through rulemaking. Rulemaking to implement this mandate could be initiated by the agency or by the Council, which is authorized to recommend “size limits and measures to control fishing capacity, in accordance with the [MSA] as it considers necessary to ensure that [AFA vessel replacement provisions do] not diminish the effectiveness of the [Groundfish FMPs].” Amended AFA section 208(g)(2).

A third provision prohibits a vessel that replaces an AFA catcher vessel from “harvesting fish” in any federal fishery outside of the North Pacific, managed by any other Regional Fishery Management Council, except for the Pacific whiting fishery. Amended AFA section 208(g)(4). NMFS could implement this prohibition through rulemaking. Because this prohibition relates to harvesting fish in fisheries under the authority of other Regional Fishery Management Councils, the North Pacific Council should have a limited role, if any, in the development of a rulemaking to implement this prohibition. Finally, another provision enables owners of catcher vessels that participate in inshore cooperatives to remove a vessel from the Bering Sea pollock fishery and assign its directed pollock fishing allowance to one or more vessels in its cooperative. **The Act gives rise to a number of issues regarding the interplay between the replacement of a vessel and the removal of a vessel, as well as the application of sideboards and sideboard exemptions when a vessel is removed or replaced.**

SUMMARY GUIDANCE

What can vessel owners do without waiting for implementing regulations?

- 1) Replace or permanently remove a vessel that has no unique sideboard characteristics (or has unique sideboard characteristics that the vessel owner is willing to lose as a result of the removal) and permanently assign its directed pollock fishing allowance to one or more vessels in the cooperative. However, the vessel owner should be aware that NMFS has not set forth what will happen to the directed pollock fishing allowance in the event that a receiving vessel does not remain in the cooperative for at least one year.
- 2) Replace a vessel with another vessel that is not currently an AFA-eligible vessel and does not exceed the MLOA on its groundfish LLP license (or with a larger vessel that the owner does not intend to use to fish for groundfish in the Gulf of Alaska).

What potential issues may result in a vessel owner’s preferring to await the regulatory process?

- Removal or replacement of a vessel with AFA sideboard exemptions which the owner wishes to preserve;
- Replacement of a vessel that exceeds the MLOA specified on a groundfish LLP license currently assigned to the vessel if the owner wishes to continue to use the vessel in the Gulf of Alaska;
- Replacement of an AFA catcher/processor with a catcher/processor that is currently eligible for, and wishes to remain eligible for, the Amendment 80 sector in the Bering Sea; and
- Removal of a catcher vessel and assignment of its directed pollock fishery allowance to other vessels if the owner wishes to do something other than permanently assign the directed pollock fishery allowance to other vessels that currently belong to the

Appendix 3

Current GOA Groundfish AFA Sideboards

This section provides a brief description of the GOA groundfish sideboard limits for non-exempt AFA catcher vessels, and a summary of other relevant regulations, in order to provide the necessary regulatory context for the discussion paper. Paragraph 211(a) of the AFA mandates that the “North Pacific Council shall recommend for approval by the Secretary such conservation and management measures as it determines necessary to protect other fisheries under its jurisdiction and the participants in those fisheries, including processors, from adverse impacts caused by this Act or fishery cooperatives in the directed pollock fishery.” With specific reference to catcher vessels, paragraph 211(c)(1)(A) of the AFA required the Council to recommend for approval by the Secretary conservation and management measures to prevent listed AFA catcher vessels from exceeding their traditional harvest levels in other groundfish fisheries as a result of the formation of fishery cooperatives in the Bering Sea and Aleutian Islands (BSAI) pollock fishery. The Council met the requirement by recommending a comprehensive suite of sideboard measures, including catcher vessel sideboards for GOA groundfish species, at its June 1999 meeting and forwarding those recommendations to NOAA Fisheries. An emergency interim rule containing the Council’s recommendations was published on January 28, 2000 (65 FR 4520). This rule was superseded by the final rule to implement Amendments 61/61/13/8, effective on December 30, 2002.

The catcher vessel sideboards apply to all AFA catcher vessels participating in all GOA groundfish fisheries, with the exception of 16 vessels that qualified for sideboard exemptions. AFA catcher vessels which are less than 125 ft length overall (LOA) and have annual landings of pollock in the BSAI of less than 5,100 mt, and which made at least 40 landings of GOA groundfish from 1995 through 1997, are exempt from the GOA groundfish sideboard limits.

Sideboard limits for non-exempt AFA catcher vessels in the GOA are based on the historic harvest levels by these vessels in the GOA groundfish fisheries. Specifically, the groundfish sideboard limits in the GOA were calculated by dividing the retained catch (mt) of non-exempt AFA catcher vessels of each sideboard species from 1995 through 1997 by the total allowable catch (TAC) for that species over the same period. For Pacific cod, separate sideboard ratios were calculated for the inshore and offshore TACs based on retained catch in the inshore and offshore fisheries during 1995 through 1997. Each year during the harvest specifications process, the sideboard amounts (mt) are calculated by multiplying the sideboard ratios by the TACs. Sideboard amounts are then apportioned seasonally. Table 1 shows the sideboard ratios in each GOA management area and the 2011 TACs and sideboard amounts for the different GOA species. During the 2000-2008, the sideboard limits were slightly higher than the ratios shown in Table 1. The sideboard ratios were recalculated after 2008 to account for two vessels whose exempt status changed since the sideboards were originally implemented in 2000. All catch of sideboard species made by non-exempt AFA catcher vessels, including both targeted and incidental catch, is counted against the sideboards.

NOAA Fisheries does not allocate the sideboard amounts among the AFA fishery cooperatives. After NOAA Fisheries sets the annual sideboard amounts, the cooperatives divide the sideboard amounts among themselves and each cooperative determines how their portion of the sideboard is divided among member vessels. Because the three AFA catcher vessel sectors (inshore, offshore, and mothership) share the same sideboards, an inter-cooperative agreement was implemented to divide the sideboards among cooperatives and set penalties for exceeding the cap.

Only pollock and Pacific cod sideboards are apportioned seasonally, which are based on the percentage of the overall pollock and Pacific cod TAC allocated to each season. NOAA Fisheries closes the directed the groundfish fisheries to non-exempt AFA catcher vessels when sideboard amounts are inadequate to support directed fisheries. The closures are timed so that adequate amounts of these species are available to support incidental needs in other directed fisheries. NMFS will only open directed fisheries for a species when adequate sideboard amounts exist at the start of the fishing year to cover both directed harvests and incidental catch of that species in other fisheries. As Table 2 shows, several GOA directed groundfish fisheries were closed to the non-exempt AFA catcher vessel sector during the 2011 and 2012 season due to small sideboard limits.

Table 1. Final 2011 GOA non-exempt AFA CV groundfish harvest sideboard limitations

Species	Apportionments by season/gear	Area/component	Ratio of 1995-1997 non-exempt AFA CV catch to 1995-1997 TAC	2011 TAC (mt)	2011 non-exempt AFA catcher vessel sideboard
Pollock	A season (Jan 20 - Mar 10)	Shumagin (610)	0.6047	4,787	2,895
		Chirikof (620)	0.1167	11,896	1,388
		Kodiak (630)	0.2028	4,475	908
	B season (Mar 10 - May 31)	Shumagin (610)	0.6047	4,787	2,895
		Chirikof (620)	0.1167	14,232	1,661
		Kodiak (630)	0.2028	2,139	434
	C season (Aug 25- Oct 1)	Shumagin (610)	0.6047	8,729	5,278
		Chirikof (620)	0.1167	5,618	656
		Kodiak (630)	0.2028	6,811	1,381
	D season (Oct 1 - Nov 1)	Shumagin (610)	0.6047	8,729	5,278
		Chirikof (620)	0.1167	5,618	656
		Kodiak (630)	0.2028	6,811	1,381
	Annual	WYK (640)	0.0079	8,202	65
		SEO (650)	0.0078	911	7
	Pacific cod	A season (Jan 1 - Jun 10)	W inshore	0.1365	12,303
W offshore			0.1026	1,367	140
C inshore			0.0689	21,795	1,502
C offshore			0.0721	2,422	175
B Season (Jun 10 - Dec 31)		W inshore	0.1365	8,202	1,120
		W offshore	0.1026	911	93
		C inshore	0.0689	14,530	1,001
		C offshore	0.0721	1,614	116
Annual		E inshore	0.0079	1,758	14
		E offshore	0.0078	195	2
Sablefish	Annual, trawl gear	W	0	334	0
		C	0.0642	948	61
		E	0.0433	247	11
Flatfish shallow-water	Annual	W	0.0156	4,500	70
		C	0.0587	13,000	763
		E	0.0126	1,228	15
Flatfish deep-water	Annual	W	0	529	0
		C	0.0647	2,919	189
		E	0.0128	2,083	27
Rex sole	Annual	W	0.0007	1,517	1
		C	0.0384	6,294	242
		E	0.0029	868	3
Arrowtooth flounder	Annual	W	0.0021	8,000	17
		C	0.028	30,000	840
		E	0.0002	2,500	1

Source: NMFS 2011 and 2012 Harvest Specifications

Table 1. Continuation final 2011 GOA non-exempt AFA CV groundfish harvest sideboard limitations

Species	Apportionments by season/gear	Area/component	Ratio of 1995-1997 non-exempt AFA CV catch to 1995-1997 TAC	2011 TAC (mt)	2011 non-exempt AFA catcher vessel sideboard
Flathead sole	Annual	W	0.0036	2,000	7
		C	0.0213	5,000	107
		E	0.0009	2,064	2
Pacific ocean perch	Annual	W	0.0023	2,798	6
		C	0.0748	10,379	776
		E	0.0466	1,937	90
Northern rockfish	Annual	W	0.0003	2,573	1
		C	0.0277	2,281	63
Shortraker rockfish	Annual	W	0	134	0
		C	0.0218	325	7
		E	0.01	455	5
Other rockfish	Annual	W	0.0034	212	1
		C	0.1699	507	86
		E	0	276	0
Pelagic shelf rockfish	Annual	W	0.0001	611	0
		C	0	3,052	0
		E	0.0067	407	3
Rougheye rockfish	Annual	W	0	81	0
		C	0.0237	868	21
		E	0.0124	363	5
Demersal shelf rockfish	Annual	SEO	0.002	300	1
Thornyhead rockfish	Annual	W	0.028	425	12
		C	0.028	637	18
		E	0.028	708	20
Atka mackerel	Annual	GW	0.0309	2,000	62
Big skates	Annual	W	0.0063	598	4
		C	0.0063	2,049	13
		E	0.0063	681	4
Longnose skates	Annual	W	0.0063	81	1
		C	0.0063	2,009	13
		E	0.0063	762	5
Other skates	Annual	GW	0.0063	2,093	13
Squids	Annual	GW	0.0063	1,148	7
Sharks	Annual	GW	0.0063	6,197	39
Octopuses	Annual	GW	0.0063	954	6
Sculpins	Annual	CW	0.0063	5,496	35

Source: NMFS 2011 and 2012 Harvest Specifications

Table 2. Directed fisheries closed to non-exempt AFA catcher vessels in the GOA during 2011 and 2012, and sideboard amounts (mt) for these fisheries

Species	Regulatory area/district	Incidental catch
Pacific cod	Eastern	14 (inshore) and 2 (offshore) in 2011 13 (inshore) and 1 (offshore) in 2012
Deep-water flatfish	Western	0
Rex sole	Eastern and Western	1 and 3 in 2011 1 and 2 in 2012
Flathead sole	Eastern and Western	2 and 7
Arrowtooth flounder	Eastern and Western	1 and 17
Pacific ocean perch	Western	6
Northern rockfish	Western	1
Pelagic shelf rockfish	Entire GOA	3
Demersal shelf rockfish	SEO District	1
Sculpins	Entire GOA	35
Squids	Entire GOA	7

Source: NMFS 2011 and 2012 Harvest Specifications

In addition to the AFA sideboards in the GOA groundfish fisheries, there are standdown requirements for trawl catcher vessels that fish in both the BSAI and GOA (§679.23(h)) that impact AFA catcher vessels. These measures were implemented in 1998, and are intended to prevent unexpected shifts of fishing effort between BSAI and GOA fisheries that can lead to overharvests of TAC in the Western and Central regulatory areas of the GOA. There are 3 standdown requirements:

- (1) Trawl catcher vessels operating in the BSAI while the pollock and Pacific cod fisheries are open for directed fishing are prohibited from deploying trawl gear in the Western and Central GOA for three days after landing or transferring all BSAI groundfish. An exception applies to trawl catcher vessels that participate in the directed Pacific cod fisheries in the GOA and deliver to processors operating in the offshore sector.
- (2) Trawl catcher vessels operating in the Western GOA area while pollock and inshore Pacific cod are open for directed fishing are restricted from using trawl gear in the BSAI for three days after landing or transferring all Western GOA groundfish.
- (3) Trawl catcher vessels operating in the Central GOA area while pollock and inshore Pacific cod are open to directed fishing are restricted from using trawl gear in the BSAI for two days after landing or transferring all Central GOA groundfish.

In addition to stand down requirements, there are exclusive fishing seasons for trawl catcher vessels that participate in the directed pollock fisheries in both the BSAI and GOA that impact AFA catcher vessels (§679.23(h)). As shown in Table 3, catcher vessels fishing in one season in the GOA or BSAI are prohibited from fishing in the alternative management area until the following season. This prohibition limits the concentration of fishing effort in one area and reduces the potential for localized depletion of Steller sea lion prey. Vessels less than 125' LOA are exempt from this restriction when fishing east of 157° 00' W longitude.

Table 3. Exclusive fishing season for trawl catcher vessels operating in the BSAI and GOA directed pollock fisheries

If you own or operate a catcher vessel and engage in directed fishing for pollock in the	During the	Then you are prohibited from subsequently engaging in directed fishing for pollock with that catcher vessel in the
BSAI	A season	GOA until the following C season
	B season	GOA until the A season of the next year
GOA	A season	BSAI until the following B season
	B season	BSAI until the following B season
	C season	BSAI until the A season of the following year
	D season	BSAI until the A season of the following year

Finally, AFA catcher vessels are subject to trip limits for pollock that were implemented as part of the package of Steller sea lion mitigation measures adopted in 1999 (64 FR 3441). Catcher vessels are prohibited from retaining on board more than 300,000 lb (136 mt) of unprocessed pollock on board a catcher vessel at any time during a fishing trip in the GOA as well as land more than 300,000 lb (136 mt) of unprocessed pollock to any processor or tender vessel (§679.7(b)(2)). In addition, a trawl catcher vessel cannot land a cumulative amount of unprocessed pollock harvested from any GOA reporting area that exceeds 300,000 lbs (136 mt) times the number of calendar days the fishery is open in the respective reporting area. These trip limits do not exempt vessels from regulations that require 100 percent retention of pollock when directed fishing for pollock is open. In addition, vessels are prohibited from operating as pollock tenders and retaining on board more than 600,000 lb (272 mt) of unprocessed pollock in the GOA east of 157° 00' W longitude (§679.7(b)(3)). This regulation is intended to preclude the large scale use of tender vessels to circumvent the trip limit restriction. Tendering west of 157° 00' W longitude is allowed because smaller vessels delivering to Sand Point and King Cove are more dependent on tenders than the larger vessels that operate east of 157° 00' W longitude and deliver primarily to Kodiak.

Sideboard catch history for the non-exempt AFA CV sector

Note on reporting of seasonal pollock sideboard harvests

The non-exempt AFA pollock sideboards are apportioned seasonally in the same proportions as the overall pollock TAC in each GOA management area. The seasonal apportionments of the sideboard amounts are reported in the annual harvest specifications. The tables below report the percentage of each seasonal apportionment that was harvested. These percentages are calculated based on the initial seasonal apportionments in the harvest specifications, not including rollovers, and do not paint a complete picture of seasonal harvests.

For the overall pollock fishery in each management area, the final seasonal apportionments include any unharvested amounts that were rolled over from a previous season. As noted earlier, the rollover amount of unharvested pollock is limited to 20% of the seasonal apportionment for the management area. Any unharvested pollock above the 20% limit could be further distributed to the other statistical areas, in proportion to the estimated biomass in the subsequent season in those statistical areas (679.20(a)(5)(iv)(B)). Even after rollover amounts are taken into account, overages are common in the seasonal pollock fisheries in each GOA management area (see Table 3) due to the fast and often unpredictable pace of the fishery.

Representatives of the AFA fleet have indicated that the non-exempt AFA sideboards are currently managed as an annual sideboard limit. Unused seasonal apportionments are rolled over to the next season. The harvest specifications do not clearly state whether the non-exempt AFA sideboard seasonal apportionments are subject to the same rollover regulations that are used to manage the overall fishery. If the rollover rules apply to the non-exempt AFA sideboard apportionments, the rollover amount of unharvested pollock would be limited to 20% of the seasonal apportionment. Harvests of up to 120% of the initial seasonal apportionment would be allowed.

Summary of non-exempt AFA CV pollock harvests in Area 610 (Shumagin)

The Area 610 seasonal and annual pollock TACs and the non-exempt AFA CV pollock harvests during 2000-2008 are shown in Table 9. During 2000-2008, the non-exempt AFA CV fleet was eligible to harvest up to 61.12% of the Area 610 pollock TAC. During this time period, harvests ranged from 8.4% of the TAC in 2007 to 25.4% of the TAC in 2001 (see Table 10). Non-exempt AFA CVs harvested 41.5% or less of their total annual sideboard for pollock in Area 610 during each year. The non-exempt AFA pollock sideboard catch in Area 610 shows a decreasing trend, with the proportion of the sideboard harvested dropping from 41.5% to 13.8% from 2001-2007. Overall, during 2000 through 2007, 38,090 mt (30.3%) of the 125,799 mt total sideboard limit in Area 610 was harvested. The percentage of the seasonal sideboard harvested ranged between 0% and 85.5%. There was no consistent pattern in the seasonality of the pollock sideboard harvest in Area 610. During some years the pollock catch was concentrated in the C or D seasons, while in other years the highest catches were in the A or B seasons.

Table 9. Area 610 pollock TAC and non-exempt AFA CV harvests during 2000 – 2008.

Season	2000	2001	2002	2003	2004	2005	2006	2007	2008
Area 610 Seasonal and Annual TACs (mt)									
A	7,498	7,707	2,916	2,894	3,747	5,035	4,210	4,511	3,322
B	3,749	3,854	2,916	2,894	3,748	5,035	4,210	4,511	3,321
C	11,506	10,998	5,949	5,500	7,717	10,155	10,249	7,995	5,480
D	9,588	9,165	5,949	5,500	7,718	10,155	10,249	7,995	5,479
Full Year	32,341	31,724	17,730	16,788	22,930	30,380	28,918	25,012	17,602
Non-Exempt AFA CV Catch (mt)									
A	*	*	*	*	1,040	1,675	*	126	*
B	*	*	*	*	*	*	*	0	*
C	1,754	2,213	2,138	1,359	2,438	*	*	1,139	*
D	5,011	4,649	1,412	1,144	*	2,552	1,803	841	*
Full Year	7,033	8,053	3,700	3,190	4,708	4,860	4,441	2,106	*

Source: ADFG Fish Tickets (2001), NMFS Shoreside Logs (2002), and NMFS Catch Accounting (2003-June 2008).

Table 10. Percent of Area 610 pollock TAC and sideboard harvested by non-exempt AFA CVs, 2000 – 2008.

Season	2000	2001	2002	2003	2004	2005	2006	2007	2008
Non-Exempt AFA CV Catch as a Percent of TAC (Sideboard = 61.12% of TAC)									
A	*	*	*	*	27.8%	33.3%	*	2.8%	*
B	*	*	*	*	*	*	*	0.0%	*
C	15.2%	20.1%	35.9%	24.7%	31.6%	*	*	14.3%	*
D	52.3%	50.7%	23.7%	20.8%	*	25.1%	17.6%	10.5%	*

Full Year	21.7%	25.4%	20.9%	19.0%	20.5%	16.0%	15.4%	8.4%	*
Non-Exempt AFA CV Catch as a Percent of Sideboard									
A	*	*	*	*	45.4%	54.4%	*	4.6%	*
B	*	*	*	*	*	*	*	0.0%	*
C	24.9%	32.9%	58.8%	40.4%	51.7%	*	*	23.3%	*
D	85.5%	83.0%	38.8%	34.0%	*	41.1%	28.8%	17.2%	*
Full Year	35.6%	41.5%	34.1%	31.1%	33.6%	26.2%	25.1%	13.8%	*

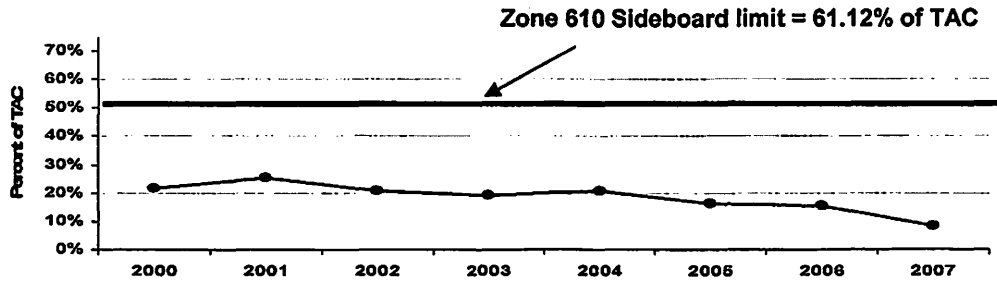


Figure 5. Non-exempt AFA CV pollock harvest in Area 610 as a percent of TAC, 2000-2007.

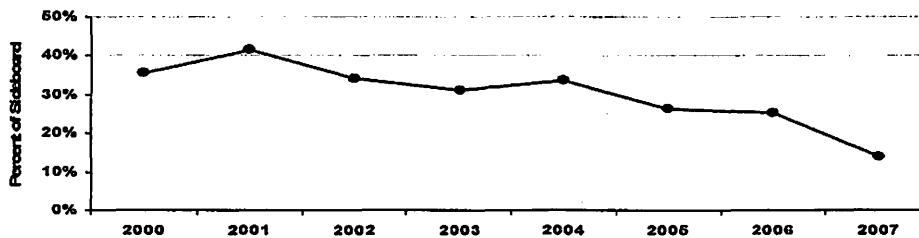


Figure 6.

Non-exempt AFA CV pollock harvest in Area 610 as a percent of sideboard, 2000-2007.

Summary of non-exempt AFA CV pollock harvest in Area 620 (Chirikof)

The Area 620 annual and seasonal TACs and non-exempt AFA CV pollock harvests during 2000-2008 are reported in Table 12. During 2000-2008, the non-exempt AFA CV fleet was eligible to harvest up to 14.27% of the Area 620 pollock TAC. Actual harvests ranged from 3% of the TAC in 2000 to 13.7% of the TAC in 2002. Non-exempt AFA catcher vessels generally harvested more than 50% of their annual sideboard for pollock in Area 620 in each year. Overall, 18,124 mt (64.9%) of the 30,379 mt total sideboard limit in Area 620 was harvested during 2000-2007. The pollock sideboard catch in Area 620 was generally concentrated in the B season, with that season accounting for 73% of the total pollock sideboard harvest during 2000-2007. Pollock harvests exceeded the initial seasonal sideboard apportionments by more than 20% during some years, primarily during the B season. Seasonal overages were accommodated by a rollover of the unharvested portion of the sideboard limit from the previous season. Again, it should be noted that in the overall fishery, B season harvests have often exceeded 120% of the *final* seasonal apportionment (even after accounting for rollover amounts; see Table 3).

Table 12. Area 620 pollock TAC and non-exempt AFA CV harvests during 2000 – 2008.

Season	2000	2001	2002	2003	2004	2005	2006	2007	2008
Area 620 Seasonal and Annual TACs (mt)									
A	11,739	10,479	8,618	6,535	9,027	11,692	11,192	7,357	6,215
B	5,870	5,232	8,618	7,778	10,704	13,820	13,394	8,924	7,576
C	6,847	6,546	2,905	2,686	3,380	4,446	2,953	2,304	2,695
D	5,706	5,465	2,905	2,686	3,379	4,446	2,953	2,304	2,695
Full Year	30,162	27,722	23,046	19,685	26,490	34,404	30,492	20,889	19,181
Non-Exempt AFA CV Catch (mt)									
A	*	360	*	179	*	724	*	*	508
B	805	1,651	1,391	1,658	1,513	1,308	2,331	2,656	1,874
C	*	*	1,222	*	*	0	*	*	*
D	0	*	*	*	*	0	0	0	*
Full Year	908	2,100	3,154	2,135	1,988	2,031	2,991	2,815	2,382

Source: ADFG Fish Tickets (2001), NMFS Shoreside Logs (2002), and NMFS Catch Accounting (2003-June 2008).

Table 13. Percent of Area 620 pollock TAC and sideboard harvested by non-exempt AFA CVs, 2000 – 2008.

Season	2000	2001	2002	2003	2004	2005	2006	2007	2008
Non-Exempt AFA CV Catch as a Percent of TAC (Sideboard = 14.27% of TAC)									
A	*	3.4%	*	2.7%	*	6.2%	*	*	8.2%
B	13.7%	31.6%	16.1%	21.3%	14.1%	9.5%	17.4%	29.8%	24.7%
C	*	*	42.0%	*	*	0.0%	*	*	*
D	0.0%	*	*	*	*	0.0%	0.0%	0.0%	*
Full Year	3.0%	7.6%	13.7%	10.8%	7.5%	5.9%	9.8%	13.5%	12.4%
Non-Exempt AFA CV Catch as a Percent of Sideboard									
A	*	24.1%	*	19.2%	*	43.4%	*	*	57.3%
B	96.0%	221.1%	113.1%	149.4%	99.1%	66.3%	122.0%	208.5%	173.4%
C	*	*	294.7%	*	*	0.0%	*	*	*
D	0.0%	*	*	*	*	0.0%	0.0%	0.0%	*
Full Year	21.1%	53.1%	95.9%	76.0%	52.6%	41.4%	68.8%	94.4%	87.0%

Source: ADFG Fish Tickets (2001), NMFS Shoreside Logs (2002), and NMFS Catch Accounting (2003-June 2008)

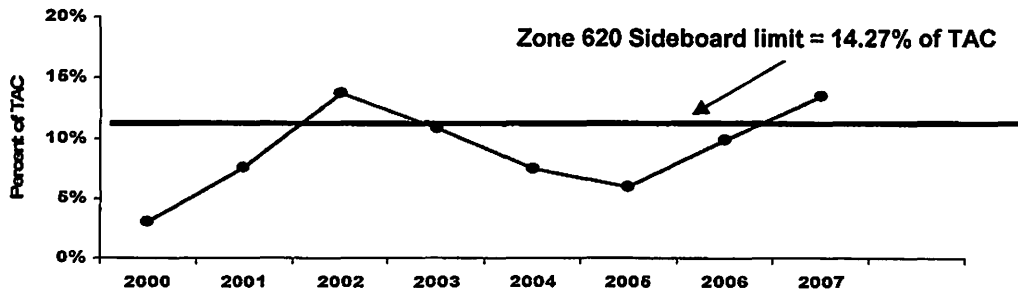


Figure 7. Non-exempt AFA CV pollock harvest in Area 620 as a percent of TAC, 2000-2007.



Figure 8. Non-exempt AFA CV pollock harvest in Area 620 as a percent of sideboard, 2000-2007.

Summary of non-exempt AFA CV pollock harvest in Area 630 (Kodiak)

The Area 630 annual and seasonal TACs and non-exempt AFA CV pollock harvests during 2000-2008 are reported in Table 15. During 2000-2008, the non-exempt AFA CV fleet was eligible to harvest up to 24.38% of the Area 630 pollock TAC. Actual harvests ranged from 3.4% of the TAC in 2006 to 15.0% of the TAC in 2000. Non-exempt AFA catcher vessels harvested 61.3% or less of their annual total sideboard for pollock in Area 630 during each year. Overall, 12,368 mt (35.5%) of the 34,791 mt total sideboard limit during 2000-2007 was harvested. The percentage of the seasonal sideboard harvested ranged between 0.7% to more than 100% when unharvested TAC from a previous season was rolled over to the following season. As in Area 610, there was no consistent pattern in the seasonality of the pollock harvests in Area 630.

Table 15. Seasonal TAC and Non-Exempt AFA CV Pollock Harvest in Area 630, 2001 – 2008

Season	2000	2001	2002	2003	2004	2005	2006	2007	2008
Area 630 Seasonal and Annual TACs (mt)									
A	8,123	7,986	1,122	2,274	3,091	4,148	4,062	3,320	3,069
B	4,060	3,991	1,122	1,031	1,413	2,021	1,861	1,753	1,709
C	9,008	8,610	3,803	3,517	4,768	6,274	6,263	4,889	4,431
D	7,506	7,175	3,803	3,517	4,768	6,275	6,262	4,889	4,431
Full Year	28,697	27,762	9,850	10,339	14,040	18,718	18,448	14,851	13,640
Non-Exempt AFA CV Catch (mt)									
A	2,202	1,475	*	6	*	*	*	*	*
B	*	232	60	*	*	233	*	*	16
C	1,355	572	995	471	452	*	210	9	175
D	*	*	*	*	*	*	*	*	474
Full Year	4,291	2,332	1,195	879	721	1,586	632	731	665

Table 16. Percent of Area 630 pollock TAC and sideboard harvested by non-exempt AFA CVs, 2000 – 2008.

Season	2000	2001	2002	2003	2004	2005	2006	2007	2008
Non-Exempt AFA CV Catch as a Percent of TAC (Sideboard = 24.38% of TAC)									
A	27.1%	18.5%	*	0.2%	*	*	*	*	*
B	*	5.8%	5.3%	*	*	11.5%	*	*	1.0%
C	15.0%	6.6%	26.2%	13.4%	9.5%	*	3.4%	0.2%	3.9%
D	*	*	*	*	*	*	*	*	10.7%
Full Year	15.0%	8.4%	12.1%	8.5%	5.1%	8.5%	3.4%	4.9%	4.9%

<u>Non-Exempt AFA CV Catch as a Percent of Sideboard</u>									
A	111.2%	75.8%	*	1.0%	*	*	*	*	*
B	*	23.8%	21.8%	*	*	47.3%	*	*	3.9%
C	61.7%	27.3%	107.3%	54.9%	38.9%	*	13.8%	0.7%	16.2%
D	*	*	*	*	*	*	*	*	43.9%
Full Year	61.3%	34.5%	49.8%	34.9%	21.1%	34.8%	14.1%	20.2%	20.0%

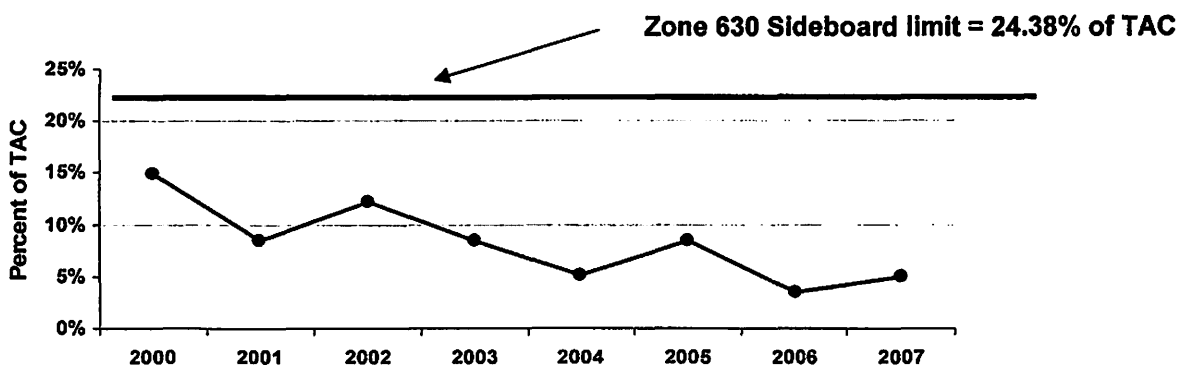


Figure 9. Non-exempt AFA CV pollock harvest in Area 630 as a percent of TAC, 2000-2007.

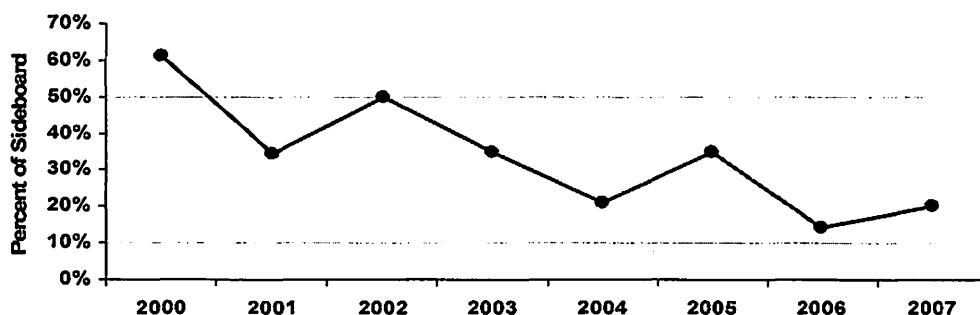


Figure 10. Non-exempt AFA CV pollock harvest in Area 630 as a percent of the sideboard, 2000-2007.

Summary of non-exempt AFA CV Pacific cod harvest in Western Gulf

The Western Gulf Pacific cod annual and seasonal TACs and the non-exempt AFA CV Pacific cod harvests during 2000-2008 are summarized in Table 18. During 2000-2008, the non-exempt AFA CV fleet was eligible to harvest up to 14.23% of the Western GOA Pacific cod inshore TAC. Actual harvests ranged from 0.1% of the TAC in 2006 to 3.9% of the TAC in 2000 (Table 19). Non-exempt AFA catcher vessels harvested 27.7% or less of their annual total sideboard for Pacific cod in the Western Gulf during each year from 2000-2007. Overall, 1,422 mt (7.9%) of the 17,933 mt total sideboard limit was harvested during that period. The Pacific cod sideboard catch in the Western Gulf was concentrated in the A season, with that season accounting for 81% of the total Pacific cod sideboard harvest during 2001-2007.

Table 18. Seasonal TACs and non-exempt AFA CV Pacific Cod harvests in the Western Gulf, 2000 – 2008.

Season	2000	2001	2002	2003	2004	2005	2006	2007	2008
<u>Inshore Seasonal and Annual TACs in Western Gulf (mt)</u>									
A	na	9,882	9,098	8,343	9,157	8,471	10,876	10,876	10,502

B	na	6,588	6,066	5,562	6,104	5,647	7,251	7,251	7,002
Full Year	14,850	16,470	15,164	13,905	15,261	14,118	18,127	18,127	17,504

Non-Exempt AFA CV Catch (mt)									
A	na	99	143	87	86	89	6	168	*
B	na	142	8	1	1	1	1	4	*
Full Year	585	241	151	89	87	90	6	172	*

Table 19. Seasonal TACs and non-exempt AFA CV Pacific Cod harvests in the Western Gulf, 2000 – 2008.

Non-Exempt AFA CV Catch as a Percent of TAC (Sideboard = 14.23% of TAC)									
A	na	1.0%	1.6%	1.0%	0.9%	1.0%	0.1%	1.5%	*
B	na	2.2%	0.1%	0.0%	0.0%	0.0%	0.0%	0.1%	*
Full Year	3.9%	1.5%	1.0%	0.6%	0.6%	0.6%	0.1%	1.0%	*

Non-Exempt AFA CV Catch as a Percent of Sideboard									
A	na	7.0%	11.0%	7.4%	6.6%	7.4%	0.4%	10.9%	*
B	na	15.2%	1.0%	0.2%	0.1%	0.1%	0.1%	0.4%	*
Full Year	27.7%	10.3%	7.0%	4.5%	4.0%	4.5%	0.7%	6.7%	*

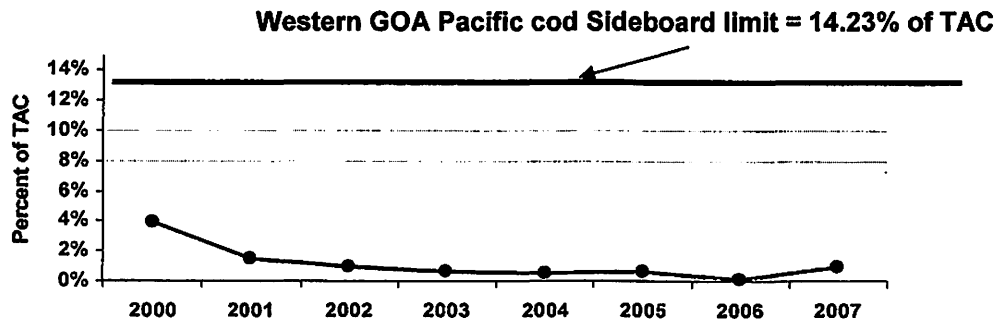


Figure 11. Non-Exempt AFA CV Pacific cod harvest as a percent of TAC in Western Gulf, 2000 – 2007

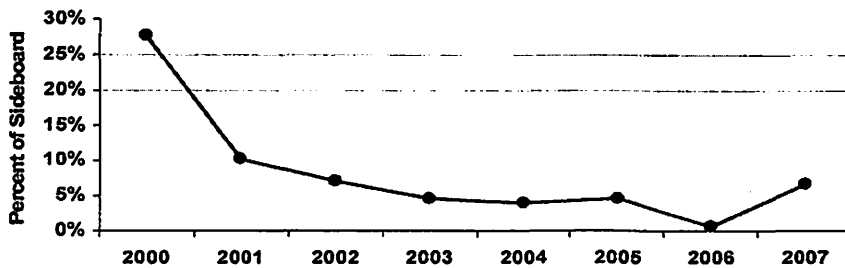


Figure 12. Non-Exempt AFA CV Pacific cod harvest as a percent of sideboard in Western Gulf, 2000 – 2007

Pacific cod is often harvested incidentally when vessels are targeting other species such as pollock. Table 20 reports directed and incidental harvests of Pacific cod in the Western Gulf by the non-exempt AFA CV fleet. During 2001–2007, 91% of Western Gulf Pacific cod harvested by non-exempt AFA catcher

vessels was harvested by vessels targeting Pacific cod, while the remaining 9% was taken incidentally in other targeted fisheries.

Table 20. Directed and incidental catch (mt) of non-exempt AFA catcher vessels in the Western Gulf Pacific cod fishery, 2001 – 2007.

	2001	2002	2003	2004	2005	2006	2007	Total 2001-2007
Directed catch	235	140	45	87	81	1	170	758
Incidental catch	7	11	44	1	9	6	2	79
Total catch	241	151	89	87	90	6	172	837

Summary of non-exempt AFA CV Pacific cod harvest in Central Gulf

The Central Gulf Pacific cod annual and seasonal TACs and the non-exempt AFA CV Pacific cod harvests during 2000-2008 are summarized in Table 22. During 2000-2008, the non-exempt AFA CV fleet was eligible to harvest up to 7.22% of the CGOA inshore TAC. Non-exempt AFA catcher vessels harvested 65.2% or less of their annual sideboard for Pacific cod in the Central Gulf during 2000-2007 (Table 23). Overall, 3,969 mt (28.5%) of the 13,913 mt total sideboard limit was harvested during that period. The percent of the annual sideboard harvested varied between 14.7% and 65.2%. Overall, during 2000-2007, there was slightly more sideboard catch during the A season (54%).

Table 22. Seasonal TACs and non-exempt AFA CV Pacific Cod harvests in the Central Gulf, 2000 – 2008.

Season	2000	2001	2002	2003	2004	2005	2006	2007	2008
<u>Inshore Seasonal and Annual TACs in Central Gulf (mt)</u>									
A	na	16,335	13,387	12,253	14,643	13,547	15,339	15,339	15,350
B	na	10,890	8,924	8,168	9,761	9,031	10,226	10,226	10,233
Full Year	24,538	27,315	22,311	20,421	24,404	22,578	25,565	25,565	25,583
<u>Non-Exempt AFA CV Catch (mt)</u>									
A	na	98	99	437	290	383	329	242	220
B	na	257	201	525	308	222	77	30	320
Full Year	470	355	301	961	599	606	406	272	640

Table 23. Seasonal TACs and non-exempt AFA CV Pacific Cod harvests in the Central Gulf, 2000 – 2008.

<u>Non-Exempt AFA CV Catch as a Percent of TAC (Sideboard = 7.22% of TAC)</u>									
A	na	0.6%	0.7%	3.6%	2.0%	2.8%	2.1%	1.6%	1.4%
B	na	2.4%	2.3%	6.4%	3.2%	2.5%	0.8%	0.3%	3.1%
Full Year	1.9%	1.3%	1.3%	4.7%	2.5%	2.7%	1.6%	1.1%	2.5%
<u>Non-Exempt AFA CV Catch as a Percent of Sideboard</u>									
A	na	8.3%	10.3%	49.4%	27.5%	39.2%	29.7%	21.9%	19.9%
B	na	32.7%	31.2%	89.0%	43.8%	34.1%	10.5%	4.0%	43.3%
Full Year	26.5%	18.0%	18.7%	65.2%	34.0%	37.1%	22.0%	14.7%	34.6%

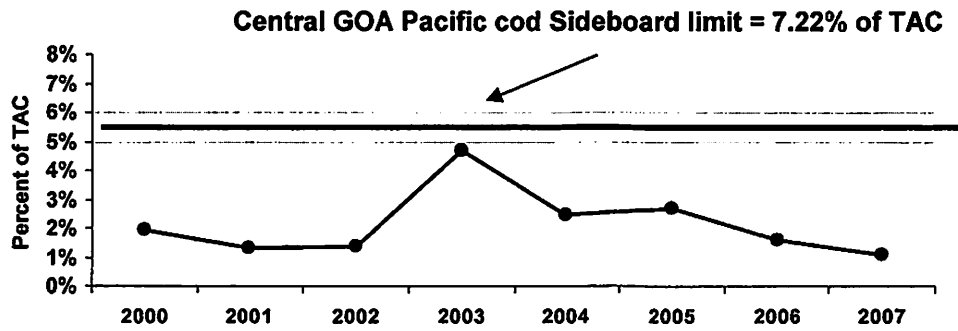


Figure 13.

Non-exempt AFA CV Pacific cod harvest as a percent of TAC in the Central GOA, 2000– 2007

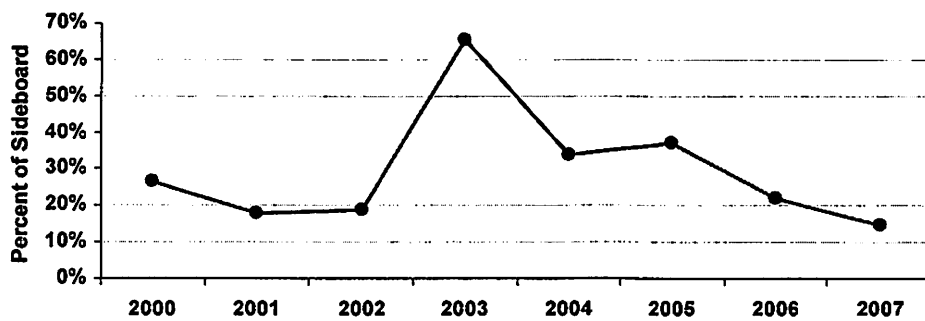


Figure 14.
2000– 2007

Non-exempt AFA CV Pacific cod harvest as a percent of sideboard in the Central GOA,

Incidental catches of Pacific cod accounted for 36% of the total Pacific cod landed in the Central Gulf by non-exempt AFA catcher vessels during 2001–2007 (see Table 24). This is 4 times the incidental catch percentage in the Western Gulf.

Table 24. Directed and incidental catch (mt) of non-exempt AFA catcher vessels in the Central Gulf Pacific Cod fishery, 2001 – 2007.

	2001	2002	2003	2004	2005	2006	2007	Total 2001-2007
Directed catch	208	58	720	433	374	273	168	2234
Incidental catch	147	243	241	165	232	133	104	1266
Total catch	355	301	961	599	606	406	272	3499