

EXECUTIVE SUMMARY

This EA/RIR/IRFA examines the environmental, economic, and socioeconomic aspects of the proposed action to revise the groundfish License Limitation Program (LLP). The proposed action would add Pacific cod endorsements to Western and Central GOA fixed gear licenses. Licenses would be required carry a Pacific cod endorsement, in addition to the appropriate area endorsement, to participate in the directed Pacific cod fisheries in the Western and Central GOA. The action would result in an amendment to the GOA Fisheries Management Plan (FMP).

Competition among fixed gear participants in the Western and Central GOA Pacific cod fisheries has intensified in recent years, and long-term participants are concerned about the potential for latent fixed gear licenses to re-enter the fisheries. The proposed amendment would address this concern by limiting entry to the Pacific cod fishery to fixed gear licenses that have participated in recent years and qualify for a Pacific cod endorsement. This action may enhance stability in the GOA Pacific cod fisheries, reduce competition among fixed gear participants, and protect historic catch shares of participants. In the absence of this action, future entry of latent effort into the Western and Central GOA Pacific cod fisheries could further intensify competition among fixed gear participants and erode catch shares of long-term participants.

To address these concerns, the Council adopted the following problem statement:

GOA Fixed Gear Recency Purpose and Need Statement

Western GOA and Central GOA Pacific cod fisheries are subject to intense competition, particularly during the A season, when fish are aggregated and of highest value. Competition among fixed gear participants in the Western GOA and Central GOA Pacific cod fisheries has increased for a variety of reasons, including increased market value of Pacific cod products, a declining ABC/TAC, increased participation by harvesters displaced from other fisheries and introduction of capital that has been accrued from participation in rationalized fisheries. Additionally, fishery policies have created incentives that encourage non-traditional efficiency improvements for the less than 60 ft LOA vessel class. The possible future entry of latent effort and disproportionate vessel efficiency would have detrimental effects on LLP holders that have exhibited participation in, and dependence on, the fixed gear Pacific cod fisheries. Many fixed gear vessel owners have made significant investments, have long catch histories, and are dependent on the Western GOA and Central GOA Pacific cod resources. These long-term participants need protection from those who have little or no recent history and who have the ability to increase their participation in the Pacific cod fisheries. At the same time, retaining Federal waters opportunities for small community quota eligible (CQE) communities dependent on access to a range of fishery resources and expanding opportunities in Federal waters for small capacity jig operations is valued to promote community protections at a level that imposes minimal impact on historic catch shares of recent participants.

The intent of the proposed amendment is to prevent the future entry or re-entry of latent fixed gear groundfish fishing capacity that has not been utilized in recent years into the Pacific cod fisheries, and to preserve the traditional vessel operational efficiencies within the fisheries. This requires prompt action to promote stability in the fixed gear sectors of the GOA Pacific cod fisheries, and is expected to be implemented concurrently with the division of GOA Pacific cod among sectors which is currently under consideration. However, this action cannot address continued growth in the waters managed by the State of Alaska.

Alternatives, Components, and Options

There are two alternatives currently under consideration:

Alternative 1 (no action) would not make any changes to the current License Limitation Program.

Alternative 2 would add Pacific cod endorsements to fixed gear licenses, which would limit entry into the directed Pacific cod fisheries in Federal waters in the Western and Central GOA. Alternative 2 includes the following Components and Options:

Component 1— Management areas included

Western GOA

Central GOA (current LLP endorsement includes West Yakutat)

- Different options may be applied to each management area.

Component 2— Identify and define sectors

The sector definitions for awarding Pacific cod endorsements may be different from those used for the GOA Pacific cod sector split action. The purpose of sector definitions in this action is to allow the Council to select different catch thresholds for the different gear types, operation types, and vessel lengths. Individual licenses may qualify for any combination of a jig, hook-and-line, and pot endorsement if the license meets the respective threshold(s) for the appropriate gear type, operation type, and vessel length.

- Hook-and-line CP
Option: Hook-and-line CP ≥ 125
Hook-and-line CP < 125
- Hook-and-line CV
Option: Hook-and-line ≥ 60
Hook-and-line < 60
- Pot CP
- Pot CV
Option: Pot CV ≥ 60
Pot CV < 60
- Jig
Exempt vessels using jig gear from the LLP requirement (including the Pacific cod endorsement requirement) that use a maximum of 5 jiggling machines, 5 lines, and 30 hooks per line or one line of 150 hooks.

Option: Exempt vessels participating with fixed gear in the Western GOA B season directed Pacific cod fishery from the Pacific cod endorsement requirement.

Suboption: Exempt vessels using pot gear only.

Component 3 – Qualifying years

Option 1: 2000-2006

Option 2: 2002-2006

Option 3: Add the qualifying period January 1, 2007 through:

Suboption 1: June 4, 2008

Suboption 2: December 8, 2008

- Either of these suboptions will be selected in addition to one of the qualifying periods in Option 1 or Option 2.

Suboption 3: If an LLP license qualifies only when the supplemental range of years in Suboption 1 or Suboption 2 is included, any Pacific cod endorsements granted to licenses under these suboptions would be extinguished upon transfer of the LLP license to another vessel or owner.

- If a GOA hook-and-line catcher processor LLP license holder was a voluntary non-participant in the Freezer Longliner Coalition informal PSC co-op efforts of 2006, 2007, or 2008, and does not qualify under Component 3, Options 1, 2, or 3, the LLP would not be extinguished. If Pacific cod endorsements are a result of this action in the GOA hook-and-line CP sector, the LLP would receive a Pacific cod endorsement.

Component 4 – Catch thresholds

Thresholds shall be based on legally retained catch in the aggregate during all of the qualifying years in the Federal and parallel fisheries (excluding IFQ catch). Separate and distinct thresholds may be determined for each defined sector.

Option 1: All directed Pacific cod 1, 3, or 5 landings (resulting in a Pacific cod endorsement)

Option 2: All directed Pacific Cod 5, 10, 25, or 100 mt (resulting in a Pacific cod endorsement)

Option: Hardship provision. A GOA fixed gear LLP holder who had 5 or more Pacific cod landings in 1999, but had a vessel on which the LLP was used sink in 1999 or 2000, shall be credited with qualifying history so as to obtain a Pacific cod endorsement.

Directed Pacific cod catch is defined as landings made when the directed Pacific cod fisheries are open. For purposes of catch accounting, licenses are credited with deliveries or processing activity recorded up to 7 days after the directed season closes.

Component 5 – Stacked license provisions

Where there are multiple LLPs registered to a single vessel, also known as ‘stacking’ of LLPs, groundfish harvest history will be fully credited to all stacked licenses, each carrying its own qualifying endorsements and designations.

Component 6 – Capacity/efficiency limits to CV and CP fixed gear LLPs

Add a width restriction (efficiency restriction) to each CV and CP fixed gear LLP license that is eligible to access Pacific cod under this action. The width restriction would be 1 ft of width for each 3 ft of length, and is based on the LOA of the vessel assigned to the license on December 8, 2008. The licenses that are assigned to vessels on December 8, 2008 that exceed the width restriction will be grandfathered at their present LOA. For vessels under construction on December 8, 2008, the width restriction for the license shall be equal to the vessel width upon completion. Vessels would be required to report width measurements to RAM.

Option: Add a simple gross tonnage maximum to licenses.

Component 7 – CQE community resident exemption

CQE community residents currently holding latent, non-qualifying, LLP permits shall retain their LLP and area endorsement(s) and be exempt from the Pacific cod endorsement requirement. A hook-and-line

or pot gear endorsement shall be made through (a) a one-time designation at the time the endorsement is issued or (b) designated at the time the first Pacific cod landing is made based on the gear type used. The CQE community resident's LLP shall not be leased, and can only be transferred to an individual who has lived continuously in the permit holder's CQE community for 24 consecutive months prior to the transfer and who intends to remain a resident of the community. Residency shall be affirmed annually upon renewal. If a CQE community LLP holder with a restricted transfer LLP is no longer a resident of the CQE community or dies without a designated qualified LLP community beneficiary, the community CQE shall designate a qualified individual in the CQE community to hold the restricted transfer LLP.

Option: Restrict the exemption to LLPs with a MLOA designation of less than 60 feet.

Expected Effects of the Alternatives

This section provides an overview of the expected effects of the proposed action to add Pacific cod endorsements to Western and Central GOA fixed gear groundfish licenses. The tables show the number of fixed gear groundfish licenses that will be eligible to participate in the directed Pacific cod fisheries in Western and Central GOA under the various components and options. The EA/RIR/IRFA for the proposed action includes a discussion of the potential economic and socioeconomic effects which may occur as a result of the proposed action. In that document, effects on harvesters, processors, and communities are analyzed, followed by a description of the cumulative effects of the proposed amendment and other recent actions, and an analysis of the net benefits to the Nation.

Alternative 1 – No Action

Under the no action alternative, Pacific cod endorsements would not be added to Western and Central GOA fixed gear groundfish licenses. As a result, there would be no reduction in the number of fixed gear groundfish licenses eligible to participate in the directed Pacific cod fisheries in the Western and Central GOA. If this alternative is selected, fixed gear licenses that have not participated in the Western and Central GOA Pacific cod fisheries in recent years could enter the fisheries in the future and dilute revenues, increase costs, or both, for licenses with recent participation in the fisheries. Increased participation may result in negative economic impacts to current participants in the fisheries. The number of licenses that might enter the fisheries in the absence of this action is unknown, and depends on future market conditions, the size of Pacific cod TACs, opportunities to participate in other fisheries, the future regulatory environment, and operating costs in the fisheries. Consequently, this analysis does not provide a quantitative estimate of the potential economic impacts of the no action alternative.

Current number of fixed gear groundfish licenses

The number of fixed gear licenses with Western and Central GOA endorsements is reported by operation type and maximum length overall (MLOA) in Table 3-22. The table also indicates the number of licenses that have other area endorsements in addition to a Western or Central GOA endorsement. There are 883 fixed gear catcher vessel licenses with Central GOA endorsements and 264 fixed gear catcher vessel licenses with Western GOA endorsements. Most of these licenses may only be used on vessels less than 60 feet LOA. Fewer than 25% of catcher vessel licenses with Central GOA endorsements also have BSAI or Western GOA endorsements. In contrast, more than half of catcher vessel licenses with Western GOA endorsements also have BSAI or Central GOA endorsements. There are 49 Central GOA and 31 Western GOA CP licenses, and the majority of these licenses also carry BSAI endorsements. Only a small number of catcher processor licenses are restricted for use on vessels less than 60 feet LOA. This is

the universe of fixed gear licenses that would continue to have access to the directed Pacific cod fisheries in the Western and Central GOA in the absence of the proposed amendment.

Table E-1 Number of GOA fixed gear LLP licenses with each area endorsement, operation type, MLOA, and gear designation.

	Number of endorsements		Licenses that also have an endorsement (or designation) for:					
	All licenses	Licenses with MLOA <60 feet	Central Gulf	Western Gulf	Aleutian Islands	Bering Sea	Southeast Outside	Trawl
Central Gulf CV	883	702	--	175	61	159	178	114
Central Gulf CP	49	5	--	27	41	45	5	8
Western Gulf CV	264	154	175	--	62	157	42	78
Western Gulf CP	31	1	27	--	30	31	3	4

Source: NMFS RAM groundfish license file, December 2008.

Alternative 2 – Add Pacific cod endorsements to licenses

This section describes the impacts of the proposed action on the universe of fixed gear licenses that are currently eligible to participate in the directed Pacific cod fisheries in Federal waters of the Western and Central GOA. The proposed action would add Pacific cod endorsements to fixed gear licenses. Licenses would be required carry a Pacific cod endorsement, in addition to the appropriate area endorsement, to participate in the directed Pacific cod fisheries in Federal waters of the Western and Central GOA. The action would result in an amendment to the GOA Fisheries Management Plan (FMP).

The tables in this section show the number of fixed gear licenses that meet the various landings and catch thresholds during 2000-2006 and 2002-2006, and also show the additional number of licenses that would qualify if landings during 2007 through either June 4, 2008 or December 8, 2008 are included in addition to landings during 2000-2006 or 2002-2006. Under Component 3, there is a provision that states that one of the qualifying periods included in the suboptions under Option 3 will be selected in addition to either 2000-2006 (Option 1) or 2002-2006 (Option 2). If Suboption 3 is also selected, any license that qualifies for a Pacific cod endorsement only when catch during the supplemental years in Option 3 are included would receive a nontransferable Pacific cod endorsement. The endorsement would be extinguished if the license is transferred to another vessel or owner.

Catcher vessel licenses

The number of fixed gear catcher vessel licenses that meet each landings and catch threshold is reported in Table E-2. The number of licenses that would qualify for a Pacific cod endorsement depends upon the catch definition, landings or catch threshold, and qualification period selected. There are currently 264 Western GOA fixed gear CV licenses, and 54 to 110 of these licenses would qualify for a Pacific cod endorsement. There are 883 Central GOA fixed gear CV licenses, and 110 to 306 of these licenses would qualify for a Pacific cod endorsement. If landings during 2007 through June 4, 2008 or December 8, 2008 are included in addition to landings during one of the qualifying periods under Options 1 or 2, approximately 10% to 15% more CV licenses meet the one landing threshold (see Table 3-23).

The number of licenses that meet each landings and catch threshold based on catch made while using a specific gear type is reported in Table E-3. It is important to note that the gear type columns are not mutually exclusive. Licenses may have qualified landings using more than one fixed gear type, and as a

result, the number of licenses in the columns in Table E-3 may sum to more than the number of qualifying licenses in Table E-2. In the absence of specific gear type endorsements (i.e., pot, hook-and-line, or jig endorsements), these licenses could continue to fish in the directed Pacific cod fisheries using any fixed gear type. The Council could choose different catch or landings thresholds for different gear types and MLOA size class to account for differences in catch history among licenses in each sector. There are additional tables in Chapter 3 of this document that report the number of licenses in each gear type and MLOA size class that meet the various landings and catch thresholds.

Under the current set of landings and catch thresholds, the number of gear-specific Pacific cod endorsements that would be added to fixed gear catcher vessel licenses includes:

Central GOA

- 68 to 202 hook-and-line endorsements
- 42 to 124 pot endorsements
- 0 to 24 jig endorsements

Western GOA

- 0 to 14 hook-and-line endorsements
- 54 to 96 pot endorsements
- 0 to 12 jig endorsements

Table E-2 Number of fixed gear catcher vessel licenses that meet the landings and catch thresholds based on landings in the Western or Central GOA directed Pacific cod fisheries.

Western GOA – 264 CV licenses

Threshold	2000- Dec 2008	2000- June 2008	2000- 2006	2002- Dec 2008	2002- June 2008	2002- 2006
1 landing	110	106	93	101	96	82
3 landings	100	95	83	95	90	76
5 landings	91	87	74	86	82	68
5 mt	105	100	85	99	94	77
10 mt	97	93	79	93	89	73
25 mt	91	88	74	85	82	66
100 mt	68	63	55	68	63	54

Central GOA – 883 CV licenses

Threshold	2000- Dec 2008	2000- June 2008	2000- 2006	2002- Dec 2008	2002- June 2008	2002- 2006
1 landing	306	297	269	245	234	198
3 landings	272	266	240	220	215	179
5 landings	249	246	219	203	200	164
5 mt	273	267	237	222	216	180
10 mt	255	250	223	210	205	171
25 mt	221	220	190	189	188	154
100 mt	171	169	151	142	139	110

Source: ADFG Fish Tickets (2000-2007), NMFS Catch Accounting (2008) and RAM groundfish license file, December 2008.

Table E-3 Number of fixed gear licenses that meet the catch and landings thresholds based on catch using a specific gear type in the Western or Central GOA directed Pacific cod fisheries.

Western GOA licenses - 264 CV licenses

Hook-and-line						
Threshold	2000- Dec 2008	2000- June 2008	2000- 2006	2002- Dec 2008	2002- June 2008	2002- 2006
1 landing	14	12	7	14	12	7
3 landings	11	8	4	10	7	3
5 landings	9	5	1	9	5	1
5 mt	13	11	6	12	10	5
10 mt	11	9	3	11	9	3
25 mt	9	6	0	9	6	0
100 mt	3	0	0	3	0	0

Jig						
Threshold	2000- Dec 2008	2000- June 2008	2000- 2006	2002- Dec 2008	2002- June 2008	2002- 2006
1 landing	12	9	9	11	8	8
3 landings	7	7	7	7	7	7
5 landings	5	5	5	5	5	5
5 mt	7	6	6	7	6	6
10 mt	3	3	3	3	3	3
25 mt	*	*	*	*	*	*
100 mt	0	0	0	0	0	0

Pot						
Threshold	2000- Dec 2008	2000- June 2008	2000- 2006	2002- Dec 2008	2002- June 2008	2002- 2006
1 landing	96	94	83	86	84	72
3 landings	88	87	77	82	81	69
5 landings	82	81	71	76	75	64
5 mt	91	89	78	84	82	69
10 mt	88	86	75	83	81	68
25 mt	82	81	71	76	75	63
100 mt	65	63	55	65	63	54

Source: ADFG Fish Tickets (2000-2007), NMFS Catch Accounting (2008) and RAM groundfish license file, December 2008.

*Withheld for confidentiality.

Note: Gear type columns are not mutually exclusive, and the number of licenses in the columns in Table E-3 may sum to more than the number of qualifying licenses in Table E-2.

Central GOA licenses – 883 CV licenses

Hook-and-line gear						
Threshold	2000- Dec 2008	2000- June 2008	2000- 2006	2002- Dec 2008	2002- June 2008	2002- 2006
1 landing	202	196	169	161	154	123
3 landings	177	172	149	142	138	111
5 landings	157	155	133	125	123	98
5 mt	180	176	149	145	141	112
10 mt	162	159	135	133	130	104
25 mt	134	134	112	116	116	94
100 mt	96	94	84	84	81	68

Jig						
Threshold	2000- Dec 2008	2000- June 2008	2000- 2006	2002- Dec 2008	2002- June 2008	2002- 2006
1 landing	24	22	19	20	18	15
3 landings	10	10	9	7	7	6
5 landings	9	9	7	7	7	5
5 mt	9	8	7	8	7	6
10 mt	4	4	4	4	4	4
25 mt	*	*	0	*	*	0
100 mt	0	0	0	0	0	0

Pot						
Threshold	2000- Dec 2008	2000- June 2008	2000- 2006	2002- Dec 2008	2002- June 2008	2002- 2006
1 landing	124	120	111	94	90	78
3 landings	109	106	100	85	82	70
5 landings	98	98	91	78	78	66
5 mt	109	106	99	85	82	72
10 mt	106	103	96	83	80	69
25 mt	93	91	83	76	74	62
100 mt	75	75	66	59	59	42

Source: ADFG Fish Tickets (2000-2007), NMFS Catch Accounting (2008) and RAM groundfish license file, December 2008.

*Withheld for confidentiality.

Note: Gear type columns are not mutually exclusive, and the number of licenses in the columns in Table E-3 may sum to more than the number of qualifying licenses in Table E-2.

Catcher processor licenses

The number of catcher processor licenses that meet the various landings and catch thresholds is reported in Table E-4. There are 31 Western GOA catcher processor licenses, and 19 to 24 licenses meet the 1 landing threshold during the qualifying periods in Options 1 through 3, and would qualify for a Pacific cod endorsement. The majority of Western GOA licenses that have catch history during the various qualifying periods also meet the highest catch threshold (100 mt) and landings threshold (5 landings). Three licenses qualified only when catch through December 2008 was included. There are 49 Central GOA licenses, and 12 to 21 licenses meet the 1 landing threshold during the qualifying periods in Options 1 through 3 and would qualify for a Pacific cod endorsement. In general, a smaller proportion of Central GOA CP licenses that meet the one landing threshold also meet the highest catch and landings thresholds. There were 7 licenses that qualified only when catch (at the 1 landing threshold) through December 2008 was included.

The number of catcher processor licenses that would qualify for gear-specific Pacific cod endorsements includes:

Western GOA

- 14 to 22 hook-and-line catcher processor endorsements
- Up to 5 pot catcher processor endorsements
- 3 licenses have both hook-and-line and pot landings

Central GOA

- 7 to 18 hook-and-line catcher processor endorsements
- Up to 4 pot catcher processor endorsements
- 1 license has both hook-and-line and pot landings

Table E-4 Number of fixed gear catcher processor licenses qualifying under various landings and catch thresholds based on catch in the Western and Central GOA directed Pacific cod fisheries.

Western GOA – 31 CP licenses

All gear						
Threshold	2000- Dec 2008	2000- June 2008	2000- 2006	2002- Dec 2008	2002- June 2008	2002- 2006
1 landing	24	22	21	23	21	19
3 landings	24	21	20	22	19	17
5 landings	20	19	18	18	17	16
5 mt	23	21	20	22	20	18
10 mt	22	20	19	21	19	17
25 mt	21	20	19	20	19	17
100 mt	18	18	*	*	*	*

Hook-and-line gear						
Threshold	2000- Dec 2008	2000- June 2008	2000- 2006	2002- Dec 2008	2002- June 2008	2002- 2006
1 landing	22	19	18	20	17	16
3 landings	21	17	16	20	16	14
5 landings	17	15	15	16	14	13
5 mt	21	18	17	19	16	15
10 mt	20	17	16	18	15	14
25 mt	18	16	15	17	15	14
100 mt	16	15	15	15	14	14

Pot gear						
Threshold	2000- Dec 2008	2000- June 2008	2000- 2006	2002- Dec 2008	2002- June 2008	2002- 2006
1 landing	5	5	5	4	4	3
3 landings	5	5	5	3	3	3
5 landings	4	4	3	3	3	3
5 mt	5	5	5	4	4	3
10 mt	5	5	5	4	4	3
25 mt	5	5	5	4	4	3
100 mt	4	4	*	*	*	*

Source: Catch Accounting/Blend data and RAM LLP license file, December 2008. *Withheld for confidentiality.

Note: Gear type columns are not mutually exclusive, because some licenses have catch history using more than one gear type. The number of licenses in the gear columns may sum to more than the total number of licenses qualifying.

Central GOA – 49 CP licenses

Threshold	All gear					
	2000- Dec 2008	2000- June 2008	2000- 2006	2002- Dec 2008	2002- June 2008	2002- 2006
1 landing	21	21	14	19	19	12
3 landings	18	18	12	17	17	11
5 landings	14	14	11	12	12	9
5 mt	21	21	14	18	18	*
10 mt	19	19	12	18	18	*
25 mt	18	18	12	17	17	*
100 mt	15	15	*	14	14	*

Threshold	Hook-and-line gear					
	2000- Dec 2008	2000- June 2008	2000- 2006	2002- Dec 2008	2002- June 2008	2002- 2006
1 landing	18	18	12	16	16	10
3 landings	15	15	10	14	14	9
5 landings	10	10	8	9	9	7
5 mt	18	18	12	15	15	9
10 mt	16	16	10	15	15	9
25 mt	15	15	10	14	14	9
100 mt	11	11	7	11	11	7

Threshold	Pot gear					
	2000- Dec 2008	2000- June 2008	2000- 2006	2002- Dec 2008	2002- June 2008	2002- 2006
1 landing	4	4	3	3	3	2
3 landings	4	4	3	3	3	2
5 landings	4	4	3	3	3	2
5 mt	4	4	3	3	3	*
10 mt	4	4	3	3	3	*
25 mt	4	4	3	3	3	*
100 mt	4	4	*	3	3	*

Source: Catch Accounting/Blend data and RAM LLP license file, December 2008. *Withheld for confidentiality.

Note: Gear type columns are not mutually exclusive, because some licenses have catch history using more than one gear type. The number of licenses in the gear columns may sum to more than the total number of licenses qualifying.

Licenses that only Qualify when 2007 and 2008 Catch History is Included

Under Component 3, Suboption 3 states that if an LLP license qualifies for a Pacific cod endorsement only when the supplemental range of years (Jan 1, 2007 through Jun 4, 2008 or Dec 8, 2008) in Suboption 1 or Suboption 2 of Component 3 are included, any Pacific cod endorsement granted to a license would be extinguished upon transfer of the LLP license to another vessel or owner. Those participants who entered the fishery in 2007 and 2008 would receive a Pacific cod endorsement under Suboption 1 or Suboption 2, and could continue to participate in the fishery. **It is important to note that Suboption 3 currently states that the Pacific cod endorsement would not be transferable to another vessel or owner.**

Designating licenses that qualify under Suboption 1 or Suboption 2 as non-transferable to another vessel or owner could have several effects. First, it would maintain the existing fleet of vessels in the Pacific cod fishery that are currently assigned to licenses that qualify based on 2007 or 2008 catch history. For

example, a high capacity 58 ft LOA vessel could not later be assigned to a license to replace a lower capacity boat that is currently assigned to a license. However, it would also prevent a license holder from replacing a vessel for safety or other considerations. If a boat sinks or otherwise becomes inoperable, the Council may wish to specify vessel replacement provisions for these licenses. If the Council wishes to choose Suboption 3, but to allow the owner to transfer the license to another vessel, **Suboption 3 could be revised so that a license cannot be transferred to another owner, but can be transferred to another vessel.** This would allow license holders to replace the vessel assigned to the license with a different vessel.

There are up to 37 additional Central GOA CV licenses that qualify at the 1 landing threshold when catch from 2000 through Dec 8, 2008 is credited to licenses; 32 of these licenses have an MLOA of <60 ft, and 19 have an MLOA of 58 or 59 ft. There are 17 Western GOA CV licenses that qualify at the 1 landing threshold only when catch history through Dec 8, 2008 is included; 10 licenses have an MLOA of <60 ft, and 7 licenses have an MLOA of 58 or 59 ft.

There are also additional CP licenses that qualify for a Pacific cod endorsement at the 1 landing threshold when catch through Dec 8, 2008 is credited to licenses. Three additional Western GOA licenses and 7 additional Central GOA licenses meet the 1 landing threshold. Most of these licenses have hook-and-line CP landings, and would qualify for a hook-and-line Pacific cod endorsement. There is a comparison of annual participation and revenues in the GOA Pacific cod fisheries and other Alaska fisheries by CV and CP licenses that only qualify when 2007 and 2008 catch is included and licenses that qualify based on 2000-2006 catch in Section 3.6.2 of the EA/RIR/IRFA for the proposed action.

Exemptions from the Pacific cod endorsement requirement

The Council is considering several exemptions from the Pacific cod endorsement requirement, or from the catch thresholds. These exemptions would (1) allow certain types of vessels to participate in the GOA directed Pacific cod fisheries without a Pacific cod endorsement, and (2) exempt some licenses from the catch thresholds, allowing these licenses to qualify for a Pacific cod endorsement even if they do not have qualifying catch. In determining which exemptions will be selected, the Council may wish to consider balancing the objective of creating opportunities for new entry with the need to protect long-term participants from an influx of additional effort into the fisheries. The exemptions currently under consideration include:

- An exemption from the Pacific cod endorsement requirement for vessels using jig gear that use a maximum of 5 jigging machines, 5 lines, and 30 hooks per line or one line of 150 hooks.
- An exemption from the Pacific cod endorsement requirement for vessels participating with fixed gear in the Western GOA B season directed Pacific cod fishery. A suboption would exempt only vessels using pot gear.
- An exemption from the catch thresholds for CP licenses that voluntarily stood down from the GOA Pacific cod fisheries during 2006, 2007, or 2008 as part of the informal hook-and-line CP halibut PSC cooperative.
- An exemption from the catch thresholds for licenses held by residents of CQE communities. A suboption would only exempt licenses with an MLOA designation of less than 60 ft.

Each of the proposed exemptions is discussed in Chapter 3 of this document. Additional tables report the number of licenses that would be eligible for the halibut PSC co-op exemption and the CQE exemption.

Potential Range of Outcomes from this Action

Based on the existing set of options, there is a range of possible outcomes from this action:

1. Status quo: No Pacific cod endorsements are added to Western and Central GOA fisheries. All existing fixed gear licenses are eligible to access the directed Pacific cod fisheries.
2. Pacific cod endorsements are added to fixed gear licenses to limit entry to the directed Pacific cod fisheries in the Western and Central GOA.
3. Gear-specific (pot, hook-and-line, and jig) Pacific cod endorsements are added to fixed gear licenses to limit entry to the Western and Central GOA directed Pacific cod fisheries, and to limit access to the proposed Pacific cod sector allocations.

Interactions with Pacific Cod Sector Allocations

In refining the alternatives and options for analysis, the Council may wish to consider interactions between the proposed action to add Pacific cod endorsements to fixed gear licenses and the proposed GOA Pacific cod sector allocations. A comparison of the components and options currently under consideration for the two actions is found Table E-5. The Council is considering options to add Pacific cod endorsements to fixed gear licenses to limit entry into the directed Pacific cod fisheries in the Western and Central GOA. Pacific cod endorsements could also restrict licenses to using the fixed gear type (e.g., pot, hook-and-line, or jig) specified on the endorsement. The gear endorsements could limit access to the Pacific cod sector allocations to ensure that vessels that contributed catch history to the sector allocations have access to those allocations.

Both actions include provisions to increase entry level opportunities in the GOA Pacific cod fisheries. The proposed exemption from the LLP requirement for vessels using jig gear, in tandem with the proposal to provide the jig sector an Pacific cod allocation of more than the sector's historic catch, will provide a substantial increase in opportunity for current as well as new participants in this sector. In addition, the potential for a stairstep increase in the jig allocation, if it is fully harvested, would provide for growth in the jig sector.

Table E-5 A comparison of the components and options included in the proposed GOA Pacific cod sector allocation and GOA fixed gear recency actions.

COMPARISON OF GULF OF ALASKA ACTIONS		
ACTION	GOA Pacific Cod Sector Allocations	GOA Fixed Gear LLP Recency
PURPOSE OF ACTION	Allocate Western and Central Gulf Pacific cod TACs to the various sectors	Add Pacific cod endorsements to licenses to limit entry to directed Pacific cod fisheries in WG and CG
MANAGEMENT AREAS	Western and Central Gulf of Alaska	Western and Central Gulf of Alaska (CG endorsement also includes West Yakutat)
SECTORS	(1) Hook-and-line CVs <u>Option:</u> Hook-and-line CVs <60 and ?60 <u>Option:</u> Hook-and-line CVs <50 and ?50 (CGOA) (2) Hook-and-line CPs <u>Option:</u> Hook-and-line CPs <125 and ?125 (3) Pot CVs <u>Option:</u> Pot CVs <60 and ?60 (4) Pot CPs (5) Jig (6) Trawl CVs (7) Trawl CPs <u>Option:</u> Combined <60 ft trawl and pot CV (WG only)	(1) Hook-and-line CVs <u>Option:</u> Hook-and-line CVs <60 and ?60 (2) Hook-and-line CPs <u>Option:</u> Hook-and-line CPs <125 and ?125 (3) Pot CVs <u>Option:</u> Pot CVs <60 and ?60 (4) Pot CPs (5) Jig
QUALIFYING CATCH	Retained catch of Pacific cod from parallel and Federal waters State waters catch is excluded	Retained catch from the directed Pacific cod fisheries in parallel and Federal waters State waters and IFQ catch is excluded
QUALIFYING YEARS	(1) 1995-2005: best 5 or 7 years (2) 2000-2006: best 3 or 5 years (3) 2002-2007: best 3 or 5 years (4) 2002-2008: best 3 or 5 years	(1) 2000-2006 (2) 2002-2006 (3) Include 2007-June 4, 2008 or 2007-Dec 8, 2008 in addition to one of the above qualifying periods
LANDINGS THRESHOLDS	None	(1) 1, 3, or 5 landings during qualifying years (2) 5, 10, 25, or 100 mt during qualifying years
JIG	1%, 3%, 5%, or 7% allocation Step up provision (1%) if allocation is 90% harvested during a given year Step down provision if allocation is not 90% harvested during 3 consecutive years, but allocation will not drop below its initial level	(1) Exempt jig vessels from any LLP requirement (2) Exempt jig vessels from Pacific cod endorsement requirement
OTHER COMPONENTS	Options to allocate hook-and-line halibut PSC to CVs and CPs Options to cap mothership processing shares	Option to exempt licenses held by CQE residents from the landings thresholds Option to exempt vessels using fixed gear (Suboption: pot gear only) from the Pacific cod endorsement requirement in the WGOA during the B season.

C-1(b) Fixed Gear Recency Supplemental Table and Figures

Supplement to Table 3-25 (pp. 69-70): shows qualification periods beginning in 2002

Number of catcher vessel licenses that meet the landings and catch thresholds based on catch in the directed Pacific cod fisheries in the Western and Central GOA using a specific gear type, reported by the MLOA on the license

Western GOA – 264 CV licenses

Hook-and-line gear									
	<50 feet	50-59 feet	≥60 feet	<50 feet	50-59 feet	≥60 feet	<50 feet	50-59 feet	≥60 feet
	2002- Dec 2008			2002- June 2008			2002-2006		
1 landing	4	6	4	3	6	3	0	6	1
3 landings	4	3	3	3	3	1	0	2	1
5 landings	3	3	3	2	2	1	0	1	0
5 mt	3	5	4	*	5	*	0	5	0
10 mt	3	4	4	*	4	*	0	3	0
25 mt	*	*	4	*	*	*	0	0	0
100 mt	0	*	*	0	0	0	0	0	0

Jig gear									
	<50 feet	50-59 feet	≥60 feet	<50 feet	50-59 feet	≥60 feet	<50 feet	50-59 feet	≥60 feet
	2002- Dec 2008			2002- June 2008			2002-2006		
1 landing	3	7	0	3	5	1	3	5	0
3 landings	3	4	0	3	4	0	3	4	0
5 landings	2	3	0	2	3	0	2	3	0
5 mt	3	4	0	*	*	0	*	*	0
10 mt	*	*	0	*	*	0	*	*	0
25 mt	*	*	0	*	*	0	*	*	0
100 mt	0	0	0	0	0	0	0	0	0

Pot gear									
	<50 feet	50-59 feet	≥60 feet	<50 feet	50-59 feet	≥60 feet	<50 feet	50-59 feet	≥60 feet
	2002- Dec 2008			2002- June 2008			2002-2006		
1 landing	2	59	25	2	59	23	2	51	19
3 landings	2	58	22	2	57	22	2	48	19
5 landings	1	55	20	1	54	20	1	46	17
5 mt	*	*	25	*	*	23	*	*	19
10 mt	*	*	24	*	*	23	*	*	19
25 mt	0	53	23	0	52	23	0	44	19
100 mt	0	46	19	0	44	19	0	37	17

Central GOA – 883 CV licenses

Hook-and-line gear									
	<50 feet	50-59 feet	≥60 feet	<50 feet	50-59 feet	≥60 feet	<50 feet	50-59 feet	≥60 feet
	2002- Dec 2008			2002- June 2008			2002-2006		
1 landing	81	68	12	79	63	12	73	42	8
3 landings	75	58	9	74	55	9	66	39	6
5 landings	65	51	9	64	50	9	58	34	6
5 mt	74	60	11	73	57	11	67	38	7
10 mt	68	54	11	67	52	11	60	37	7
25 mt	59	48	9	59	48	9	55	33	6
100 mt	50	29	5	48	28	5	43	21	4

Jig gear									
	<50 feet	50-59 feet	≥60 feet	<50 feet	50-59 feet	≥60 feet	<50 feet	50-59 feet	≥60 feet
	2002- Dec 2008			2002- June 2008			2002-2006		
1 landing	10	9	1	9	8	1	8	6	1
3 landings	3	3	1	3	3	1	3	2	1
5 landings	3	3	1	3	3	1	3	1	1
5 mt	*	5	*	*	4	*	*	3	*
10 mt	*	*	*	*	*	*	*	*	*
25 mt	0	0	*	0	0	*	0	0	0
100 mt	0	0	0	0	0	0	0	0	0

Pot gear									
	<50 feet	50-59 feet	≥60 feet	<50 feet	50-59 feet	≥60 feet	<50 feet	50-59 feet	≥60 feet
	2002- Dec 2008			2002- June 2008			2002-2006		
1 landing	6	53	35	6	49	35	6	42	30
3 landings	5	48	32	5	45	32	5	38	27
5 landings	5	45	28	5	45	28	4	38	24
5 mt	4	48	33	4	45	33	4	39	29
10 mt	4	47	32	4	44	32	4	37	28
25 mt	4	43	29	4	41	29	4	34	24
100 mt	*	*	23	*	34	*	*	*	19

Supplement to Table 3-38 (p. 83): Shows results by vessel length

Number of fixed gear CP licenses that would qualify for a Pacific cod endorsement under the exemption for participants in the informal halibut PSC cooperative during 2006 through 2008, because they do not meet the landings or catch thresholds during the qualifying periods.

Western Gulf (16 licenses participated in stand down)

	2000- Dec 2008		2000- June 2008		2000-2006		2002- Dec 2008		2002- June 2008		2002-2006	
	<125	≥125	<125	≥125	<125	≥125	<125	≥125	<125	≥125	<125	≥125
1 landing	0	1	0	1	0	1	0	1	0	1	0	2
3 landings	0	1	0	1	0	1	0	2	0	2	1	2
5 landings	0	2	0	2	0	3	0	3	0	3	1	3
5 mt	0	*	0	*	0	*	0	*	0	*	0	*
10 mt	0	*	0	*	0	*	0	*	0	*	0	*
25 mt	0	*	0	*	0	*	0	*	0	*	0	*
100 mt	0	*	0	*	0	*	0	*	0	*	0	*

Central GOA (22 licenses participated in stand down)

	2000- Dec 2008		2000- June 2008		2000-2006		2002- Dec 2008		2002- June 2008		2002-2006	
	<125	≥125	<125	≥125	<125	≥125	<125	≥125	<125	≥125	<125	≥125
1 landing	3	7	3	7	6	8	3	7	3	7	6	8
3 landings	4	7	4	7	7	8	4	7	4	7	7	8
5 landings	6	9	6	9	7	9	7	9	7	9	8	9
5 mt	3	7	3	7	6	8	4	7	4	7	7	8
10 mt	4	7	4	7	7	8	4	7	4	7	7	8
25 mt	4	7	4	7	7	8	4	7	4	7	7	8
100 mt	4	8	4	8	7	9	5	8	5	8	8	9

Supplement to Table 3-53 (p. 109): Shows breakdown of CV licenses by State and MLOA on license

Number of CV licenses with 1 directed Pacific cod landing during 2000-2006 or 2000-Dec 8, 2008 by license owner's residence.

Western GOA

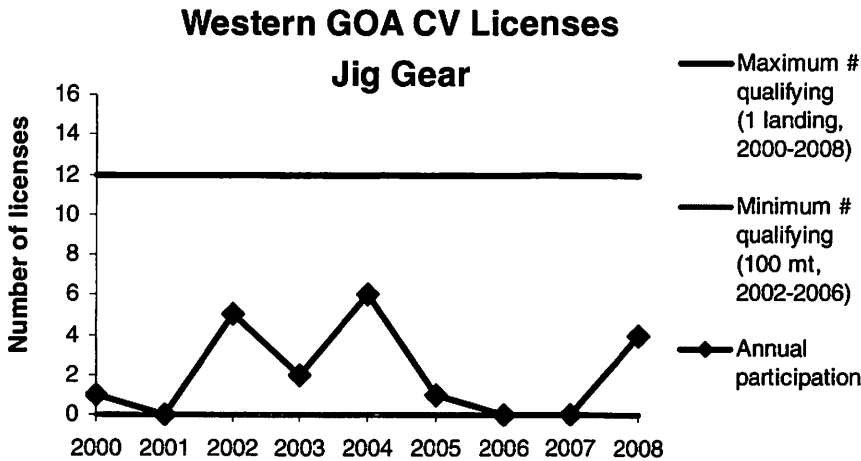
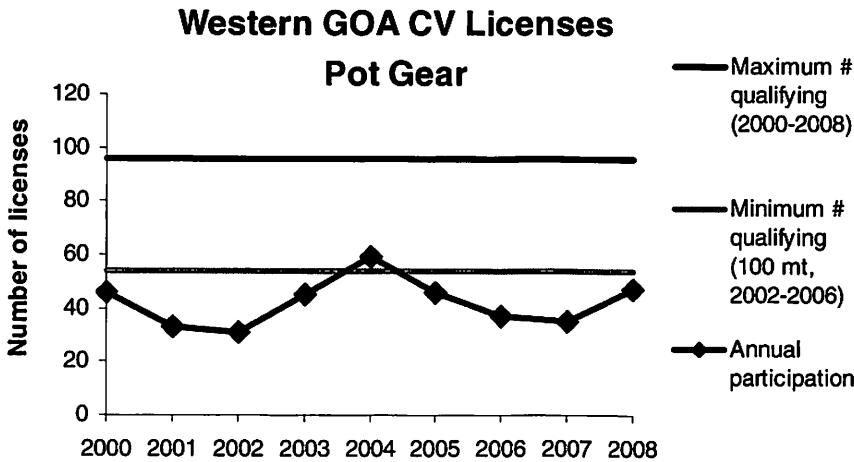
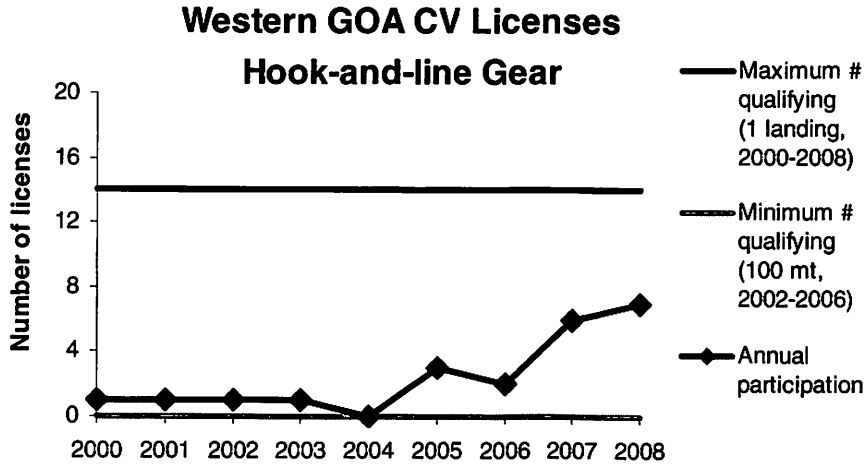
	WG licenses	WG licenses with 1 landing from 2000-2006	Percent of licenses with 1 landing from 2000-2006	WG licenses with 1 landing from 2000-2008	Percent of licenses with 1 landing from 2000-2008
Alaska Total	154	64	42%	71	46%
<50 ft	32	6	19%	9	28%
50-59 ft	88	50	57%	53	60%
>60 ft	34	8	24%	9	26%
Oregon Total	8	1	13%	4	50%
<50 ft	0	0	0%	0	0%
50-59 ft	3	1	33%	3	100%
>60 ft	5	0	0%	1	20%
Washington Total	92	26	28%	33	36%
<50 ft	2	0	0%	0	0%
50-59 ft	26	13	50%	15	58%
>60 ft	64	13	20%	18	28%
Other State Total	10	2	18%	2	18%
<50 ft	1	0	0%	0	0%
50-59 ft	2	0	0%	0	0%
>60 ft	7	2	29%	2	29%
Grand Total	264	93	35%	110	42%
<50 ft	35	6	17%	9	26%
50-59 ft	119	64	54%	71	60%
>60 ft	110	23	21%	30	27%

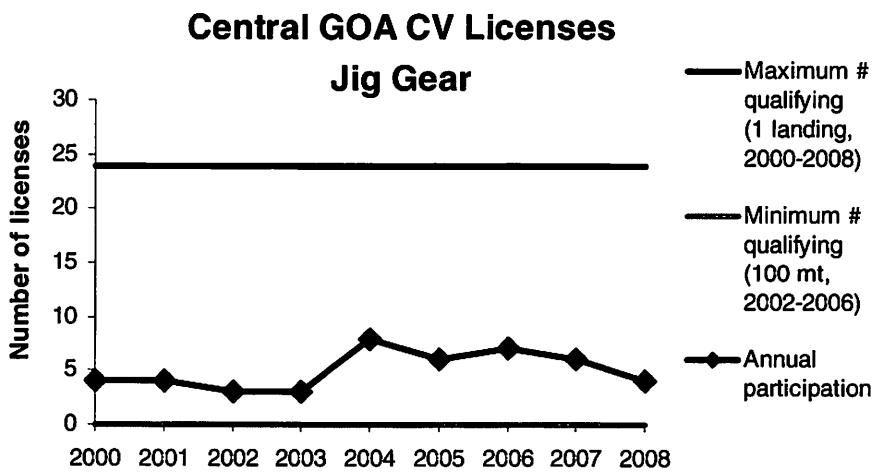
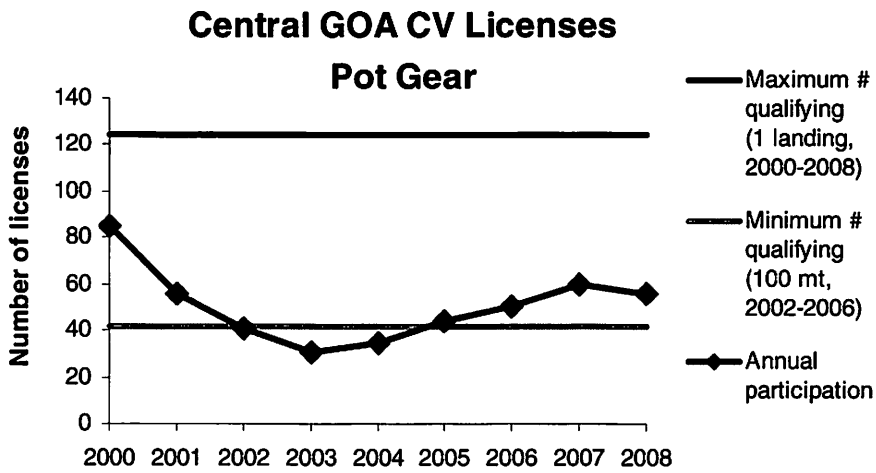
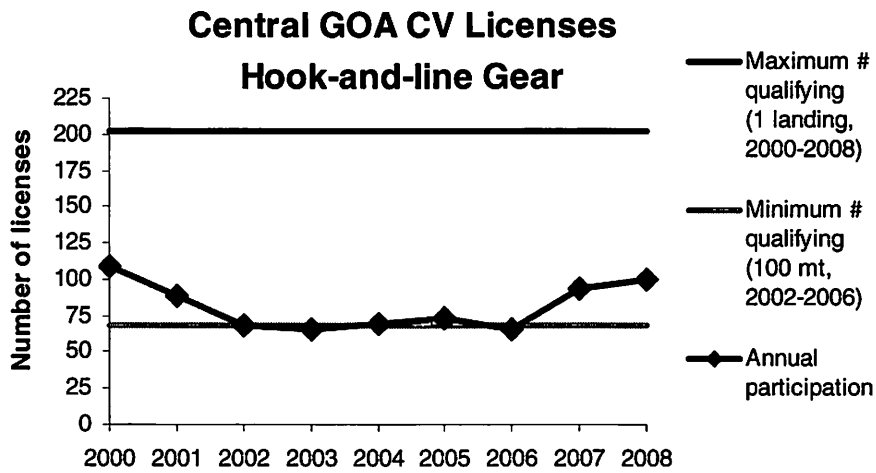
Central GOA

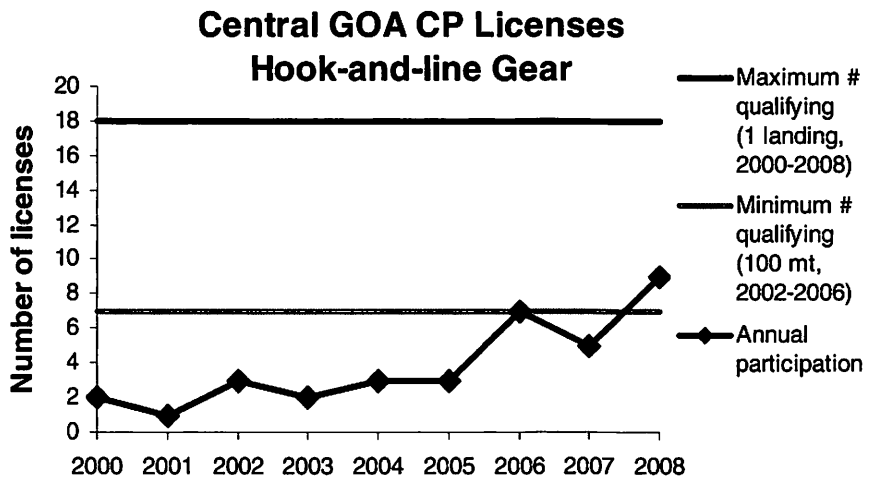
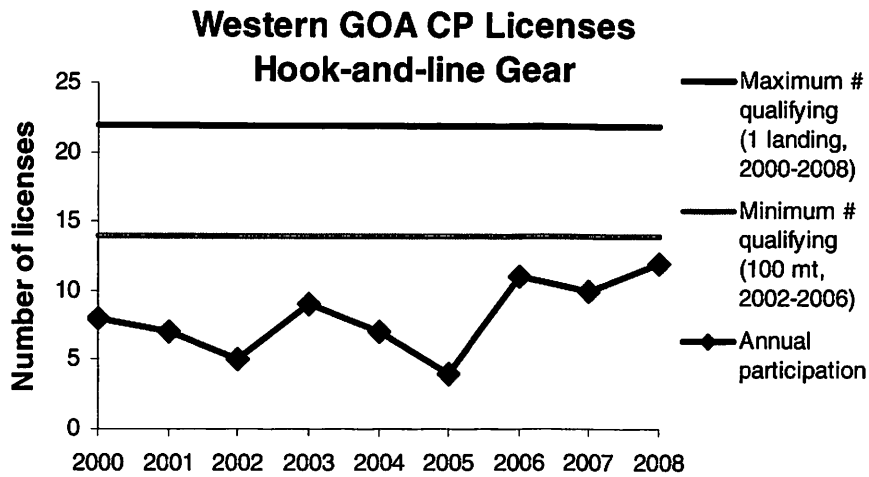
	CG licenses	CG licenses with 1 landing from 2000-2006	Percent of licenses with 1 landing from 2000-2006	CG licenses with 1 landing from 2000-2008	Percent of licenses with 1 landing from 2000-2008
Alaska Total	621	226	36%	251	40%
<50 ft	219	96	44%	103	47%
50-59 ft	321	90	28%	106	33%
>60 ft	81	40	49%	42	52%
Oregon Total	48	11	23%	13	27%
<50 ft	16	5	31%	5	31%
50-59 ft	13	3	23%	5	38%
>60 ft	19	3	16%	3	16%
Washington Total	183	21	11%	30	16%
<50 ft	6	2	33%	2	33%
50-59 ft	107	11	10%	18	17%
>60 ft	70	8	11%	10	14%
Other State Total	31	11	35%	12	39%
<50 ft	5	2	40%	2	40%
50-59 ft	15	5	33%	5	33%
>60 ft	11	4	36%	5	45%
Grand Total	883	269	30%	306	35%
<50 ft	246	105	43%	112	46%
50-59 ft	456	109	24%	134	29%
>60 ft	181	55	30%	60	33%

Supplemental Figures

Annual number of licenses participating (from Tables 3-12 and 3-13 on pp. 52-53) in the directed Pacific cod fisheries compared to the maximum number of licenses qualifying (1 landing, 2000-Dec 2008) and minimum number of licenses qualifying (100 mt, 2002-2006) (from Tables 3-24 on pp. 67-68 and Table 3-27 on pp. 72-73).







Errata (pages refer to the full document)

p. 9 (Executive Summary), **Alternative 2** would add **non-severable, gear-specific** Pacific cod endorsements to fixed gear licenses.

p. 20 (Executive Summary), Table E-5. Jig allocation up to 5% (not 7%)

p. 74, Table 3-28. Column headings for three columns on right-hand side of the table should read: 2002-Dec 2008, 2002-June 2008, and 2002-2006.

p. 109, Table 3-53 Alaska/Other State totals corrected (**corrected numbers in bold/underlined**)

	WG licenses	WG licenses with 1 landing from 2000-2006	Percent of licenses with 1 landing from 2000-2006	WG licenses with 1 landing from 2000-2008	Percent of licenses with 1 landing from 2000-2008
Alaska	<u>154</u>	64	42%	71	46%
Oregon	8	1	13%	4	50%
Washington	92	26	28%	33	36%
Other State	<u>10</u>	2	18%	2	18%
Grand Total	264	93	35%	110	42%

	CG licenses	CG licenses with 1 landing from 2000-2006	Percent of licenses with 1 landing from 2000-2006	CG licenses with 1 landing from 2000-2008	Percent of licenses with 1 landing from 2000-2008
Alaska	<u>621</u>	<u>226</u>	<u>36%</u>	<u>251</u>	40%
Oregon	48	11	23%	13	27%
Washington	183	21	11%	30	16%
Other State	<u>31</u>	<u>11</u>	<u>35%</u>	12	<u>39%</u>
Grand Total	883	269	30%	306	35%

p. 111, Table 3-55 Anchor Point, Anchorage, and Alaska totals corrected.

City	CQE	WG licenses	1 landing from 2000-2008	Percent	1 landing from 2000-2006	Percent	CG licenses	1 landing from 2000-2008	Percent	1 landing from 2000-2006	Percent
Anchor Point		2	1	50%	1	50%	15	11	73%	11	73%
Anchorage		12	5	42%	5	42%	30	8	27%	6	20%
Total Alaska		154	71	46%	64	42%	621	251	40%	226	36%

Enforcement Committee Minutes

March 31, 2009

Hilton Hotel, Anchorage, AK

Committee present: Roy Hyder (Chair), Sue Salveson, LCDR Lisa Ragone, Herman Savikko, Matt Brown, Sherrie Myers, Garland Walker, and Jon McCracken (staff)

Other present: Lt Ray Reichl (USCG), Chris Oliver (NPFMC), Joe Plesha, and Mike Mason

I. Vessel Capacity

To provide the Council with a more detailed assessment of the vessel capacity restriction, the Enforcement Committee spent a large amount of time reviewing at length the "Technical Aspects" section (pgs. 4-8) of NOAA's Vessel Capacity Limits paper, dated March 24, 2009. Overall, the Committee agrees with all technical aspects presented in the discussion paper and reiterates from its February 2009 minutes that utilizing vessel length, depth, and breath measurements to enforce a capacity limitation program (for both length-width ratio and a simple gross tonnage approach) appears feasible, but enforcing depth and breath measurements for purposes of vessel capacity limitations would be an extremely difficult and complex process. As noted in our December 2008 minutes, alternatives exist to limit capacity, such as trip limits or vessels caps, and these approaches generally would be more efficient to enforce. However, recognizing these alternatives are not under consideration at this time, the Committee provides the following assessment of some of the more technical aspects of the vessel capacity restriction: 1) any vessel capacity standard should be applied uniformly to all vessels required to meet the standard for such measurements to be verifiable by enforcement authorities; 2) the regulations must, at a minimum, define precisely what is to be measured (and what is to be excluded from such measurements); 3) define how that measurement is to be performed and when that measurement is to be performed; 4) given there is no official government certification for marine surveyors, requirements will have to be established for marine surveyors as a means to provide a uniform vessel capacity standard across the fleet; and 5) whether LOA of the vessel or MLOA listed on the LLP license are used to implement this requirement, the application of this standard will still require a fleet wide uniform vessel capacity standard and standardized marine surveyor requirements that have yet to be developed and assessed.

Finally, Law Enforcement's role is to enforce laws designed to accomplish a specific purpose. To this end, the committee questioned the efficacy of a vessel capacity approach based on a width restriction or simple gross tonnage maximum, as the best means of accomplishing the intended goal of protecting the historical and traditional vessel operators in this fishery. If component 6 is adopted, wider and more efficient vessels could still participate in the GOA fixed gear Pacific cod fishery by assigning an LLP with a larger MLOA endorsement to that vessel. In addition to this new and likely complex regulatory burden, the Committee believes that obtaining the necessary vessel measurements will likely impose a significant financial expense on all vessel owners restricted by this proposed action.

II. Statement of Purpose for Enforcement Committee

The Committee briefly refined the statement of purpose and operation guidelines for the Enforcement Committee. Provided below are the recommended purpose statement and operating guidelines for Council consideration and approval.

NPFMC Enforcement Committee
TERMS OF REFERENCE
(April 2009)

1. **Establishment and Statement of Purpose.** The North Pacific Fishery Management Council (Council) may establish and maintain an Enforcement Committee to advise it on matters related to enforceability of fishery plans and regulations. The Committee's primary function is to review proposed plans, regulations, or other management actions and provide their assessment of enforcement issues as early as possible in the development process. The Committee would not be limited to purely enforcement aspects, but would also consider part of its role to be discussion and development of monitoring and compliance approaches that facilitate implementation of, and compliance with, management program regulations.
2. **Membership.** The Committee will be Chaired by a member of the Council, as appointed by the Council Chair, and additional Committee members will be appointed by the Council Chair from governmental agencies and organizations having expertise relating to the enforcement and monitoring of North Pacific groundfish and crab fisheries of the BS/AI and GOA. At a minimum these agencies would include NOAA Fisheries Enforcement, NOAA Office of Sustainable Fisheries, U.S. Coast Guard, Alaska State Fish and Wildlife Protection, Alaska Department of Fish and Game, NOAA Fisheries Observer Program, and NOAA Office of General Counsel. All appointments will be subject to approval by the Council and should reflect the Committee's responsibility to provide advice in the areas of enforcement and monitoring. Staff for each meeting will be designated by the NPFMC Executive Director as appropriate, depending on availability and issues on the agenda.
3. **Organization.** The Committee will be directed by the Chairperson, and may divide some of its responsibilities among work groups organized according to subject matter.
 - a) **Rules of order.** In general, rules of order will be informal. Committee advice will be reached by consensus, whenever possible. Committee minutes will reflect the range of perspectives of all members.
 - b) **Meetings.** Committee meetings will be held on a regular basis, typically in conjunction with regular Council meetings. Notice of these meetings would be accomplished through the Council agenda notice process. Additional meetings during the week of the Council meeting will be held as necessary, and announced at the Council meeting. Meetings will be open to the public, but public testimony will **not** be taken. Note that the public has the opportunity to provide comments to the Council during public testimony.
 - c) **Development of Agenda.** A draft agenda will be prepared in advance of each meeting by the Council staff in consultation with the respective Chairperson and Executive Director. The Committee would be assigned issues for consideration on its agenda by (1) identification of future agenda items at the current Committee meeting, subject to approval by the Council; (2) identification and assignment of issues by the Council as identified during the course of a Council meeting; (3) identification of critical, time-sensitive issues between Committee/Council meetings from Council staff, agency staff, or Committee members and vetted through the Executive Director. In these instances, the Executive Director will confer with the Council Chair and Committee Chair as necessary, and determine whether the additional issue warrants inclusion on the agenda.

d) **Meeting Record and Distribution.** A summary report of each meeting will be prepared by the Council staff, distributed to Committee members for review, and revised as necessary before the Committee report to the Council. The Committee Chair will maintain final approval of the minutes. The Committee report will be provided to the Council on an issue-by-issue basis, similar to the AP and SSC reports, as the relevant issue is addressed on the Council agenda.

4. **Additional Function.** While the primary function of the Committee is to provide advice directly to the Council on relevant issues, it is also recognized that the Committee, or its subgroups, may provide information directly to Council staff or other agency staff for inclusion in analytical documents ultimately destined for Council review. Such activities will be coordinated between the Committee Chair and Council Executive Director.

**Vessel Capacity Limits in the Gulf of Alaska (GOA) Fixed Gear Recency Action
NMFS Alaska Region & NOAA Office of Law Enforcement
March 24, 2009**

Summary

The alternatives the Council is considering under Component 6 for vessel capacity limits do not appear to meet the Council's purpose and need statement and are not practical for NMFS to implement or enforce. Alternative approaches to control effort (i.e., trip limits, gear restrictions, or quota-based management) by a class of vessels (i.e., the "super 8 fleet") have not been addressed or analyzed by the Council and should be considered before final action. This is not practical given the timing of final action. Based on these policy, implementation, and enforcement concerns, NMFS recommends that Component 6 not be implemented as part of the Council's final action. The Council may wish to reconsider a revised approach as a separate subsequent action. A broad range of policy and implementation issues would need to be addressed before any future Council action. The Council could recommend the remaining aspects of the fixed gear License Limitation Program (LLP) recency action without recommending Component 6.

Council's Purpose and Need Statement and Component 6

GOA Fixed Gear Recency Purpose and Need Statement

Western GOA and Central GOA Pacific cod fisheries are subject to intense competition, particularly during the A season, when fish are aggregated and of highest value. Competition among fixed gear participants in the Western GOA and Central GOA Pacific cod fisheries has increased for a variety of reasons, including increased market value of Pacific cod products, a declining ABC/TAC, increased participation by harvesters displaced from other fisheries and introduction of capital that has been accrued from participation in rationalized fisheries. Additionally, fishery policies have created incentives that encourage non-traditional efficiency improvements for the less than 60 ft LOA vessel class. The possible future entry of latent effort and disproportionate vessel efficiency would have detrimental effects on LLP holders that have exhibited participation in, and dependence on, the fixed gear Pacific cod fisheries. Many fixed gear vessel owners have made significant investments, have long catch histories, and are dependent on the Western GOA and Central GOA Pacific cod resources. These long-term participants need protection from those who have little or no recent history and who have the ability to increase their participation in the Pacific cod fisheries. At the same time, retaining Federal waters opportunities for small community quota eligible (CQE) communities dependent on access to a range of fishery resources and expanding opportunities in Federal waters for small capacity jig operations is valued to promote community protections at a level that imposes minimal impact on historic catch shares of recent participants.

The intent of the proposed amendment is to prevent the future entry or re-entry of latent fixed gear groundfish fishing capacity that has not been utilized in recent years into the Pacific cod fisheries, and to preserve the traditional vessel operational efficiencies within the fisheries. This requires

prompt action to promote stability in the fixed gear sectors of the GOA Pacific cod fisheries, and is expected to be implemented concurrently with the division of GOA Pacific cod among sectors which is currently under consideration. However, this action cannot address continued growth in the waters managed by the State of Alaska.

Component 6 – Capacity/efficiency limits to CV and CP fixed gear LLPs

Add a width restriction (efficiency restriction) to each CV and CP fixed gear LLP license that is eligible to access Pacific cod under this action. The width restriction would be 1 ft of width for each 3 ft of length, and is based on the LOA of the vessel assigned to the license on December 8, 2008. The licenses that are assigned to vessels on December 8, 2008 that exceed the width restriction will be grandfathered at their present LOA. For vessels under construction on December 8, 2008, the width restriction for the license shall be equal to the vessel width upon completion. Vessels would be required to report width measurements to RAM.

Option: Add a simple gross tonnage maximum to licenses.

Policy and Legal Considerations

The proposed actions to limit the width or Simple Gross Tonnage (SGT) of a vessel do not appear to specifically address the Council's purpose and need statement to limit "[t]he possible future entry of latent effort and disproportionate vessel efficiency." As an example, under the alternatives being considered by the Council nothing would prevent a vessel owner from purchasing or building a vessel less than 60 feet length overall (LOA) with the desired depth and width and purchasing or leasing an LLP license with an endorsement from a larger vessel that meets the requisite width or SGT requirements necessary to use that vessel in the under 60 foot LOA vessel size class. (e.g., a vessel owner could build a 58 foot LOA vessel with a width of 22 feet and purchase or lease an LLP license with a 70 foot LOA and a corresponding 23.3 foot width endorsement and continue to fish in the under 60 foot LOA vessel size class). The alternatives being considered by the Council would increase the operational costs for those vessel operators who did not hold an LLP license with the appropriate capacity endorsement, but it would not necessarily constrain vessel capacity within that vessel size class.

Increasing costs for operating a specific size of vessels, presumably vessels that are more efficient than smaller vessels within that size class, without necessarily reducing the ability to increase capacity within that vessel size class, presumably the goal of the action, raises concerns that these measures may not meet the requirements of National Standards 5 (consider efficiency) and National Standard 7 (minimize costs).¹ Similarly, the alternatives under consideration may not meet the requirements of the Regulatory Flexibility Act (RFA) which requires consideration of alternatives that would minimize costs on small entities, or the Administrative Procedure Act

¹ MSA, Section 301:

National Standard 5: "Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no measure shall have economic allocation as its sole purpose.

National Standard 7: "Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication."

(APA) which prohibits the adoption of arbitrary and capricious regulation. It is likely that the alternatives considered by the Council could result in additional costs to vessel operators building larger, and possibly more efficient vessels (i.e., the costs of purchasing a new LLP license with an adequate width endorsement), that smaller, and possibly less efficient, vessel operators would not bear.

In addition, establishing regulations that discourage specific vessel configurations may conflict with the requirements of National Standard 10 (promote safety).² It could be argued that wider or deeper vessels with greater hold capacity, newer construction, improved engines, or better navigation may be safer than smaller and older vessels. Measures that discourage the development of these vessels (e.g., by increasing operational costs by requiring the purchase of a properly endorsed LLP license) could fail to promote safety to the extent practicable. The Council would need to analyze the potential effect of this action on safety and would likely need to review additional alternative approaches. Such an analysis has not yet been conducted.

Section 3.3.2.12 of the Council analysis notes that the intent behind the provision is to limit “high capacity 58 ft LOA vessels from entering the GOA groundfish fisheries,” but the wording of the Council’s motion in Component 6 is applicable to vessels of all vessel size classes, which significantly expands the enforcement burden and costs on the affected industry. At a minimum, the Council’s proposed action and the intent described in the analysis would need to be aligned should the Council choose to consider future action with a capacity endorsement on the LLP licenses. If these provisions applied only to vessels under 60 feet LOA, or even a specific subclass of vessels under 60 feet LOA (i.e., only vessels with a 58 foot or 59 foot LOA) the Council would need to provide specific justification why such an action was not arbitrary and why capacity should not be constrained in other vessel length classes.³ Presumably, other vessel owners in other vessel size classes could have similar incentives to expand their vessel’s capacity.⁴

Although the Council’s purpose and need statement indicates that there is a need to address “non-traditional efficiency improvements for the less than 60 ft LOA vessel class,” and that “[t]he possible future entry of latent effort and disproportionate vessel efficiency would have

² MSA, Section 301:

National Standard 10: “Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.”

³ As an example, if the Council sought to constrain capacity only for vessels with a 58 or 59 foot LOA, the Council would need to provide compelling rationale for recommending a restriction on such a specific class of vessels and demonstrate that other alternative methods had been considered.

⁴ Section 3.3.2.12 notes that vessels under 60 feet LOA are not subject to the Federal Observer Program and therefore vessel owners may have an incentive to increase vessel width or depth but stay below 60 feet LOA to avoid the additional costs of observer coverage. A similar consideration would also apply to vessels under 125 feet LOA that are subject to 30 percent observer coverage rather than 100 percent coverage if 125 feet LOA or greater. This dynamic would need to be addressed by the Council and rationale provided for not applying a vessel capacity limit to the 60 - 124 foot LOA vessel size class.

detrimental effects on LLP holders that have exhibited participation in, and dependence on, the fixed gear Pacific cod fisheries,” it is not clear why other measures such as trip limits, gear restrictions, or quota-based management may not be better suited to the apparent concern about a “race for fish” within a specific component of the fixed gear fleet. The APA and the RFA require that the Council and NMFS consider alternatives that may reduce costs on small entities and reporting burdens for the affected industry.

For a specific example, the LOA to width ratio in Component 6 examines only one alternative, a 1:3 ratio. The Council has not articulated why this specific ratio is appropriate, whether a policy of establishing a 1:3 ratio would effectively reduce capacity as desired, whether alternative approaches could better achieve the Council’s objectives, or how the proposed action would avoid creating incentives for vessel owners to increase vessel capacity by building or modifying vessels with a width and LOA slightly under a 1:3 ratio. In addition, the Council would need to provide additional detail on whether vessel capacity restrictions would be sufficient to address the specific purpose and need statement, and whether vessel owners could increase their harvesting capacity through other means such as improved gear, engine capacity, navigation equipment, or other measures, thereby frustrating the intent of this provision.

A similar suite of questions would need to be addressed for the SGT option. Currently, the analysis provides an indication that a maximum SGT of 100 tons may be appropriate but the Council has not provided a rationale for why this may be the case. An additional complication in the SGT alternative, as the analysis notes, is the incomplete and inconsistent data on gross tonnage depending on the source used. The data currently available to the Council may not provide an accurate description of the actual gross tonnage of vessels, and any SGT limit recommended by the Council may affect more or less vessels than expected once the data have been more extensively reviewed.

Technical Aspects of Vessel Capacity Measurements

Establishing clear descriptions of vessel depth and width is complicated by the range of vessel construction and measurement tools. Experience with the implementation of a LOA regulation suggests that defining specific nautical terms unambiguously is challenging and enforcement actions that may disqualify a vessel’s use with a specific LLP license are often the subject of appeal and litigation. As an example, NMFS redefined LOA in 2001 based in part on the results of enforcement actions on LOA that had attempted to define LOA as the distance between the “stem” and “stern” of vessels. Specifically, questions arose about whether bulwarks were considered part of the stem or stern of a vessel and subsequent litigation on these issues resulted in the need for additional clarifying regulatory action. Even with a revised definition of LOA, vessel owners have modified vessels by removing bulwarks, installing detachable bowsprits, modifying decking, and making other modifications that still allow a vessel to be operational under the regulatory definition of LOA. If vessel operators perceive a similar incentive to modify their vessels to meet definitions of width or depth, similar modifications are possible.

Obviously, NMFS would attempt to design regulations that are clearly understood, but past experience suggests that specific terms are subject to interpretation and are likely to be litigated. NOAA Office of Law Enforcement (OLE) has coordinated with a marine surveyor to explore a potential definition of width. A draft definition is attached to this document. A similar draft definition of depth is being developed but is unavailable at this time.

Unlike LOA measurements that can be relatively easily verified by measuring a vessel at dock, width measurements are not easily determined by visually inspecting a vessel. As an example, vessel superstructure can impede line-of-sight measurement, and motion of the vessel, even while at dock, can make accurate measurements difficult. Any protrusions of a vessel below waterline could not be reliably measured. In addition, any field measurement or estimate of a vessel's width or depth that contemplated or resulted in an enforcement action against a vessel owner would require a high degree of accuracy. For example, SGT calculations require multiplying length by width by depth, and a small error in one or two of these calculations could be the difference between being over or under a specific SGT limit. Depth measurements cannot be reliably made unless a vessel is in drydock. These conditions make it highly unlikely, if not impossible, for enforcement personnel to reliably determine the accuracy of a reported width or depth measurement in the field. To avoid the potential inaccuracies of field measurements, USCG regulations require that vessel width and depth measurements be made while a vessel is in drydock to reduce the effect of these complicating factors. NMFS would require that a similar protocol be used for vessel capacity measurements recommended by the Council.

NMFS would require that measurements be conducted by certified marine surveyors or marine architects to avoid the risk of unintentional or intentional misreporting. The potential complexity of measurements would require that a standard approach be adopted by all surveyors. Individuals that self-report their vessel depth or width would be less likely to apply a uniform standard and may have little incentive to do so. To ensure up-to-date measurements, NMFS would require vessel owners to periodically measure the vessel to ensure that any modifications that affected a vessel's dimensions are provided. Preliminary discussions with NMFS, NOAA OLE, and USCG personnel suggest that defining a change in vessel dimensions that would require remeasurement is particularly difficult, and NMFS would have to rely on the vessel owner to self-report any such modifications. A requirement for regular remeasurement of a vessel is likely to result in more accurate information. NMFS has not determined the appropriate requirement for remeasurement, but annual, biannual, or triannual time frames have been discussed. NMFS would likely require that a survey be conducted for a vessel prior to approving the designation of an LLP license for that vessel if that vessel does not have a certified survey on file.

Timing these measurements with vessel shipyard activity may not be practical given the number of vessels encompassed by the scope of the proposed action and the limited number of potential surveyors. As currently worded, Component 6 would apply to all vessels in the GOA fixed gear fleet. This could encompass potentially thousands of vessels in the GOA given the number of

vessels currently active, and the potential for new vessels to be used in the fixed gear fleet as LLP licenses are transferred and designated for new vessels. NOAA OLE personnel have contacted a marine surveyor in Alaska to provide an estimate of the number of certified marine surveyors and the approximate cost of a survey. Approximately three or four certified surveyors are active in Alaska, and five or six certified surveyors are active in the Puget Sound region of Washington with expertise in surveying fishing vessels. Many of these surveyors also provide services for recreational or other commercial vessels and are frequently in high demand.

The cost of a survey can vary considerably depending on the time required and travel expenses. If a survey is coordinated with multiple vessels at one port, the travel costs can be apportioned among multiple vessels. However, if relatively few or only one vessel is being surveyed in a more remote port, travel costs could increase substantially. One marine surveyor estimated that a survey just for length, width, or depth could cost approximately \$13 to \$20 per foot of measurement depending on the surveyor. These costs are independent of travel expenses. For example, a survey of a 58 foot LOA and 22 foot wide vessel at a more remote port could cost \$1,200 for the survey assuming \$15 per foot for the survey $(58 + 22) * 15$), plus approximately \$1,500 for travel and lodging assuming no other vessels were surveyed at that time. These estimates are only approximate and would likely differ substantially depending on the specific conditions of the survey. Given the potential number of vessels to be surveyed, the costs of a survey, and the need for regular remeasurement, the total reporting burden and cost to the industry to implement Component 6 could be substantial.

Implementation Considerations

The Council has recommended establishing an endorsement on all fixed gear LLP licenses with maximum width of 1 foot for every 3 feet of LOA of the vessel to which that LLP license was assigned on a specific date (December 8, 2008). Vessel owners must report LOA to NMFS, and presumably NMFS would use the LOAs reported on the Federal Fishing Permits (FFPs) for determining vessel LOA and then calculate the maximum width that would apply to the LLP license that had been used on that vessel. The maximum width would be determined based on a self-reported LOA, that LOA could have been erroneously reported to, or entered into, the NMFS database. NMFS would need to provide an opportunity for the affected industry to amend NMFS data to correct the vessel LOA. NMFS has generally provided an opportunity for the regulated industry to challenge NMFS data used to limit or otherwise constrain fishing operations, and a similar policy would be applied to LOA measurements used to establish a width endorsement. Industry challenges of NMFS' records would be subject to the appeals process conducted by the Office of Administrative Appeals. The final resolution of appeals can take considerable time depending on the nature of the claim and the staffing available to process those claims. An appeal would need to be resolved before an LLP license could be reissued with the applicable width or SGT endorsement.

Additional complications arise when the LLP license holder receiving the endorsement is not the owner of the vessel that was used on December 8, 2008. A vessel owner may have little incentive to remeasure a vessel if it would benefit only an LLP license holder no longer associated with that vessel. It is not clear that NMFS could require that a vessel owner remeasure a vessel, or require that vessel owner allow an LLP license holder whose LLP license was previously used on that vessel to remeasure that vessel. This lack of vessel and LLP license linkage creates the potential that an LLP license holder could receive an endorsement based on an erroneous measurement with no recourse to correct the problem. An alternative approach would be to base the width on the MLOA of the LLP license rather than attempting to link the license to a specific vessel. This approach would be much simpler to implement and would not require a potentially long, contentious, and expensive process of remeasuring a vessel's LOA, or the potential delays in endorsing a specific LLP license if the existing LOA is challenged and appealed. Because the MLOA is listed on the LLP license it is no longer subject to challenge through the appeals process and calculating the width endorsement from that MLOA using a simple ratio would not be subject to appeals procedures.

Component 6 states that "vessels would be required to report width measurements to RAM." This provision is more problematic than computing the width based on a simple calculation based on the LLP MLOA as described above. In most cases, vessel operators may not have accurate estimates of the width of their vessel. Discussions with USCG, NOAA OLE, and RAM personnel as well as the review of the data provided by Council staff indicates that width measurements may not have been reliably taken or reported, or may be based on documentation from the vessel builder that may not reflect subsequent modifications to the vessel. It is highly unlikely that vessel owners could reliably report width of their vessels as of December 8, 2008. As with the LOA measurement, NMFS would have to provide an opportunity for vessel owners to amend any previously reported width, further delaying the implementation of this regulation. Similarly, if the Council chose to implement a SGT limit, measurements of vessel LOA, width, and depth would be subject to amendment and appeal process procedures.

If the Council chose to require vessel owners to measure their vessels and obtain certified length, width, or depth measurements, NMFS would not be able to require those measurements until after the effective date of a final rule. Requiring vessel owners to measure their vessels and provide those measurements to RAM before the issuance of a width or SGT endorsement on an LLP license could cause substantial delays in the implementation of any vessel capacity endorsement. Because these measurements would need to be conducted while the vessel is in drydock, timing a vessel survey with shipyard activity could be problematic, particularly if large numbers of vessels are subject to this provision. Similar complications would arise if vessel owners were to report their vessel's SGT on December 8, 2008.

An additional complication arises when granting an exemption to the 1:3 ratio or SGT limit for LLP licenses that, at the time of implementation, are assigned to vessels that exceed the 1:3 width to length ratio, or a specific SGT limit. Assigning a "grandfathered" width or SGT to an

LLP license would be simplified by allowing vessel operators to provide information to NMFS certifying that an LLP license was assigned to a vessel that exceeded the 1:3 width to LOA ratio or SGT limit, as well as a copy of a certified survey for that vessel at the time that the LLP license was assigned to that vessel. To avoid the complications of using potentially inaccurate or incomplete measurements, any certified measurement of a vessel exceeding the 1:3 ratio or SGT limit recommended by the Council would need to be based on the width or SGT of the vessel to which an LLP license was assigned after the date that the rule became effective rather than on a fixed date in the past.

The Council has not specified how a maximum width would be established for LLP licenses that were assigned to a vessel without an FFP and a known LOA, or that were not assigned to any vessel as of December 8, 2008. The simplest solution would be to determine the width based on the MLOA of the LLP license. Assigning the LLP license a width endorsement based on its use onboard another vessel at some other point in time prior December 8, 2008 presents the same difficulties described above.

Definition: "Width"

Pertaining to a vessel, ship or boat hull dimensions:

The greatest molded breadth or beam of a vessel hull, as measured athwartship (side to side) or perpendicular to the vessel centerline longitudinal axis to reflect the hull full width profile.

Methodology

Measured from the outermost edge of the upper bulwark cap then across to the outermost edge of the opposite side, as a perpendicular line, to the vessel longitudinal centerline, at the greatest molded beam of the hull.

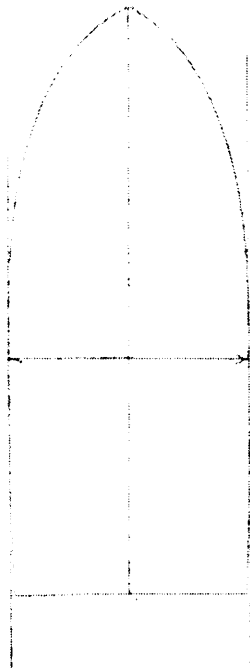
In addition, a side measurement is necessary to include permanent hull attachments such as extensions or protrusions intended to or inadvertently do increase the displacement of the vessel, such as sponsons or a new style hull section, but to exclude bolt-on or weld-on items such as moorage fenders, hook or pot guards. This will require a vertical line at 90° off the athwartship measurement line, described above, then down along the hull shell (side) toward the keel, past the hull chine, and even with the keel bottom, by plumb bob.

Rationale

A 2-dimensional measurement, as illustrated below, is necessary to ensure all aspects of the vessel molded width, which includes permanently affixed protrusions, such as hull designs, specialized guards, sponsons, etc., are taken into account.

Illustration

Measurement No. 1



Measurement No.2

