


MEMORANDUM

TO: Council and SSC Members
FROM: Chris Oliver 
Executive Director
DATE: March 20, 2012
SUBJECT: Gulf of Alaska Pacific Cod

ESTIMATED TIME 6 HOURS All C-6 Items
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ACTION REQUIRED

- (a) Review Updated discussion paper on GOA Pacific Cod jig management and the reverse parallel fishery
- (b) Review discussion paper on limiting other gear on board jig vessels targeting Pacific cod in the GOA
- (c) Review discussion paper on delaying the A season opening dates

BACKGROUND

- (a) GOA Pacific Cod jig management and the reverse parallel fishery

In April 2011, the Council reviewed an analysis of a "reverse parallel fishery," whereby jig vessels would fish in Federal waters and deduct catch off of the State GHL allocation, after the Federal/parallel TAC fishery has closed. The Council postponed taking any further action until after the Alaska Board of Fisheries (Board) met in October, to discuss the state-waters fisheries opening and closing dates. At its December 2011 meeting, the Council received a management report from staff that summarized developments in the Amendment 83 rulemaking process and legal and management issues arising out of implementing a reverse parallel fishery for the jig sector. The Council expressed its desire for additional detail on the legal implications of a reverse parallel fishery and for consideration at the March Joint Protocol Committee meeting.

Council staff coordinated with the State, NMFS, and NOAA General Counsel to: 1) update the management report with new Federal and State Pacific cod regulations and catch data, 2) to clarify the legal authority and management issues, and 3) to describe the conditions under which a reverse parallel fishery could provide additional harvest opportunities. Actions taken by the Board to synchronize GHL season opening and closing dates with Federal dates should provide the jig fleet the ability to harvest Pacific cod concurrently in State and Federal waters. Specifically, jig vessels can harvest in the parallel fishery concurrent with the Federal fishery. Further, implementation of the Amendment 83 stair-step allocations for the jig sector should provide the jig fleet sufficient TAC to prosecute Pacific cod during the critical months of mid-March through April, and even into May in future years.

Finally, based on recent correspondence from NOAA General Counsel (attached as Item C-6(a)), it appears that NMFS and the Council do not have the authority to require vessels to register with the State,

which could create a situation where a vessel (e.g., a jig catcher processor) could jig exclusively in Federal waters off of the State GHL. At this meeting, the Council will review the updated report on GOA Pacific cod jig fishery management noting that the Council could postpone further discussion until June, when more 2012 catch participation data will be available.

(b) Limiting other gear on board jig vessels targeting Pacific cod in the GOA

At its December 2011 meeting, the Council requested a discussion paper on limiting other gear on board jig vessels fishing for Pacific cod in the GOA. This request stems from a proposal the Council considered in April 2011 on the "reverse parallel fishery" concept whereby vessels could jig for cod in Federal waters under the State GHL allocations. The Council postponed taking any further action until after the Alaska Board of Fisheries had opportunity to comment, thus the option to limit other gear on board jig vessels was tabled for a future meeting.

In March 2012, Council staff briefed the Joint Protocol Committee to inform members about the discussion paper that was in preparation for the Council and Enforcement Committee on limiting other fishing gear on board jig vessels targeting Pacific cod in the Western and Central regulatory areas (Item C-6(b)), which will be distributed at the meeting). The discussion paper identifies possible issues for the Council to consider in deciding whether to move forward with a full analysis on implementing gear prohibitions.

(c) Review discussion paper on delaying the A season opening dates

In February 2011, the Council requested a discussion paper on the potential effects of delaying the A season opening dates for Pacific cod in the Gulf of Alaska (GOA) for some or all gear type sectors in the Western and Central management areas. Current season opening dates are January 1 for fixed gear and January 20 for trawl gear, in both areas. This discussion paper describes Federal Pacific cod fisheries, including recent Council actions to remove latent license limitation program (LLP) licenses and to apportion the Federal Pacific cod total allowable catch (TAC) among participating sectors—Amendments 86, the GOA fixed gear LLP recency, and Amendment 83, the GOA Pacific cod sector split, respectively. The Pacific cod sector split took effect January 1, 2012.

Also described in the discussion paper (attached as Item C-6(c)) are the fisheries most likely to be affected by delaying the A season, including State waters Tanner crab and Pacific cod fisheries. A discussion of the possible rationale for an A season delay follows these background descriptions, which includes a draft purpose and need statement for Council consideration. The discussion also describes possible benefits certain fleets may realize from increased catch-per-unit-effort (CPUE), higher milt value, and additional fishing opportunities in the State Tanner crab fishery. Delaying the A season, however, could create conflicts among participants, such as increased competition in certain fisheries or disruption to processing schedules. There could also be potential Steller sea lion (SSL) consultation issues that would arise from a delay of the A season.

At the time the December 2011 discussion paper, fishing under the sector allocations of Pacific cod had not commenced, as NMFS implemented those divisions of the TACs in January 2012. Since that time, fishing under those allocations has occurred, including full harvests of some of the A season sectoral TACs. Status of A season fisheries are shown in Table 1 below.

Table 1. Gulf of Alaska Pacific cod A season status (2012).

A season		Opening	Closing
Western Gulf	Trawl CP	January 20	February 14
	Trawl CV	January 20	February 22
	Hook and line CP	January 1	Open
	Hook and line CV	January 1	Open
	Pot CV/CP	January 1	February 6
	Jig	January 1	Open
Central Gulf	Trawl CP	January 20	Open*
	Trawl CV	January 20	Open
	Hook and line CP	January 1	February 23
	Hook and line CV $\geq 50'$	January 1	Open
	Hook and line CV $< 50'$	January 1	March 4
	Pot CV/CP	January 1	February 10
	Jig	January 1	March 6

Source: NMFS Status of Fisheries, as of March 17, 2010

* The Amendment 80 sideboard fishery closed on February 23

At this meeting, the Council will review the discussion paper and could initiate a full analysis of the effects of a delay, take no action, or reschedule the issue for further discussion. Should the Council wish to move forward with this action, it would be helpful to staff to provide additional guidance, a draft purpose and need statement that clearly identifies the Council's intent for this action, and more specific alternatives and options for analysis.

D. Updated NOAA General Counsel responses to legal questions from NPFMC, March 2012 (see also NOAA GC letter from 2008, Attachment B)

March 16, 2012

Mr. Chris Oliver
Executive Director
North Pacific Fishery Management Council
605 W. 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

Dear Chris,

This responds to your letter of December 27, 2011, requesting assistance from NOAA General Counsel, Alaska Section, regarding the authorities of the North Pacific Fishery Management Council (Council) and the Secretary of Commerce (Secretary) to implement a "reverse parallel fishery" concept for managing the Gulf of Alaska (GOA) Pacific cod jig gear fishery. From your letter and attachments, we interpret the concept as the reverse of the commonly used "parallel groundfish fishery" term, which is a fishery that occurs in State of Alaska (State) waters, is open at the same time as the federal groundfish fisheries in federal waters, and groundfish catch is deducted from the federal total allowable catch. Our understanding of the "reverse parallel fishery" concept in the context of the Pacific cod jig gear fishery is that NOAA Fisheries would open and close federal waters for the jig gear fishery when the Pacific cod fishery for jig gear is open in the State of Alaska and any harvest in either federal or state waters is deducted from the state's Guideline Harvest Level allocation.

The enclosed letter to the Council dated January 23, 2008, from Dr. James Balsiger, Regional Administrator, NOAA Fisheries, describes legal, management and policy considerations regarding State of Alaska management of the Pacific cod jig gear fishery in federal waters of the GOA. The letter was developed in consultation with this office. While the letter was prepared in response to issues raised in the context of a different proposal, it accurately describes the legal issues associated with a reverse parallel fishery concept.

The question you raise is whether the Council and the Secretary could approve a fishery management plan provision that *requires* a vessel owner who has no contacts with the State of Alaska to submit his vessel to state jurisdiction in order to fish in the Exclusive Economic Zone (EEZ).

Based on the skeletal description of the reverse parallel fishery concept, our initial response is that such a provision is not authorized under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Federal fishery management responsibilities for fisheries seaward of Alaska are exercised in the first instance by the Council as it develops fishery management plans (FMPs) to guide the Secretary in the promulgation of

regulations. Management of fishery resources within State boundaries was left generally to the State.

Section 306(a)(3) of the MSA authorizes the State to regulate a fishing vessel outside the boundaries of the State if the vessel is registered with the State and there is no FMP or other applicable federal fishing regulations for the fishery in which the vessel is operating; or the State's laws and regulations are consistent with the FMP or other applicable federal fishing regulations for the fishery in which the vessel is operating. Vessel registration with the State is an initial condition for the State to exercise its authority outside its boundaries. This condition does not authorize the Council to require a vessel owner to register with the State.

An FMP provision requiring a vessel owner with no contacts with the State to register with the State in order to fish in the EEZ would submit the vessel owner and his operation to the State's jurisdiction, which includes *all* the state's police power, including taxation, service of process, workplace regulation -- not just fishery management authority. How would such other obligations and requirements relate to conservation and management of fisheries in the EEZ? For what conservation and management purpose would the Council require residents of different states fishing in the EEZ, who have no other contact with the State, to submit to the jurisdiction of the State?

The issue you raise differs from the requirement in the Alaska salmon FMP that in order to fish for salmon in the EEZ, a vessel owner needs either a permit issued by the State of Alaska *or* a permit issued by NMFS. Under that FMP, a vessel owner fishing in the EEZ would submit to the State's jurisdiction only if that vessel owner *chose* to obtain the State's permit. If he has a permit from NMFS, the vessel owner does not need to submit the vessel to the State of Alaska's jurisdiction.

Sincerely,



Lisa L. Lindeman
Chief, Alaska Section

Enc.

cc: Jonathan Pollard
Dr. James Balsiger
Glenn Merrill

**Discussion Paper
Gulf of Alaska Pacific Cod A Season Opening Date Change
North Pacific Fishery Management Council
November 2011**

Abstract

In February 2011, the North Pacific Fishery Management Council requested a discussion paper on the potential effects of delaying the A season opening dates for Pacific cod in the Gulf of Alaska for some or all sectors in the Western and Central Gulf. The current season opening dates are January 1 for fixed gear and January 20 for trawl gear in both areas. This discussion paper begins with background sections describing the Federal Pacific cod fishery, including the recent actions to remove latent licenses and to divide Pacific cod catch among participating sectors, which goes into effect January 1, 2012. The paper also describes fisheries that are most likely to be affected by the action, including primarily the State water Tanner crab and Pacific cod fisheries, as well as potential Steller sea lion issues that may arise from the action. A discussion of the possible rationale for the action follows, which includes a draft purpose and need statement that the Council could consider. The discussion presented here describes possible benefits that some fleets may realize from a delay in the A season opening date from increased catch-per-unit-effort, higher milt value, or additional fishing opportunities in the State Tanner crab fisheries. However, a delay in the A season may create conflicts among participants, such as increased competition in certain fisheries or disruption to processing schedules. Should the Council wish to move forward with an expanded discussion paper or initiate an analysis of this issue, it would be helpful to provide additional guidance to staff, such as a draft purpose and need statement that clearly identifies the Council's intent for this action and more specific alternatives and options for analysis.

Introduction

The North Pacific Fishery Management Council (Council) directed staff to prepare a discussion paper on delaying the A season opening dates for the federal Gulf of Alaska (GOA) Pacific cod fisheries. This action stemmed from an Advisory Panel motion that requested a discussion paper for changing the trawl A season opening for the Western GOA Pacific cod fishery to February 20. The Council picked up on this recommendation in December 2010, and in February 2011 expanded the discussion paper to include all GOA fisheries by area and gear type. The Council requested that the paper discuss the effects of possible changes in opening dates on GOA Steller sea lion (SSL) Reasonable and Prudent Alternatives (RPAs). The Council also noted that several other factors could be affected by a change in the A season opening, including opportunities in other fisheries in the GOA, usage of halibut prohibited species catch (PSC), markets for landings, and processing schedules.

The purpose of this paper is to provide a broad context for the Council to suitably anticipate the myriad of management and conservation issues that would arise if the A season opening dates were delayed for GOA Pacific cod fisheries. At this point, the discussion paper is qualitative in nature, focusing on identifying and discussing the interactions among and between State and Federal management areas, various gear types, and Pacific cod fisheries, and the implications for participants, managers, and conservation. The paper concludes by identifying issues that the Council may wish to consider in developing a statement of purpose and need for this action, as well as an outline of elements that the Council could use to develop specific alternatives, options, and components.

Overview of GOA Pacific Cod Fishery Management

Pacific cod (*Gadus macrocephalus*) fisheries in the GOA are prosecuted under 3 management structures: Federal fisheries, State of Alaska (State) Guideline Harvest Level (GHL) fisheries, and State waters parallel fisheries. Federal Pacific cod fisheries in waters 3 to 200 nm offshore are managed federally through the National Marine Fisheries Service (NMFS) under the federal *Fishery Management Plan for Groundfish of the Gulf of Alaska* (FMP), adopted by the Council and implemented through federal regulations. The State GHL fisheries for Pacific cod in State waters 0 to 3 nm offshore are managed by the Alaska Department of Fish and Game (ADF&G) under State Board of Fisheries (Board) management plans. The State also manages parallel State waters fisheries, also in waters 0 to 3 nm offshore, which are open concurrently with the Federal fisheries. State GHL fisheries are typically open when the Federal and parallel fisheries are closed.

Federal Pacific cod fisheries

The catch of Pacific cod is limited by annual catch limits (ACL). Normally, the total allowable catch (TAC) for Pacific cod in the WGOA and Central GOA has been set at equal to the annual biological catch (ABC), minus 25 percent of the TAC set-aside for State water GHL fisheries. The TAC applies to both the Federal fisheries and state managed parallel fisheries. Currently, the TAC in each federal management area is divided between inshore and offshore components and seasonally between an A and B season. The inshore component receives 90 percent of the available Pacific cod TAC each season, with the offshore component receiving the remaining 10 percent. Seasonally, sixty percent of the TAC apportioned is to the A season, which opens to fixed gear sectors (pot, jig, and longline/hook-and-line (HAL) gear) on January 1 and to trawl sectors January 20. The A season closes to all sectors June 10 or when the applicable TAC is achieved, whichever occurs first. The B season opens September 1¹ for all gear types and continues until the TAC is harvested or November 1 for trawl gear or December 31 for fixed gear, whichever occurs first. Currently, the Pacific cod TAC is not divided by gear type; however, when Amendment 83 to the GOA groundfish Fishery Management Plan (FMP) is implemented, individual sectors will be fishing against their own specific sector limit beginning January 1, 2012. Incidental catch of Pacific cod from other fisheries will accrue to each sector's TAC limit, and incidental catch during the GHL fishery will accrue to the B season TAC. A discussion of the changes to the apportionment of the TAC by the Council's sector split action appears in the next section.

Pacific cod and other groundfish fisheries prosecuted by trawl and longline/HAL gear are also constrained by a Pacific halibut prohibited species catch (PSC) allowance. The halibut PSC in the GOA is allocated 2000 mt for the trawl sector and 300 mt for the longline/HAL fisheries. HAL PSC is further allocated 10 mt for the Demersal Shelf Rockfish (DSR), which are typically prosecuted by vessels less than 60 ft. in length overall (LOA) and exempt from observer coverage.¹ Beginning in 2012, Amendment 83 will also apportion the HAL PSC limit between catcher processors (C/P) and catcher vessels (CV).

Table 1 shows the number of vessels with retained in the directed Pacific cod fisheries in the Western Gulf and Central Gulf from 1995 through 2010. Although the tables all vessels in the directed Pacific cod fisheries (including vessels that participated only in the B season), they provide a general indication of the levels of participation in Pacific cod fisheries by the different gear and operation types. These vessel counts together with the number of LLP licenses with area/gear/operation type endorsements (which appear below) provide an indication of the potential for latent licenses to be used for entry should changes in A season opening dates be adopted. The extent of entry opportunities will depend not only on the

¹ The Council is currently considering an action to reduce the halibut PSC available in both trawl and longline/HAL fisheries in the GOA by up to 15 percent of the applicable current apportionment.

extent of a season date change, but also other fishery opportunities and the whether entry to the Pacific cod fishery can be coordinated with the vessel's other operations.

Table 1. Number of vessels with retained catch of Pacific cod from the directed Pacific cod fisheries.*

Western GOA

Year	HAL CP <125	HAL CP ≥125	HAL CV <60	HAL CV ≥60	Jig CV	POT CP	Pot CV <60	Pot CV ≥60	Trawl CV	TRW CP <125	TRW CP ≥125
1995	12	4	4	0	10	2	35	23	86	3	5
1996	12	3	7	3	7	0	34	4	54	3	12
1997	9	4	2	0	2	0	18	2	78	4	13
1998	4	0	1	0	2	0	32	21	66	4	0
1999	9	10	2	0	0	6	30	4	65	4	1
2000	10	2	2	1	2	2	37	44	51	3	1
2001	10	3	6	0	16	3	31	11	55	2	6
2002	7	4	10	3	26	2	33	15	44	2	4
2003	6	8	6	2	11	1	42	18	35	3	0
2004	3	5	11	3	22	1	53	28	31	3	1
2005	2	3	25	2	8	1	39	19	35	2	0
2006	7	5	17	3	1	0	33	18	36	3	1
2007	8	3	24	3	4	1	30	18	38	3	2
2008	10	2	30	3	9	1	43	16	28	2	2
2009	9	6	37	3	11	2	36	3	29	1	1
2010	9	3	26	9	30	0	38	8	29	0	0

Central GOA

Year	HAL CP <125	HAL CP ≥125	HAL CV <60	HAL CV ≥60	Jig CV	POT CP	Pot CV <60	Pot CV ≥60	Trawl CV	TRW CP <125	TRW CP ≥125
1995	3	0	116	4	15	0	62	58	101	5	16
1996	4	0	135	5	13	0	46	41	108	4	8
1997	1	0	161	12	8	0	39	22	120	4	2
1998	0	2	133	7	16	0	38	22	123	4	13
1999	3	2	164	22	10	10	44	40	92	3	11
2000	3	2	143	5	16	1	55	59	53	3	6
2001	1	0	118	4	14	3	34	28	70	3	2
2002	0	4	90	10	7	3	28	17	52	2	1
2003	2	2	70	4	7	0	22	13	52	2	5
2004	1	2	76	16	30	0	22	13	49	3	2
2005	1	1	93	14	26	0	25	22	44	3	1
2006	2	4	116	15	24	0	36	23	39	5	3
2007	3	2	128	23	18	1	40	23	36	1	2
2008	4	3	135	19	10	0	39	19	42	4	0
2009	2	3	115	15	13	0	29	21	37	3	1
2010	3	4	103	16	22	0	31	16	38	1	1

*Includes vessels with retained catch of Pacific cod when the directed Pacific cod fishery is open (including participation in the B season fishery).

Source: NMFS Catch Accounting/Blend and ADF&G fish tickets, 1995–2010.

Traditionally, Gulf pot and longline participants began fishing when the season opened on January 1st. Catches of these fleets fluctuate, but have typically been strongest in January and February, as long as TAC remains available and cod are most aggregated. Some pot vessels may choose to wait to fish cod

until after the State water Tanner crab fishery, which opens January 15th.² Depending on TACs and catch rates, these vessels may have little or no opportunity in the cod fishery after the Tanner crab fishery closes. The catcher processor (CP) longline fleet, with the exception of one or two CPs that fished exclusively in the GOA, started fishing in the Bering Sea (BS) on January 1, moving into the GOA after the BS Pacific cod season closed. Fishing continued until the season TAC was taken or the halibut PSC limit was reached.

The trawl fleets target different species over time to optimize their catches. At the start of the A season, the fleets typically target some combination of pollock and Pacific cod which may change with species aggregations and pollock roe conditions. In recent seasons in the CGOA, the majority of the trawl fleet has targeted Pacific cod first, when it opened on January 20, until the seasonal apportionment has been taken. The fleet then moved on to target pollock beginning on or about February 15, when pollock were most aggregated and the roe quality was highest. In the WGOA, a similar pattern was followed, although smaller vessels that are capable of fishing with trawl and pot gear may have started fishing with pots for Tanner crab (*Chionoecetes bairdi*) in State water fisheries, if those fisheries were open. Those vessels then moved on to trawling for Pacific cod and then to fishing for pollock with trawl gear to catch the pollock TAC apportionment before the pollock regulatory season closure on March 10. The transition among gears may be accomplished on some boats in as little as 2 days and typically takes less than one week, at the extreme. Whether vessels attempt these transitions and their timing depended on whether the State Tanner crab fisheries were open, TACs and GHs in the various fisheries, catch rates in the groundfish fisheries, severity of weather, and other factors. For example, in years of low TACs for GOA pollock, the fishery may last for just a few days, creating an incentive for vessels to enter that fishery once catch rates are reasonably high to ensure all opportunity in the fishery is not lost.

Closures of the Pacific cod A seasons are shown in Table 2 below. Since sector splits of the Pacific cod TAC have not been implemented, these closures apply to all gear types. The pattern of closures has not been consistent across years in either management area. In some cases, the fisheries have closed shortly after the January 20th trawl fishery opening, while in other years, the fisheries have remained open for several weeks after that opening. In addition, in both areas, the inshore fishery has closed first more frequently but at times the offshore fishery has closed first. Also, the Central Gulf has typically closed earlier than the Western Gulf; however, in some years, the Western Gulf fisheries have closed first.

Table 2. Pacific cod A season closures for the Western and Central GOA, 2001–2010.

Year	Western Gulf				Central Gulf			
	Inshore		Offshore		Inshore		Offshore	
	Date	Reason	Date	Reason	Date	Reason	Date	Reason
2001	27-Feb	TAC	24-May	TAC	4-Mar	TAC	25-May	TAC
2002	26-Feb	TAC	9-Feb	TAC	9-Mar	TAC	25-Mar	TAC
2003	17-Feb	TAC	20-Mar	TAC	9-Feb	TAC	1-Feb	TAC
2004	24-Feb	TAC	8-Mar	TAC	31-Jan	TAC	2-Feb	TAC
2005	24-Feb	TAC	22-Feb	TAC	26-Jan	TAC	22-Feb	TAC
2006	2-Mar	TAC	19-Feb	TAC	28-Feb	TAC	19-Feb	TAC
2007	8-Mar	TAC	14-Feb	TAC	27-Feb	TAC	14-Feb	TAC
2008	29-Feb	TAC	4-Mar	TAC	1-Mar	TAC	9-Mar	TAC
2009	25-Feb	TAC	10-Jun	REG	27-Jan	TAC	19-Feb	TAC
2010	19-Feb	TAC	3-Mar	TAC	31-Jan	TAC	24-Feb	TAC

Source: NMFS Alaska region season closures summary. TAC= TAC reached. REG= regulatory closure on Jun 10.

² Although a vessel might fish cod beginning on the 1st of January, the State water Tanner fishery has a 14 day standdown preceding the opening, during which a vessel that fishes in the crab fishery is prohibited from using pots in the same district as the crab fishery.

Although not consistent, the periodic short seasons suggest that vessels wanting to share in the catches from the Pacific cod fisheries have had little choice but to enter the fishery by or shortly after the trawl openings. These circumstances and the targeting choice of participants, however, may change in the coming years, as Amendment 83 (Pacific cod sector split) and Amendment 86 (fixed gear Pacific cod endorsements) take effect. With each gear and operation type having its own TAC allocation and required fixed sector license endorsements, it is possible that participants in the various sectors could develop the cooperation to use voluntary stand-downs or agree to the timing of prosecuting specific targets to improve returns from the fisheries. In some cases, these agreements could be difficult to reach, if some participants perceive opportunities to gain advantages through scheduling their fishing effort to offset efforts of others to employ standdowns.

Pacific Cod TAC Division (the Sector Split)

Amendment 83, passed by the Council in December 2009, establishes separate allocations for GOA Pacific cod TAC, by federal management area and gear type, and will primarily establish the proportion of the respective WGOA and CGOA Pacific cod TAC available to the different sectors. The action is intended to enhance stability in the Pacific cod fisheries by reducing competition among sectors and preserve the historic distribution of catch among the different sectors. The Council established annual and seasonal allocations for six sectors in the WGOA and seven in the CGOA based on historical harvests. Seasonal apportionments to the WGOA trawl CVs and to the pot CVs and C/Ps were shifted to allow more trawl harvests during the A season because there is little trawl effort during the B season. Again, NMFS expects that regulations implementing Amendment 83 will be effective for the 2012 fishing year.

Table 3. Western GOA sector allocations with jig allocation taken off the top of the TAC

	Annual Allocation	Compare to 60/40		A season allocation	B season allocation	A season allocation	B season allocation
		A season	B season	Percent of annual allocation	Percent of annual allocation	Percent of seasonal allocation	Percent of seasonal allocation
HAL CP	19.8%	55.2%	44.8%	10.9%	8.9%	18.2%	22.2%
HAL CV	1.4%	47.2%	52.8%	0.7%	0.7%	1.1%	1.8%
Pot CV/CP	38.0%	52.0%	48.0%	19.8%	18.2%	32.9%	45.6%
Trawl CP	2.4%	37.9%	62.1%	0.9%	1.5%	1.5%	3.7%
Trawl CV	38.4%	72.3%	27.7%	27.7%	10.7%	46.2%	26.6%
Total	100.0%			60.0%	40.0%	100.0%	100.0%

Table 4. Central GOA sector allocations with jig allocation taken off the top of the TAC

	Annual Allocation	Compare to 60/40		A season allocation	B season allocation	A season allocation	B season allocation
		A season	B season	Percent of annual allocation	Percent of annual allocation	Percent of seasonal allocation	Percent of seasonal allocation
HAL CP	5.1%	80.3%	19.7%	4.1%	1.0%	6.8%	2.5%
HAL CV <50	14.6%	63.9%	36.1%	9.3%	5.3%	16.5%	13.2%
HAL CV >=50	6.7%	84.0%	16.0%	5.6%	1.1%	9.4%	2.7%
Pot CV/CP	27.8%	63.9%	36.1%	17.8%	10.0%	29.7%	25.1%
Trawl CP	4.2%	48.8%	51.2%	2.0%	2.2%	3.4%	5.4%
Trawl CV	41.6%	50.8%	49.2%	21.1%	20.5%	35.2%	51.2%
Total	100.0%			60.0%	40.0%	100.0%	100.0%

Under the GOA Pacific cod sector split, the jig sector will receive an initial allocation of TAC before other sectors that is higher than its historic catch—the jig sector has generally harvested less than 1 percent of its WGOA and CGOA Pacific cod TACs. Under Amendment 83, the jig sector will receive 1.5 percent of the WGOA and 1 percent of the CGOA TAC, with a stairstep provision to increase the allocation by an additional 1 percent of the TAC if 90 percent of the Federal allocation in an area is harvested in any given year, capped at 6 percent. The allocation will be stepped down by 1 percent in the following year if at least 90 percent of the previous allocation is not harvested in two consecutive years, but will not drop below the initial allocation.³

Amendment 83 also apportions the GOA longline/HAL halibut PSC limit between the C/P and CV sectors, in proportion to their respective total WGOA and CGOA Pacific cod allocations. In addition, no later than November 1, halibut PSC mortality that is projected by NMFS to be unused by the longline/HAL sector can be made available to the other sectors during the remainder of the year.

Pacific cod limited entry (trawl groundfish and fixed gear Pacific cod endorsements)

In April 2011, Amendment 86 to the GOA groundfish FMP took effect, adding gear-specific (pot, longline/HAL, and jig) Pacific cod endorsements to WGOA and CGOA fixed gear License Limitation Program (LLP) licenses. The purpose of this amendment was to address the potential for latent fixed gear licenses to re-enter the fisheries. Pacific cod endorsements address this concern by limiting entry to fixed gear licenses that have participated in recent years and qualify for an endorsement. Fixed gear participants in the Federal directed fisheries for Pacific cod in the GOA must have a gear- and operation-type specific Pacific cod endorsement on their LLP license. Pacific cod endorsements are not required for the Eastern GOA, trawl gear, vessels that do not exceed 26 ft. LOA or vessels using jig gear.

Table 5 shows the number of licenses by endorsement in the Gulf of Alaska fisheries. The table highlights licenses quantities that could be relevant to this action. First, the number of licenses for an area/gear/operation type can be compared to historical participation levels shown above. For example, 98 licenses authorize participation in the Western Gulf catcher vessel trawl fishery and 118 licenses authorize participation in the Central Gulf catcher vessel trawl fishery; however, since 2004, fewer than 40 and 50 vessels have participated in these fisheries, respectively. Changes in season openings for these sectors could influence some of these license holders to enter the fishery, if they perceive an improved opportunity. The table also shows licenses with multiple license endorsements. For example, 30 Western Gulf trawl licenses are endorsed for participation in the Western Gulf Pacific cod catcher vessel pot sector. The sector allocations protect some sectors from effort increases using other gear types; however, those allocations, will not prevent vessels that use multiple gear types from moving among sectors. If opening dates are changed substantially, opportunities to move among sectors could change. For example, a delay in the Western Gulf trawl fishery opening may change the opportunity for a vessel to participate first in the Western Gulf Pacific cod pot fishery and then move to the Western Gulf trawl fishery after the pot fishery closes. Again, whether such a move would occur depends on the circumstances, including not only the extent of the change in the opening, but also the TACs in the fisheries, other fishing opportunities, and other considerations.

³ Amendment 83 also allows for rollovers during the B season, in the event that NMFS anticipates that one or more sectors will be unable to harvest its annual allocation.

Table 5. Gulf LLP licenses (area/gear/species endorsements and operation type).

Endorsements	CG		WG		CG PCOD					WG PCOD				
	Trawl	Trawl	Trawl	Trawl	CP	CP	CV	CV	CV	CP	CP	CV	CV	CV
	CP	CV	CP	CV	HAL	POT	HAL	POT	JIG	HAL	POT	HAL	POT	JIG
CG Trawl (CP)	21	0	13	0	0	0	0	0	0	0	1	0	0	0
CG Trawl (CV)	0	97	0	51	0	0	1	7	0	0	0	0	17	0
WG Trawl (CP)	13	0	20	0	0	0	0	0	0	0	0	0	0	0
WG Trawl (CV)	0	51	0	78	0	0	2	3	0	0	0	0	30	1
CG PCOD	CP Hook and Line	0	0	0	0	23	0	0	0	0	11	0	0	0
	CP Pot	0	0	0	0	0	3	0	0	1	1	0	0	
	CV Hook and Line	0	1	0	2	0	0	133	5	5	0	0	9	2
	CV Pot	0	7	0	3	0	0	5	78	2	0	0	0	11
WG PCOD	CV Jig	0	0	0	0	0	0	5	2	19	0	0	0	1
	CP Hook and Line	0	0	0	0	11	1	0	0	0	18	2	0	0
	CP Pot	1	0	0	0	0	1	0	0	0	2	4	0	0
	CV Hook and Line	0	0	0	0	0	0	9	0	0	0	0	12	2
	CV Pot	0	17	0	30	0	0	2	11	0	0	0	2	82
CV Jig	0	0	0	1	0	0	0	0	1	0	0	1	4	11

Source: RAM database – highlights are to emphasize endorsements relevant to the proposed action.

Although the Council’s primary purpose in developing the action for fixed gear endorsements was to eliminate latent licenses, the program also allows Community Quota Entities (CQEs) representing small coastal communities to acquire LLP licenses to promote community interests. The CQE component of the action allows each of the 21 communities eligible under the CQE Program in the Western and Central GOA to request a number of fixed gear and Pacific cod-endorsed licenses equal to the number of licenses held by residents of the community estimated to be removed under the fixed gear recency action under the 10 mt landing threshold, or two licenses, whichever is greater.⁴ These licenses are non-transferable and have a specified MLOA of <60’. CQEs would only be issued licenses for the area of the community they represent (Western GOA or Central GOA). In addition, licenses issued to CQEs located in the Western GOA are endorsed only for pot gear. CQEs representing communities in the Central GOA have the option of selecting what proportion of their LLP licenses would have a pot endorsement or a hook-and-line endorsement, provided the CQE notifies NMFS of their choice within six months of the effective date of a final rule. Selection of gear type would be a one-time permanent choice.⁵ Only residents of the CQE community can use the license.

Under the above criteria, a total of 27 LLPs endorsed for the Western GOA could be requested by four CQEs located in the Western GOA, and a total of 58 LLPs endorsed for the Central GOA could be requested by seventeen CQEs located in the Central GOA.⁶ As of Nov 2011, RAM is issuing LLPs endorsed for the Central Gulf to two CQEs: Cape Barnabas (Old Harbor) and Ouzinkie. Cape Barnabas is

⁴Note that while the CQE provisions were included in the overall motion on fixed gear recency approved in April 2009, the Council amended the motion with respect to CQE licenses in December 2009. This action was taken in order to remedy an inconsistency with the Council’s original stated intent of providing the same number of licenses to CQEs that residents of those communities were estimated to lose under the recency action.

⁵If a CQE did not notify NMFS within this timeframe, NMFS would issue any LLP licenses that are requested by a CQE so that half the LLP licenses issued to the CQE would be endorsed for pot gear and half would be endorsed for hook-and-line gear.

⁶In December 2010, the Council approved one new Area 3B community into the CQE Program, and explicitly allowed it to receive pot-endorsed Pacific cod licenses in the Western GOA if it meets the same criteria as other CQE communities. This recommendation has not yet been forwarded to the Secretary. If approved, it could add a maximum of 2 new cod pot gear licenses to this estimate for the Western GOA.

receiving 5 LLPs endorsed for pot and Pacific cod; Ouzinkie is receiving 9 (3 endorsed for hook-and-line and 6 for pot). Neither will receive the licenses until they name the vessels and persons, as required to use these licenses. No Western Gulf CQEs have requested Pacific cod licenses. Several other communities have expressed an intent to request licenses.⁷ The first annual reports required to describe the use of these licenses (if requested and used in 2011) are due January 31, 2012.

Eligible community must apply for a CQE license through NMFS. The one-time application requires a description of procedures the CQE will use to determine distribution of licenses and to solicit requests from community members to be assigned a license. Once approved and granted by NMFS, a CQEs LLP license is permanent; the CQE need not reapply. The CQE must, though, provide an annual authorization letter assigning each CQE LLP to a user and vessel on or before the date that the LLP license is used. A CQE may reassign a license to a different user or vessel annually, but a license may not be assigned to more than one vessel per calendar year. By creating a pool of entering licenses, the CQE program could interact with the changes in season dates to either limit the effectiveness of the CQE program or allow additional effort (beyond that expected under current season openings). The additional capacity is limited by the prohibition on assigning licenses to more than one vessel in a single year.

If the Council were to delay an A season fixed gear Pacific cod opening with this action, it is possible that additional opportunities may arise for residents of CQE communities to enter vessels into those fisheries. Since CQE licenses may be acquired by the local entities without cost, these opportunities are likely be lower cost for these potential entrants, as intended by the program.

State Pacific cod parallel waters fisheries

The State of Alaska manages parallel State waters fisheries in waters 0 to 3 nm offshore. While the Federal fisheries are open, parallel fisheries in State waters are open concurrently. Vessels fishing exclusively in the parallel water fisheries do not need to meet Federal LLP license requirements; however, a vessel that has a Federal Fisheries Permit (FFP) authorizing participation in Federal fisheries is required to have an LLP carrying endorsements for the applicable sector in the contiguous area (i.e., WGOA or CGOA). In addition, vessels participating in the parallel fishery may be subject to vessel length restrictions. In the Chignik area, vessels are limited to a maximum length of 58 feet.

State GHL Pacific cod fisheries

This section describes the state waters Pacific cod fisheries in the GOA. In 1997, the State of Alaska began managing its own Pacific cod fisheries inside of 3 nm (referred to as the "state waters fishery"). Fisheries are prosecuted in five management areas, which overlap with Federal management areas: Cook Inlet, Kodiak, and Chignik (Central Gulf); Prince William Sound (Eastern Gulf); and South Peninsula (Western Gulf). Each State management area is allocated a percentage of the federal GOA Pacific cod acceptable biological catch (ABC). State fisheries are managed under a guideline harvest level (GHL), which limits total catch in the fishery in a manner similar to the federal TAC. If a GHL is fully harvested, it can be increased on an annual basis up to 25% of the Pacific cod ABC in each GOA management area, the maximum level permitted by state regulation. All allocations are currently 25% of the applicable Pacific cod ABCs, the maximum level permitted by state regulation.

⁷RAM weekly report, July 8, 2011.

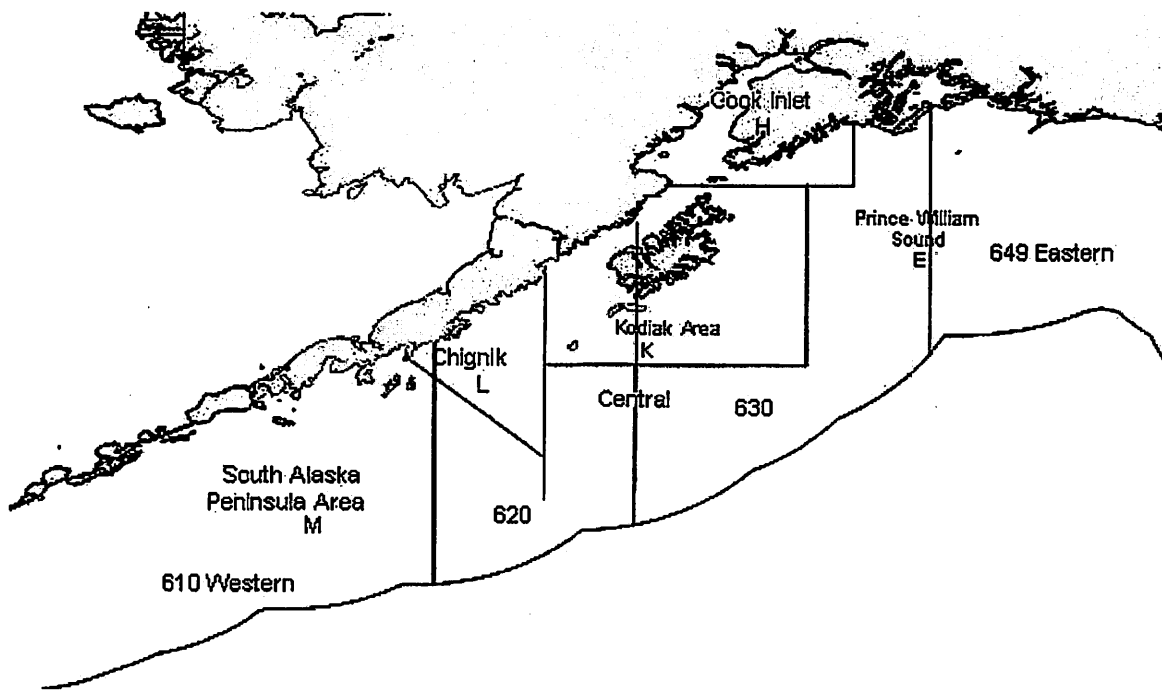


Figure 1. Map of state management areas (South Alaska Peninsula, Chignik, Kodiak, Cook Inlet, and Prince William Sound) and federal management areas (Western, Central, and Eastern) in the GOA.

Table 6 summarizes the GOA state waters Pacific cod fishery regulations as of the 2011 season. Some changes in these regulations will arise due to the change in federal management under the sector allocations created by Amendment 83. There is no limited entry permit requirement in the state waters fisheries, but there are gear and vessel length restrictions. The GOA state waters Pacific cod fisheries are open only to pot and jig gear in all GOA management areas except Prince William Sound, which added longline gear in 2009. The GHs in the other management areas are allocated between the pot and jig sectors, and vessel size restrictions limit harvests by vessels >58 ft length overall (LOA) in some areas or exclude these vessels from participating in the fisheries.

Table 6. Summary of GOA state waters Pacific cod fishery regulations.

Area	Pot allocation	Jig allocation	Allocation to ≤58 ft vessels	Allocation to >58 ft vessels	Super exclusive	Exclusive	Gear Limit
Kodiak	50%	50%	None	Capped at 25% prior to Sept 1	No	Yes-prior to Oct 31	60 pots/5 jigs
Cook Inlet	75%	25%	None	Capped at 25% prior to Sept 1	No	Yes-prior to Oct 31	60 pots/5 jigs
Chignik	90%	10%	100%	0%	Yes	No	60 pots/ 5 jigs
South Peninsula	Capped at 85%	none	100%	0%	No	Yes-prior to Oct 31	60 pots/ 5 jigs

Source: ADF&G, 2010.

Table 7. Allocations of GOA state waters Pacific cod GHGs among management areas and gear types

Federal Management Area	State Management Area	Percent of Area ABC	Pot/Jig Allocation	Pot allocation as a percent of ABC	Jig allocation as a percent of ABC
Central GOA	Cook Inlet	3.75%	75/25	2.81%	0.94%
	Chignik	8.75%	90/10	7.88%	0.88%
	Kodiak	12.50%	50/50	6.25%	6.25%
	Total Central GOA	25%		16.94%	8.06%
Western GOA	Alaska Peninsula	25%	85/15 ¹	21.25%	3.75%
Eastern GOA	Prince William Sound ²	25%	None	n/a	n/a

¹Pot gear is capped at 85%. ²Longline gear was allowed in the Prince William Sound area in 2009.

Cook Inlet State Management Area Pacific cod

The Cook Inlet, State managed, Pacific cod season opens 24 hours after the Federal Pacific cod fishery closes, which in 2011 was January 30. The GHG is calculated as 3.75 percent of the Central GOA Pacific cod ABC and is allocated 75 percent to pot gear (prior to October 1) and 25 percent to jig gear. In 2011, the GHG was 4.45 million lbs. (2,020 mt). The fishery closed to pot gear on March 19, with a total pot harvest of 3.49 million lbs. (1,583 mt); the jig fishery remained open through September 1, 2011; total jig harvest to date is 494,305 lbs. (224 mt) or 44percent of the jig allocation. Unharvested jig allocation can be released to all legal gear types on September 1, although in 2011 the State fishery closed to allow the parallel fishery to open. In addition to the directed fishery, Pacific cod may be retained in State waters as bycatch in other groundfish and halibut fisheries at a maximum of 20 percent. State waters Pacific cod fishing closures related to SSL conservation establish longline and pot gear closures within 10 nm, in addition to no-transit zones within 3 nm, of Sugarloaf and Outer Pye Islands rookeries to protect SSL. The fishery is an exclusive fishery prior to October 31st, meaning that participants cannot participate in any other exclusive State water Pacific cod fishery prior to October 31st during the same year.

Chignik State Management Area Pacific cod

The Chignik State-waters Pacific cod GHG fishery opens by regulation on March 1. Vessels participating in the state-waters season may not exceed 58 feet in length, and legal gear is limited to pot and jig gear. No more than 60 pots or 5 mechanical jigging machines may be operated from a vessel. The 2011 GHG is 10.38 million lbs. (4,700 mt), which is 8.75 percent of the Central GOA ABC for Pacific cod. Pot vessels are allocated 90 percent of the total GHG or 9.34 million lbs.. Jig or hand troll vessels are allocated 10 percent of the total GHG or 1.04 million lbs.. The fishery closed to vessels using pot gear on March 17, 2011, with a total pot harvest of 9.37 million lbs. (4,250 mt). Through August 8, 2011, the jig fleet harvested 20 percent of their 1,038,134 pound (47 mt) Pacific cod GHG. On August 12, the Chignik Area re-opened to pot gear according to its Board management plan. The Chignik fishery is superexclusive, meaning that no participant is allowed to participate in any other State water Pacific cod fishery during the same year.

Table 8. Chignik Management Area Pacific cod GHL and harvests 2003 through 2012.

Season	GHL	Harvest	Vessels
2003	4,500,000	4,467,571	28
2004	5,800,000	5,750,461	28
2005	6,400,000	5,787,467	22
2006	7,300,000	3,439,521	12
2007	7,300,000	5,699,461	16
2008	7,300,000	6,838,934	23
2009	6,100,000	5,681,230	12
2010	9,500,000	9,153,719	16
2011	10,380,000	9,557,272	

Prince William Sound State Management Area Pacific cod

The Prince William Sound Pacific cod season opens 7 days after closure of the parallel (Federal) Pacific cod fishery. The fishery is open to pot, jig, and longline (i.e. HAL) gear, limited to 60 pots, and 5 jigging or longlining machines. The GHL is 25 percent of the ABC for the Eastern GOA. The fishery closes to pot gear when 60 percent of the GHL is reached, or December 31. There is no allocation for the jig or longline fisheries, but the longline fishery closes on May 1. Any GHL remaining on October 1 becomes available to both pot and jig gear. The fishery is an exclusive fishery prior to October 31st, meaning that participants cannot participate in any other exclusive State water Pacific cod fishery prior to October 31st during the same year.

Kodiak State Management Area Pacific cod

The Kodiak State-waters Pacific cod GHL fishery opens 7 days after the closure of the Federal/parallel Central GOA Pacific cod A-season. Legal gear types are pot, jig, and hand troll, with limits of 60 pots (buoy tags required), 5 jigging machines (5 lines per machine, 30 hooks per line), or 5 hand troll lines. The GHL for 2011 is 14.8 million lbs.. The GHL is split evenly between vessels using pot and jig gear (50%); however, vessels over 58 ft. using pot gear are capped at 25 percent of the total GHL prior to September 1. The percentage of the ABC for the Central GOA that is allocated to the Kodiak Area state-waters Pacific cod season is 12.5 percent. The 2011 GHL for the Kodiak Area state-waters Pacific cod fishery is 14.8 million lbs. The fishery is an exclusive fishery prior to October 31st, meaning that participants cannot participate in any other exclusive State water Pacific cod fishery during the same year.

Table 9. Kodiak Management Area Pacific cod GHL and harvests 2003 through 2012.

Season	GHL	Harvest	Vessels
2003	8,000,000	8,154,867	128
2004	9,900,000	10,033,889	156
2005	9,100,000	8,548,163	158
2006	10,500,000	6,330,518	113
2007	10,500,000	6,439,757	95
2008	10,500,000	10,548,875	111
2009	8,700,000	8,591,477	130
2010	13,500,000	13,566,306	114
2011	14,830,000	15,268,180	

South Alaska Peninsula State Management Area Pacific cod

The South Alaska Peninsula State-waters Pacific cod GHL fishery opens 7 days after the closure of the Federal and parallel Western GOC Pacific cod season or March 7th, whichever is later. Vessels participating in the State-waters season may not exceed 58 ft. in length, and legal gear is limited to pot and jig gear. No more than 60 pots or 5 mechanical jigging machines may be operated from a vessel. The 2011 of 16.74 million lbs. is equal to 25 percent of the Western GOA ABC for Pacific cod. The pot vessel GHL is capped at 85 percent of the total GHL or 14.23 million lbs. The fishery is an exclusive fishery prior to October 31st, meaning that participants cannot participate in any other exclusive State water Pacific cod fishery prior to October 31st during the same year.

Table 10. South Peninsula Management Area Pacific cod GHL and harvests 2003 through 2012.

Season	GH L	Harvest	Vessels
2003	11,400,000	11,560,663	92
2004	12,500,000	12,514,240	88
2005	11,500,000	11,436,172	73
2006	14,800,000	11,739,736	54
2007	14,800,000	12,678,151	60
2008	14,300,000	13,302,050	97
2009	11,900,000	11,594,124	72
2010	15,250,000	15,288,267	69
2011	16,740,000	16,795,852	

Pot allocations in the State Water fisheries have generally been fully harvested in all management areas except Prince William Sound. Jig harvests were relatively high in some areas during 2003 through 2005, declined substantially in 2006 through 2008, and increased in 2009 and 2010. A combination of poor weather conditions, difficulty finding fish in state waters, and high operating costs contributed to low levels of jig effort in 2006 through 2008. Total catch was substantially below the GH Ls in all four Western and Central GOA management areas in 2006 and 2007; and in Kodiak and Cook Inlet during 2008. However, in 2009 and 2010 in the Kodiak management area, jig vessels harvested the entire jig GH L. Unharvested GH L is rolled over to other sectors on August 15 (Chignik) or September 1 (Kodiak and Cook Inlet), if it is determined that an allocation will not be fully harvested. However, during 2005 through 2007, the parallel waters B season remained open to vessels using fixed gear from September 1 until December 31. During these years, state managers did not have the opportunity to re-open the state waters season in the fall and roll over unused jig GH L to the pot sector. There is substantial overlap between participants in the state waters and parallel/federal Pacific cod fisheries. The majority (85% to 93%) of state waters pot catch is harvested by vessels that hold LLP licenses and also have access to the federal waters fishery. There is slightly less overlap between participants in the state waters jig fishery and the parallel/federal waters Pacific cod fishery.

Table 11. Percent of pot vessels participating in the GOA state waters Pacific cod fisheries that had groundfish LLP licenses, and percent of state waters catch by these vessels.

Year	Pot	
	Percent of vessels with LLP licenses	Percent of catch by vessels with LLP licenses
Western GOA 2002–2008 average	91%	93%
Central GOA 2002–2008 average	75%	85%

Source: ADF&G Fish Tickets and RAM groundfish LLP license file, December 2008.

Changes in State water cod fishery openings

Openings of the State water fisheries in most areas have been scheduled based on federal fishery closures. In the 2012 season, State water fishery openings will need to change to correspond to the changes in federal fisheries to sector level allocations. In Cook Inlet and Prince William Sound, the pot fishery will likely be scheduled to open 24 hours after the closure of the federal Central Gulf pot fishery. Similarly, the jig fishery in those areas is scheduled to open 24 hours after the closure of the federal Central Gulf jig fishery. The longline fishery in the Prince William Sound area is scheduled to open 7 days after the closure of the federal Central Gulf longline fishery. In the Kodiak area, the jig fishery will open 48 hours after the closure of the federal Central Gulf jig fishery (or at the discretion of the department, if the federal fishery is not closed before March 15th). The Kodiak pot fishery will open 7 days after the closure of the federal Central Gulf pot fishery. The Chignik jig fishery will open on March 15th. The Chignik pot fishery will open either 7 days after the closure of the federal Central Gulf pot fishery or March 7th, whichever is later. The parallel fishery will close on the earlier of the federal fishery closure or 7 days prior to the March 7th opening. The South Peninsula jig fishery will open 48 hours after the closure of the federal Western Gulf jig fishery (or at the discretion of the department, if the federal fishery is not closed before March 15th). The following table shows state water fishery openings, which have occurred under the previous management of season openings.

Table 12. Recent season opening dates of the GOA Pacific cod state waters fisheries – note: openings occurred prior to Pacific cod sector splits.

Year	Kodiak	Chignik	Cook Inlet	Alaska Peninsula
	Jig/Pot	Jig/Pot	Jig/Pot	Jig/Pot
2003	16-Feb	1-Mar	10-Feb	24-Feb
2004	7-Feb	1-Mar	1-Feb	2-Mar
2005	2-Feb	1-Mar	27-Jan	3-Mar
2006	7-Mar	1-Mar	1-Mar	9-Mar
2007	6-Mar	1-Mar	28-Feb	15-Mar
2008*	27-Feb	1-Mar	21-Feb	7-Mar
2009	3-Feb	1-Mar	28-Jan	4-Mar
2010	7-Feb	1-Mar	1-Feb	5-Mar

*The 2008 Central GOA inshore parallel/federal season closed 20-Feb, but reopened 29-Feb for 2 days to reach the TAC.

Coordination of Federal and State Pacific cod jig management

In its final action on the sector split, the Council supported increasing entry-level fishing opportunities for the jig sector, recognizing that fishery as the primary tool for the Council and the Board to provide true entry-level fishing opportunity in the GOA. At its October 2011 meeting, the Council recognized that NMFS' proposed rule on the sector split provides maximum access to Federal waters to vessels using jig gear while providing maximum flexibility to the Board for management of the State water GHL and parallel fisheries.

The Council requested that the Board consider the Council's intent in the jig fishery during Board deliberations on proposals received on the State GHL and parallel fisheries for GOA Pacific cod management. The Council recommended that the Board focus on State water considerations relative to NMFS' proposed rule, and that any longer-term solutions should be a separate discussion at a future Joint Protocol Committee meeting. The Council also requested that the Board consider options to provide jig fishing opportunities concurrently in State and Federal waters when the regulations allow, and where the Board and State managers find it practical to implement.

At the Board's October 2011 meeting in Anchorage, the Board took public comment on a myriad of issues such as: options for opening and closing the State parallel and GHL fisheries; allocations between gear types; and stand-down time periods for switching gear types. The Board took actions and recommended regulations for each State management area were generally consistent with the Council's recommendations, and aligned season opening and closing dates to the extent practicable with the Federal management provisions proposed under NMFS' draft rule implementing sector splits (Amendment 83). Longer-term issues, to be first vetted through the Joint Protocol Committee, include further consideration of the reverse parallel fishery concept and the Board's discussion of recommendations it received to consider possible increases in the State GHL fisheries.

State Water Tanner Crab Fisheries

The State Westward Region supports the management of the State water commercial Tanner crab fisheries in the Central and Western Gulf and Aleutian Islands. These Tanner crab fisheries open January 15th and could experience increased effort as a result of changes in federal Pacific cod A season openings. This section provides background on those fisheries that may help in assessing the potential effects of this action. The discussion of Aleutian Islands fisheries is abbreviated, since those fisheries may be less likely to experience any effects. Those sections can be elaborated as a part of any analysis, if needed.

While the the Tanner crab fisheries open on January 15th, participants may be prevented from fishing Pacific cod prior to the opening by a regulated standdown required of vessels that enter the Tanner crab fisheries. Vessels or vessel operators intending to participate in the State water commercial Tanner crab fishery may not operate commercial, subsistence, sport, or personal use pot gear, including cod pots, for any species in the applicable district for the 14 days prior to the season opening. Placing tagged gear into shallow water is permitted but vessels may not retrieve gear to place buoy tags on gear during this 14-day period. Cod caught as bycatch in crab pots may be used for bait but must be recorded on fish tickets. In addition, vessels may unregister from a State water crab fishery to participate in another fishery (except as prohibited for superexclusive and exclusive fisheries).

Kodiak District Tanner

The Kodiak District Tanner crab fishery is a limited entry fishery, with permits regulated by the Commercial Fisheries Entry Commission (CFEC). Permits are issued by vessel length: a) less than 60 feet or b) 60 feet or greater and less than 120 feet. A large vessel permit may be assigned to a vessel in the smaller size category. In 2011, 139 permits were issued for use on vessels under 60 feet and 43 permits were issued for vessels 60 feet or greater and less than 120 feet. The fishery is superexclusive, meaning that vessels participating in the fishery are prohibited from participating in other State water Tanner crab fisheries during the same year. Vessels are limited to between 20 and 60 pots depending on the GHL. Under the Board's management plan, a commercial Tanner crab fishery in the Kodiak District may occur when: 1) the preseason trawl survey abundance estimates meet or exceed the established minimum thresholds; 2) two or more sections in the District are opened; 3) the GHL in an open section is at least 100,000 lbs.; and 4) the overall district harvest will be at least 4000,000 lbs., based on abundance rates. The total District GHL is allocated among eight sections. In addition to registering for the fishery, vessels must register for a section. Section registration may be changed by notice to ADF&G.

The scheduled opening of the fishery is January 15th. In the 14 days preceding the fishery, no vessel is permitted to use pots in the district (although pots may be put shallow water storage or used in other districts).

As with most limited entry fisheries in Alaska, harvests are monitored inseason with the fishery closure for a section timed to coincide with the estimated harvest of the applicable GHL.

In 2008/2009, areas supporting all but 30,000 pounds of the GHL closed in January, with the last open area closing at the end of March by regulation. The last open section in the 2009/2010 fishery closed in late January.

Table 13. Kodiak District Tanner GHL and harvests 03/04 through 11/12.

Season	GH L	Harvest	Vessels
2004	795,000	566,218	66
2005	1,750,000	1,800,196	76
2006	2,100,000	2,121,384	68
2007	800,000	765,092	50
2008	500,000	425,353	33
2009	400,000	357,854	31
2010	700,000	650,315	52
2011	1,490,000	1,537,384	80
2012	950,000		

Chignik State District Tanner

The State manages the Chignik District as a superexclusive registration area fishery. ADF&G manages the nearshore and the offshore areas independently. Participating vessels in the Chignik District are limited to not more than 58 ft. LOA. Pot limits vary based on the GH L and number of vessels participating in the fishery, ranging from 30 pots to 75 pots per vessel.

The fishery was closed from 1990 through 2003. The fishery opened for the 2004 and 2005 seasons, but closed again from 2006 season through the 2010 season. The fishery opened in 2011 with a GH L of 600,000 pounds.

Table 14. Chignik District Tanner GH L and harvests 2003 through 2012.

Season	GH L	Harvest	Vessels
2003	Closed		
2004	400,000	410,741	22
2005	200,000	143,164	4
2006	Closed		
2007	Closed		
2008	Closed		
2009	Closed		
2010	Closed		
2011	600,000	646,531	13
2012	700,000		

Semidi Island Overlap section

The Semedi Island Overlap section is part of the Kodiak District. When open, vessels registered in the either the Kodiak District or Chignik District may also register for the Semidi Island Overlap section, provided they have withdrawn registration in other sections. Pot limits for the Semidi Island section may differ from limits for other sections in the Kodiak district. Vessels may not be simultaneously registered to fish in the Chignik District and the Semidi Overlap Section.

Alaska South Peninsula District Tanner

The South Peninsula District is a non-exclusive registration fishery. The District is divided into two sections, an Eastern and Western, which are managed independently. In the 2010/2011 fishing season, the Western and Eastern sections opened at noon on January 15, with a combined GHL of 2.3 million lbs.— 900,000 and 1,400,00 lbs., respectively. The pot limit ranges from 30 pots per vessel to 75 pots per vessel based on the GHL. Vessels are limited to not more than 58 ft. LOA, must be registered with ADF&G prior to fishing, and may not fish the Eastern and Western sections simultaneously. ADF&G manages the nearshore and offshore areas independently within the Eastern and Western sections.

The fishery was closed from 1990 until it reopened in 2000. The fishery closed again from 2001 through 2003 and reopened from 2004 through 2008. The fishery closed again reopening in 2011.

Table 15. South Peninsula Management Area GHL and harvests 2003 through 2011.

Season	GHL	Harvest	Vessels
2003	Closed		
2004	Closed		
2005	300,000	295,741	42
2006	290,000	287,749	15
2007	200,000	165,811	6
2008	250,000	236,241	9
2009	275,000	265,560	12
2010	500,000	583,202	41
2011	2,300,000	2,874,743	51
2012	1,620,000		

Eastern Aleutian Tanner Crab District

The Eastern Aleutian Tanner Crab District has three sections, the Unalaska, Makushin/Skan, and Akutan Bays, all within Area J. Harvest information from 2006 to 2010 has been confidential because less than three processors purchased crab from the fishery. Typically, there are only a few major bays and inlets with Tanner crab and the directed fishery has been relatively small, at under a million lbs. over the last quarter-century. In 2010, the commercial Tanner crab fishery opened on January 15, with GHLs of 74,000 lbs. in the Unalaska Bay section and 45,000 lbs. in the Akutan. The Makushin/Skan section was closed to commercial fishing because the minimal GHL was not met. Vessels were limited to 33 pots. The Unalaska section closed on February 10, and Akutan closed by regulation on March 31.

Western Aleutian Tanner Crab District

No commercial harvest of Tanner crab has occurred in the Western Aleutian Tanner Crab District (WAD), also within Area J, since the 1996/1997 season. Though the fishery may be opened by emergency order on November 1, it was not opened during the 2009/2010 season because there was no

management plan in place and insufficient data to establish a GHF for the fishery. Most Tanner crab in the WAD is taken incidentally in the directed red king crab fishery in the same area.

Possible rationale for delaying the Pacific cod A season opening

The delay in the Pacific cod A season opening date for a sector could be intended to serve a few purposes. A delay might allow a fleet to idle their vessels during a period that typically has either low catch rates or high bycatch. Cod aggregations are said to increase from late in January through late February. A delay in the opening could aid fishermen, who have higher fuel and bait costs during early season periods with low catch rates. While these vessels could simply choose not to fish until acceptable catch and bycatch rates are present, they may run a risk of losing a substantial share of the available catch in the fishery. A season opening delay would remove this risk.

Delaying openings could also be intended to improve revenues from the fishery. Since cod generally aggregate during the peak spawning periods, roe and milt production may peak from harvests that coincide with the strongest aggregations. In addition, some participants contend that fish quality may improve as the season progresses from its current opening. Some participants also believe that cod markets strengthen through the late winter into the spring. Delaying the opening could be intended to achieve improved revenues from the fishery.

In some cases, it is possible that delaying an opening may reduce gear conflicts in the fisheries. For example, a further delay in the trawl opening could provide time for longline or pot participants to harvest the large majority of their allocations prior to the trawl opening. This could reduce gear conflicts by reducing the overlap of the seasons.

A delay in opening the fishery might also be advocated to allow portions of the fleet to enter other fisheries that they are eligible for. Currently, vessels confronting conflicts between open fisheries would need to choose between fishing opportunities. A delay in the opening of one fishery may allow vessels in that fleet to deploy effort first in another fishery. A delay in one opening could remove the conflict allowing vessels to prosecute both fisheries. A later A season opening could also be intended to allow some participants to celebrate holidays (which extend into the middle of January) with their families prior to starting fishing. These participants might otherwise need to choose between fishing and remaining with families for the holidays.

Possible effects of delaying the A season opening

The environmental and economic effects of delaying Pacific cod A season openings could vary greatly depending upon the specific action. A working outline of these issues identified by staff thus far is attached as Appendix 1. In addition to understanding potential impacts on fishermen, the Council requested that the discussion paper include a discussion of the relationships of actions modifying the Pacific cod A season opening dates on GOA Steller sea lion (SSL) Reasonable and Prudent Alternatives (RPAs), non-cod GOA fisheries, halibut bycatch, and processing considerations.

Possible effects on harvesters

As noted above, Pacific cod are known to form spawning aggregations from January to May in the GOA. Fishing these aggregations results in higher catch rates, reduced operational costs to the fleet, and potentially lower bycatch of other species, including halibut. Fishermen have indicated that in many years Pacific cod aggregations may not occur until several weeks after the season openings in January. Delaying the openings may prevent these fishermen from expending effort inefficiently prior to aggregations forming. Fuel and bait costs may be reduced. Although halibut PSC is rarely constraining in

the A season, it may be possible to reduce use of available halibut PSC, which could contribute to both overall halibut savings and improved fishing opportunities later in the year when halibut PSC may constrain fishing.

While the delayed opening would prevent fishermen from needing to compete for catch during years when aggregations do not occur until well after the season opening, a regulatory change in the season opening would also prevent fishing on aggregations that occur prior to that opening. In essence, the fleet will lose the option of entering the fishery early, should the fishing opportunity be good.

If the change in opening dates results in offsetting seasons for the different gear types, it is possible that some gear conflicts could be reduced. On the other hand, to the extent that vessels can be converted to operate with different gear types and are able to secure licenses with the appropriate endorsements, creation of offsetting seasons may increase competition in the fisheries by allowing vessels to enter new fisheries or simplify participation in multiple fisheries. These circumstances arise (or are exaggerated) by the sector split of Gulf Pacific cod TACs, which creates exclusive TACs for different gear and operation types.

Delaying the opening of the A season in the GOA could allow vessels to participate other in fisheries that currently conflict with the Gulf Pacific cod fishery. Some participants in the Western Gulf trawl fishery may support a delay in the A season opening to allow them to participate in the State water Tanner crab fisheries. Currently only the Kodiak district Tanner crab fishery is subject to limited entry. Other Gulf Tanner crab fisheries have vessel size limits, but many of the Western Gulf trawl vessels meet those limits. A later A season trawl fishery opening may allow those vessels are able to participate in both the Pacific cod fishery and the State water Tanner crab fishery.

While allowing vessels to move into the State water Tanner crab fishery may be an intended effect of an A season delay, it is possible that vessels may perceive an opportunity to move into other fisheries. For example, if a local Tanner crab fishery does not open in a year and other fishery opportunities exist prior to the later Pacific cod A season opening, it is possible that these vessels may elect to enter other fisheries. The extent of these other opportunities will likely vary across time and with TACs in the various fisheries. License availability is also likely to change over time. These different factors will all affect the extent to which vessels might use an A season change to expand their operations into other fisheries (as intended or unintended).

An additional effect that should be explored is whether a delay in a season opening could affect the potential of a fleet to fully harvest available TACs. The ability to fully harvest TACs should be considered not only for the Pacific cod fishery, but also in other fisheries in which Pacific cod vessels may participate. The A seasons for the pollock fishery and the Pacific cod fishery both open January 20th. Delaying the Pacific cod opening may change vessels' choices of fisheries, particularly if some trawl vessels are drawn into crab fisheries or fisheries of other gear types. Whether these choices may remove effort from the groundfish fisheries to an extent that one or more TACs may remain unharvested should be considered.

In addition to the potential to constrain a fleet's ability to harvest an A season TAC, the action could also have spillover effects on State water Pacific cod fisheries. Those fisheries with openings that depend on federal fishery closures might be delayed. While some participants in State water fisheries may also participate in the federal fisheries, it is possible that some others are unable to participate because of limited license requirements. These vessels' fishing patterns could be disrupted, if a State water fishery opening is delayed as a result of the later federal fishery openings.

Possible effects on processors

A few effects of delaying the Pacific cod A season are likely to have implications for processors. As with other effects, these effects largely depend on the specific action. In general, the effects are driven by the redistribution of landings that will arise. Most processors begin operations after the New Year by accepting deliveries from fixed gear vessels shortly after its January 1st opening. Over the course of the following few weeks, processing scales up with opening of State water Tanner crab fisheries on January 15th and the trawl pollock and Pacific cod fisheries January 20th. Trawlers generally follow a progression from the Pacific cod fishery to the pollock fishery, with some exceptions. The current sequence of fishing has allowed processors to ramp up their operations over the course of a few weeks, then move crews among various processing lines landings come in. The early opening of fixed gear Pacific cod fisheries and the balancing of Pacific cod and pollock deliveries from the trawl fisheries are both important components of this progression of operations. Depending on the extent of changes to A season openings, it is possible that the flow of landings could be disrupted, leading to either down times when plants may have little production or gluts during which harvesters will need to wait to offload. Either of these circumstances might lead to additional operating costs or loss of product quality. Whether any disruption to operations might occur (and the extent of those disruptions), however, will depend on the specific change in the season openings and conditions in the Pacific cod fisheries and other fisheries.

Impacts on Steller sea lion protection measures and ESA consultation

As the acting federal agency, NMFS has an affirmative legal duty under Section 7 of the ESA to ensure that implementation of an FMP or an FMP amendment does not jeopardize the continued existence of an endangered species (such as Steller sea lions (SSL)) or adversely modify to the critical habitat of a protected species. Based on the most recent completed biological opinion (BiOp) on the western distinct population segment (DSP) of SSL, the harvest restrictions in the GOA on Pacific cod, Atka mackerel, and pollock decrease the likelihood of disturbance, incidental take, and competition for prey, to ensure the groundfish fisheries do not jeopardize the continued existence or modify the designated critical habitat of the western DSP of SSL.

An ESA Section 7 consultation must be re-initiated if an action under consideration modifies existing protection measures in a manner that causes an effect to a listed species—or its habitat—that was not previously considered. Delays of the A season opening of the Pacific cod fishery may modify the temporal distribution and spatial distribution of catch in the fishery. Whether the action will have a detrimental effect on SSLs will depend on the specific action and the consequent redistribution of catch. At a minimum, the agency would make an informal consultation to make a determination of whether the effects were previously considered; however, whether a change in one or more of the openings would require formal consultations under the Section 7 of the ESA cannot be answered at this time.

Other considerations

The upcoming season (2012) will be the first season of fishing under both new recency action and sector split of the Pacific cod TACs. These actions are likely to have considerable effects on the Pacific cod fisheries, changing opportunities within each sector and reducing competition among sectors. Managers have no experience managing the fisheries under those actions and participants have no experience fishing under the actions. Depending on the action, altering season openings could reduce the effectiveness of those actions in unpredictable ways by creating unintended opportunities for vessels to move among fisheries or by preventing a fleet from realizing maximum benefit from the new division of the TACs. In considering this action, analysts and the Council will need to assess these uncertainties, but

any such consideration will be exacerbated by the lack of experience with and evidence of the changes driven by the actions.

The sector splits and recency actions may create opportunities to pursue an alternative to the regulatory change of the A season opening date. As an alternative to a change in season openings, it may be possible for participants to organize fleetwide standdowns in a fishery. If the standdown is fleetwide, it is possible that little or no catch would be sacrificed by those electing not to fish; however, if others fish through a standdown, it is possible that a substantial portion of the TAC could be harvested (or a disproportionate share of the available prohibited species catch limit may be used) before the participants in the standdown enter the fishery. The potential for and extent of this effect is likely to vary across fisheries. In a fishery where the TAC is harvested over a short period, it is possible that a standdown by a few vessels could leave those vessels with little catch. Although coordinated standdowns may be feasible in some fisheries, others are likely to have too much diversity of interests among qualified vessels to be able to organize a fleetwide standdown.⁸ Portions of a fleet may elect not to join the standdown to gain advantage in the fishery. If surplus licenses are available, it is also possible that the standdown may entice opportunistic entry by vessels able to gain use of those surplus licenses. If the standdown is for an extended time period or a large number of vessels choose not to abide by the standdown, participating vessels may choose to abandon the standdown altogether. If a few vessels choose not to abide by a short standdown it is likely that some of the benefits of the standdown may be lost; however, the standdown may be generally effective and would likely be continued.

Voluntary standdowns, where feasible, could present a reasonable alternative to a regulatory change of a season opening. Preferred season openings may change with conditions or over time. For example, in some years, fishing early may be preferred, if TACs are large or fish aggregations occur earlier than expected. Similarly, a standdown that is meant to allow vessels to enter another fishery could be lifted in years in which that other fishery does not open. Regulatory changes to season openings would offer no flexibility. Whether a voluntary standdown is a reasonable alternative to a change in the season opening will depend on the fishery and the ability of participants to achieve a broad enough consensus to protect their interests.

At first blush, an action to delay an A season opening for a single area/gear/operation type would appear to be a relatively simple action, the effects of which are readily ascertainable. Yet, the spillover effects of such an action could be significant, give the variety of participation patterns in Gulf fisheries where some vessels use multiple gear types and participate in fisheries in multiple jurisdictions (State/federal) and areas for a variety of species. The complexity (and uncertainty) of effects increases, if additional area/gear/operation types are included in an action. If two fishery openings are delayed, it is possible that two sets of participants may be freed up to move among fisheries until their respective seasons open. The delays together could compound the negative effects of a single closure. In addition, delaying an opening in a second fishery could prevent the realization of benefits intended by the first delayed opening. The interactions become less tractable with each modification to the opening dates, as each fleet may perceive new opportunities and see others disappear depending on the specific season openings. These interactions are further complicated by the uncertainties of the newly implemented sector split of the Pacific cod TACs in the Gulf.

A case study

In order to illustrate potential variety of effects of an A season delay, a simple example is presented as a case study. For this case study, we consider potentially effects of a delay of the opening of the WGOA

⁸ For example interests may diverge concerning some religious holidays, as the portion of the fleet that does not celebrate the holiday may choose not to standdown.

Pacific cod trawl fishery from its current January 20 opening to February 20th and a delay in the opening of the pot gear fishery from its January 1st opening to February 1st. Due to uncertainties and the lack of Council definition of alternatives, the following discussion is both speculative and hypothetical. As such, the discussion is only intended to illustrate the complexities that are likely to arise from interactive effects of the actions.

Pot fishermen might support the delay as a means of reducing costs associated with targeting cod prior to their aggregation. The action might also allow those vessels 58 feet or less in length to participate in the State water Tanner crab fishery that opens on January 15th. Vessels 58 feet or longer would not be permitted to fish in the Tanner crab fisheries, but might attempt to enter other fisheries. Currently, 82 licenses are available for participation in the catcher vessel pot cod fishery in the Western Gulf. In the last two years, fewer than 40 vessels participated in the fishery, possibly as a result of the large GHL in the South Peninsula Tanner crab fishery and the opening of the Chignik Area Tanner crab fishery (both of which open on the 15th of January). In the mid-2000s, as many as 80 vessels participated in the fishery. The delayed opening could allow vessels to participate in both the Pacific cod fishery and a Tanner crab fishery, when those fisheries are open. In considering the action, the Council would need to consider the potential increase in participation in State water Tanner crab fisheries during years of low GHLs. Currently, vessels choosing to target Tanner crab may sacrifice some early participation in the Pacific cod fishery, since the Tanner crab fishery prohibits participating vessels from using pots in the same area in the 14 days preceding the opening of the Tanner crab fishery. In addition, if the Tanner crab fisheries were closed or had small TACs, the delayed opening of the Pacific cod fishery could contribute to more intense and concentrated effort in the cod fishery immediately after the opening. Alternatively, some vessels may look for opportunities in other Gulf fisheries, most likely in the Central Gulf, if an appropriately endorsed license could be obtained – currently 11 of the 82 Western Gulf pot cod licenses are also endorsed for participation in the Central Gulf pot cod fishery. Additional participation opportunities in both the Central Gulf and Western Gulf fisheries could arise through the CQE program licenses. Those licenses are limited to area residents, so Western Gulf vessels could not access those licenses to participate in Central Gulf fisheries, but the delay could aid some CQE participants in developing a working participation pattern moving from the Tanner crab fishery to the Pacific cod fishery in the early part of the year. The delay in the opening would delay the processing of Gulf deliveries until landings from the Tanner crab fishery started. Currently, plants start processing fixed gear landings shortly after the New Year. Instead, plants would begin processing with only deliveries from the crab fisheries after their January 15th opening.⁹ The delay could also result in the pot TAC not being taken prior to the opening of the State water fisheries in Chignik (March 1st) and South Peninsula (March 7th, at the latest). Pot vessels that historically have participated in both the federal and State water fisheries could lose some fishing opportunities, if forced to choose between the fisheries.

A delay in the opening of the trawl fishery might also be adopted to allow Pacific cod to aggregate prior to fishing and to allow some of the trawl fleet to participate in other fisheries. The smaller combination trawl vessels (58 feet or under) would likely choose to fish for Tanner crabs using pots on the January 15th opening of those fisheries. This fleet would still need to choose between fishing pollock or Tanner crab, but the delay in the Pacific cod opening would remove any conflict between the Pacific cod and Tanner crab fisheries. The larger vessels in the fleet (and those unable or choosing not to fish Tanner crab) would likely choose to pollock when it opens January 20—or stand-down until later when the pollock are most aggregated and pollock roe is at its peak, as has been the case in the WGOA in recent years—and continue trawling until the season ends, usually after several days. Vessels in the Tanner crab fishery would likely convert their vessels for pollock trawling, if the crab fishery closed quickly and sufficient pollock TAC remained. It is also possible that some of the larger vessels may choose to fish pollock or

⁹ It is possible that some Bering Sea fixed gear deliveries of groundfish would be processed after the January 1st opening of those fisheries.

Pacific cod in the Central Gulf, depending on license availability and conditions in those fisheries. Many of the Western Gulf trawl licenses also carry Pacific cod endorsements and recent participation in the Pacific cod trawl fishery in the Central Gulf has been substantially below the number of licenses, suggesting that some opportunity may exist to move into the Central Gulf fishery. Such a move could be disruptive to Central Gulf fishery participants, particularly if they attempt to undertake standdowns to allow pollock or Pacific cod to aggregate or pollock roe to mature. These moves would likely depend on relative TACs and whether the delayed opening allowed sufficient time to move among the fisheries. There is some potential that CV trawl vessels could use the idle time in early February to harvest shallow water flatfish and flathead sole, if a processor would take deliveries. Halibut PSC usage in these fisheries would accrue towards the seasonal shallow water PSC apportionment that also includes Pacific cod fisheries, however. Processing activity could be further disrupted by the season opening delay, if a substantial portion of the trawl vessels chose to enter Central Gulf fisheries prior to fishing Western Gulf pollock. The season opening delays might drive such an effect, if a portion of the fleet elected to fish Tanner crab and a large part of the remainder elected to enter Central Gulf fisheries. It is also possible that the delayed opening could attract non-AFA trawl catcher vessels from the Bering Sea into the Western Gulf fishery, if those vessels were able to secure LLP licenses with Western Gulf trawl endorsements. These vessels could concentrate their Bering Sea Pacific cod effort at the January 20th opening of that fishery, then move to the Western Gulf fishery when it opens on February 20.

The AFA catcher vessel fleet may also modify their fishing practices in the GOA in response to a delay in the Pacific cod season. Most vessels are limited by sideboard caps, and others are exempted from the sideboard caps. The exemption is conditioned on the vessel not leasing its BS pollock allocation. A delay in the Western Gulf Pacific cod fishery opening may increase the opportunity for these vessels in that fishery, as additional time will be available to harvest their Bering Sea pollock allocations prior to moving into the Gulf cod fishery.

Some of the intended (and unintended) effects of the two actions could overlap or interact. For example, to the extent that the delay of a trawl opening might be intended to reduce gear conflicts, a delay in the pot fishery opening could negate that result, if pot vessels have not moved off the grounds when the trawl fisheries opens. Similarly, if both sectors perceive an opportunity to enter the Tanner crab fisheries, vessels that in the past have elected to prioritize those fisheries may be crowded and have reduced catches and less incentive to enter the fishery. To the extent that vessels are able to access licenses to enter other federal fisheries that maintain their current openings (particularly those in the Central Gulf) participants in those other fisheries may lose fishing opportunities. These losses of opportunities may compound the loss of opportunities arising from the issuance of new CQE licenses. In addition, the added competition could make Central Gulf CQE fishing opportunities less appealing and workable.

Each of the various effects will depend on the specific fisheries affected by the delayed opening, the extent of the delay (or delays), and the responses of participants. In addition, with each new revision to an opening opportunities with change. Some interactions may be very difficult to predict, as they may occur only as a result of secondary (or tertiary) responses to the actions of others. These uncertainties are compounded by the impending implementation of the Pacific cod sector split, which could also result in some unpredicted effects.

Council direction and next steps

If the Council chooses to advance this action for further discussion and eventual analysis, it will need to develop a concise statement of Purpose and Need. To better advance this action, the Council could also formulate a set of options of opening dates for gear types (i.e., sectors) and management areas for further discussion and further analysis.

Purpose and Need Statement

The Council's purpose and need statement should be a direct reflection of the perceived problems arising from the current Pacific cod A season openings and its intent for the action. Based on a review of notes from Council deliberations and discussions with stakeholders, the Council could consider adapting the following discussion to develop its purpose and need statement for this action:

In the GOA, Pacific cod are thought to aggregate prior to spawning and remain aggregated through the spawning period. These aggregations occur in the late winter and early spring, although the specific timing likely varies each year based on temperature and other environmental conditions. According to fishermen, these aggregations allow higher catch rates, and during a time when the prices are at the highest due to the roe and milt markets. Timing the fisheries to occur at the peak of roe and milt value, and when the catch rates are highest, would provide optimum economic returns to participating fishermen. A primary objective of delaying the season opening date would be to harvest during optimal conditions.

In past years, the race for fish (e.g., the Pacific cod TAC) in the GOA would have made a proposal to delay the season entirely unworkable. However, two recent amendments provide conditions that may allow a season delay to work, at least in some situations. First, Amendment 86 has reduced the number of latent licenses in the fixed gear fisheries, and requires a Pacific cod endorsement for all fixed gear vessels >26 ft., which prevents new vessels (those without historic participation) from entering the fishery without obtaining an already existing LLP with the appropriate Pacific cod endorsement. Second, Amendment 83, which will be implemented for the 2012 fishing year, has established explicit allocations of Pacific cod TAC by gear, vessel size, and processing type. This allows individual sectors to harvest their Pacific cod without the competition of other sectors within their gear group.

Another objective of delaying the Pacific cod season, for at least some sectors, would be to provide vessels with additional fishing opportunities. In particular, the State managed fisheries for Tanner Crab in the WGOA (State regulatory Area M), and Central GOA areas of Chignik (Area L), and Kodiak (Area K) have been open in recent years. State regulations prohibit any vessel fishing with pot gear for two weeks prior to the opening for Tanner crab, which occurs January 15. The fixed gear opening for Pacific cod in the federal WGOA and CGOA is currently January 1, but the State waters Tanner crab fisheries open January 15. Therefore, participants using pot gear are forced to choose whether to fish for Pacific cod the first two weeks of the year and forego fishing for Tanner crab, or to refrain from fishing cod with pot gear and fish Tanner when the season opens. Vessels using trawl gear are similarly conflicted, due to the close opening of the Tanner crab fishery and the Pacific cod fishery when the season opens on January 20. Some of the smaller vessels in the WGOA in particular, are combination vessels that can fish with different gear types such as trawl, pot, and seine.

Possible alternatives to consider

If the Council intends to initiate an analysis at this time, it would need to specify alternatives to be considered. In identifying alternatives, the Council should consider that greater specificity and focus will contribute to a more coherent and informative analysis. An alternative (or amalgam of alternatives) that simply suggests that the Council would like to consider moving A season openings from their current dates to some time on or before February 20th with the ability to select different dates for each area/gear type/operation type make the analysis intractable. To develop tractable alternatives, the Council should attempt to identify specific sectors that will be subject to the action and the specific dates on which fisheries would be opened. Even with such focus, if the action affects several fleets, it is likely that the

analysis will be quite complex and could require extensive staff and Council time for development of the analytical package. To aid the Council, staff has developed the following alternatives for the consideration, based on previous Council discussions of this issue:

Alternative 1: Status Quo. WGOA and CGOA Pacific cod fisheries open on January 1 for fixed gear and January 20 for trawl gear.

Alternative 2: Change A season opening dates for all sectors in the WGOA and CGOA Pacific cod fisheries to February 20.

Alternative 3: Change A season opening dates for any combination of sectors in the WGOA and/or CGOA Pacific cod fisheries to February 20 or some other date.

Option 1: Western GOA (area 610)

Gear type

1. Jig

Opening date

- (1) February 1
- (2) February 20

2. Pot

Opening date

- (1) February 1
- (2) February 20

3. Longline

Catcher vessel (CV)

Opening date

- (1) February 1
- (2) February 20

Catcher processor (CP)

Opening date

- (1) February 1
- (2) February 20

4. Trawl

Catcher vessel (CV)

Opening date

- (1) February 1
- (2) February 20

Catcher processor (CP)

Opening date

- (1) February 1
- (2) February 20

Option 2: Central GOA (area 620 and 630)

Gear type

1. Jig

Opening date

- (1) February 1
- (2) February 20

2. Pot

Opening date

- (1) February 1
- (2) February 20

3. Longline

Catcher vessel (CV)

Opening date

- (1) February 1
- (2) February 20

Catcher processor (CP)

Opening date

- (1) February 1
- (2) February 20

4. Trawl

Catcher vessel (CV)

Opening date

- (1) February 1
- (2) February 20

Catcher processor (CP)

Opening date

- (1) February 1
- (2) February 20

Rather than set the season opening date by gear and operation type, the Council could also consider adding further definition by defining the season based on the sector definitions of Amendment 83, if different dates were desired for each sector. Doing so would only require separation of the hook and line in the Central Gulf by vessel length (i.e., less than 50 feet/greater than or equal to 50 feet).

Even if the Council decided to examine only a few specific alternatives for analysis, it is likely that the Council action would not be possible until late in 2012. Given the lengthy rulemaking and regulatory process, the earliest possible implementation of a delayed A season for Pacific cod would likely be in 2014, if approved and given a high priority for tasking; however, this timeline could be extended, especially if it is determined that the proposed action would require a formal ESA Section 7 consultation relative to Steller sea lions.

Appendix 1. Analytical Issues Identified

Implied by the Council's motion language and inferred intent, following is an outline of the myriad of issues that will likely be affected by any change to the GOA Pacific cod A season opening date and thus will require discussion and analysis:

- A. Magnitude of effects based on length of delay
 - a. Evaluation of the different magnitudes of potential effects due to delaying the A season opening date
 - i. E.g., 3 days, vs. 1 week, vs. 2 weeks, vs. 1 month → possible Council motion options
 - ii. Analysis: catch effort by day, week, 2 weeks, etc.
 - b. Impact on A season closing dates, because the changed A season opening date would be fixed), and B season opening and closing dates
- B. *What would happen in each of the Pacific cod fisheries?* Discuss by management area and gear type:
 - a. Would the fish be more concentrated as pre-spawning aggregations on the grounds during the season?
 - b. How would it affect vessel operating costs?
 - c. Would it affect the number of participating vessels?
 - i. Analysis: participation in the GOA Pacific cod fisheries
 - d. Would it affect any BSAI fisheries, especially Tanner crab fisheries?
 - e. How might it change total ex-vessel value of cod? Of roe and milt?
 - i. Analysis: revenues from the GOA Pacific cod fisheries
 - ii. How might it change the quality of roe?
 - f. How would it change pacific cod catch rates?
 - g. How would it affect delivery schedules
 - h. Would gear group conflicts arise?
 - i. Are there other fisheries where catch would be stranded?
 - j. What have been the trends in each fishery?
 - i. E.g., the GOA Pacific cod jig fishery have generally harvested less than 1 percent of its annual TAC, but there has been a notable increase in fishing effort in the State waters GHJ fishery
- C. American Fisheries Act (AFA) sideboard and sideboard exempt vessels' fishing patterns
 - a. Introduction: "Sideboards" are restrictions placed on vessels and/or LLP licenses to prevent "spillover" effects from potential increases in effort when management programs free up vessels from participation in other fisheries. These include the AFA, crab rationalization, rockfish pilot program, and Amendment 80, all of which authorize vessel cooperatives. Sideboards apply to non-AFA crab vessels that fished snow crab from 1996-2000 and to any vessels fishing under any LLP groundfish licenses derived from those vessels. Any transferable LLP license derived from an AFA vessel is transferable for use only on another AFA vessel.
 - b. Analysis: amounts, recent latency, List of GOA Sideboard Vessels, etc.
 - i. Tanner crab in Western Area (and BSAI), AFA vessels, and pot and trawl vessels
 - ii. Central Area?
- D. Prohibited Species Catch (PSC) and bycatch rates
 - a. *How would a delay change bycatch rates for halibut and Chinook and chum salmon?*
 - i. E.g., Introduction: "To meet the management objectives for GOA Pacific cod fisheries and the seasonal harvest targets set during the harvest specification process, NMFS requires vessel operators fishing in Federal waters to comply with various restrictions, including fishery time and area closures and halibut prohibited species catch (PSC) limits. PSC limits and caps on the removal of PSC species, such as halibut, Chinook, and chum salmon, can limit fishing activity once those limits are taken."

- b. Estimation of PSC and bycatch rates for halibut, Chinook, and chum
 - i. Halibut – “The fisheries that result in the highest halibut PSC in the GOA are the Pacific cod trawl and longline/HAL fisheries
 - 1. *For the purpose of setting halibut PSC limits, the GOA Groundfish FMP sets separate PSC limits for trawl fisheries (2,000 mt) and hook-&-line (HAL, or longline) fisheries (300 mt). The Pacific halibut PSC HAL limits are apportioned between demersal shelf rockfish (typically, 10 mt) and all species other than demersal shelf rockfish (typically, 290 mt). The Pacific halibut PSC trawl limits are apportioned between the deep-water species complex and the shallow-water species complex. Pacific cod is a shallow-water species complex.*
 - 2. *Current PSC limits of Pacific halibut concern the Council because these limits have remained unchanged since their implementation in 1986 for trawl fisheries at 2,000 mt and reduced to 300 mt in 1995.*
 - 3. *Recent declines in halibut biomass, particularly in the GOA, have exacerbated general Council concerns about levels of incidental removals of PSC in GOA groundfish fisheries because of the potential effect of PSC on reduced availability of halibut to other user groups.”*
 - 4. Council Actions updates
 - a. Halibut Catch Share Program – delayed; IPHC upcoming meeting
 - b. Amd 83 (December 2009)
 - c. GOA Central Rockfish Catch Share Program (June 2010)
 - ii. Chinook salmon – “Chinook salmon is a prohibited species in the GOA and its capture must be avoided. There have not been, however, specific management measures to minimize the capture of PSC Chinook.”
 - 1. Council Action(s) update:
 - a. *In June 2011 Council adopted a PSC limit of 25,000 Chinook salmon for the western and central GOA pollock fisheries. Upon implementation the annual cap would be apportioned by area, and would close the pollock fishery in each area once the PSC limit is reached.*
 - c. Relationships of delayed A Season opening dates to rates
 - d. Bycatch in Western versus Central – differences?
 - e. Analysis:
 - i. halibut Discard Mortality Rates (DMRs) by gear type and area
 - ii. halibut PSC limits, allowances, and seasonal apportionments
 - iii. between trawl gear (deep- and shallow-water), HAL
- E. Other GOA non-cod fisheries
 - a. *How might a delay affect participation and catch in other fisheries the vessels prosecute?*
 - b. Non-cod groundfish fisheries to analyze (non-exhaustive): pollock, sablefish, rockfish, sharks, octopuses, sculpins, skates, etc.
 - c. *Crab PSC – FMP delegating to the State, State regulations and seasons
 - i. E.g., AFA fishes on A season quota early in the season in the Pollock fishery
 - d. Salmon PSC – Salmon FMP revisions and updates, Pacific Salmon Treaty (PST) limits
 - e. Halibut – IPHC meeting, Treaty limits, NMFS CSP, Halibut Act
 - i. Seasonal halibut apportionment – 4 releases for trawl gear, deep- shallow-water components: *would need to adjust to accommodate the season date change*
 - f. Analysis: TAC amounts from the most recent harvest specifications
 - i. *Would they be able to take the entire TAC?*
 - g. SSL mitigation measures in other fisheries affected by a change in the A season date
- F. Processing Considerations
 - a. *How might a delay affect processors and communities?*

- b. Inshore (shoreside plants, stationary floating processors, CPs and motherships < 125 ft.); offshore (all others)
 - c. Changes under Amd 83 – inshore/offshore requirement eliminated; now A (60%) and B (40%) considerations
 - i. E.g., Processors would likely prefer not to change the A season opening dates because they are able to start up their plants to process Pacific cod starting January 1. Delaying the opening of the A season could force processors to process more Pacific cod in February when processors are very busy processing Pollock.
- G. Impacts on Steller Sea Lion (SSL) protection measures
- a. *Would a delay have positive or negative impacts on SSLs?*
 - b. *What would be the effects on existing mitigation measures?*
 - i. E.g., Introduction: Harvest control rules for Pacific cod have been established so that fishing rates drop abruptly at low biomass levels to account for Steller sea lion prey needs.
 - c. *Would the change require a formal or informal ESA consultation?*
 - i. E.g., ‘Trigger’ language: “Based on the most recent completed biological opinion, these harvest restrictions decrease the likelihood of disturbance, incidental take, and competition for prey to ensure the groundfish fisheries do not jeopardize the continued existence or modify the designated critical habitat of the western DSP of SSL. Any changes to these restrictions on the GOA Pacific cod fishery are likely to require re-initiation of ESA Section 7 consultations.”
 - d. SSL protection measures and distribution of catch between A and B seasons (RPAs)
 - i. Information on the flexibility under SSL mitigation measures to adjust season dates
- H. Maximum Retainable Amounts – incorporate NMFS inseason management?
- a. E.g., Introduction: In the GOA Federal regulatory areas, all incidentally caught Pacific cod must be retained during the directed Pacific cod season. When the directed fishing for Pacific cod is closed, incidentally caught Pacific cod in Federal waters (3 nm to 200 nm), can only be retained up to a maximum retainable amount (MRA) established at 20 percent (§ 679.20(e)(1)). The MRA limits the amount of catch for species not open for directed fishing that may be retained to a percentage of those species open for directed fishing. Vessels fishing in the halibut and sablefish individual fishing quota (IFQ) fisheries are required to retain Pacific cod up to the MRA (see § 679.27(c)(2)), unless NMFS has prohibited the retention of this species (see § 679.7(f)(8)(i)(B)).
 - b. Analysis: MRA rates for most recent full year, by gear type
- I. Community and Socio-Economic considerations
- a. NMFS: Orthodox calendar, boat repairs, stand-down times, etc.
 - b. Is there any economic value added that is derived from a delay?

Etc. – this outline is not exhaustive

**Gulf of Alaska Pacific Cod Jig Fishery – Management Update and Reverse Parallel Fishery
North Pacific Fishery Management Council and Alaska Board of Fisheries
March 2012**

I. Introduction

Council staff have coordinated with the State, NMFS, and NOAA General Counsel to update this management report with new Federal and State Pacific cod regulations, catch data as is available at the time of document release, to clarify the legal authority and management issues described within, and to describe the conditions under which a reverse parallel fishery could provide additional harvest opportunities. A reverse parallel fishery could provide harvest opportunities in Federal waters for jig vessels under conditions where GHL is available but the Federal TAC has been taken.

The Pacific cod (*Gadus macrocephalus*) fisheries in the Gulf of Alaska (GOA) are currently prosecuted under three distinct management structures: the Federal fisheries, State of Alaska (State) fisheries, and the state-waters parallel fisheries. Pacific cod fisheries in waters 3 to 200 nm offshore are managed federally through the National Marine Fisheries Service (NMFS) under the *Fishery Management Plan for Groundfish of the Gulf of Alaska* (FMP), adopted by the North Pacific Fishery Management Council (Council). Federal regulations specify the amount of annual total allowable catch (TAC) assigned to jig vessels. Sixty percent of the Federal TAC is allocated to the A season that opens on January 1. Forty percent of the Federal TAC is allocated to the B season and is available beginning June 10.

The State fisheries for Pacific cod in State waters 0 to 3 nm offshore are managed by the Alaska Department of Fish and Game (ADF&G), under Board of Fisheries (Board) management plans. The State manages its own exclusive allocation of Pacific cod under guideline harvest level (GHL) regulations. The State also opens its waters to allow jig fishermen to catch Pacific cod allocated to the Federal TAC – the parallel fishery. The Federal TAC fishery and State parallel fishery are opened and closed concurrently. The State does not allow concurrent opening of a parallel fishery and a State GHL fishery within State waters. Historically, there has not been concurrent fishing under a State GHL fishery occurring in State waters and a Federal TAC fishery occurring in Federal waters at the same time. State GHL fisheries are typically open when the Federal and parallel fisheries are closed (see Figure 1, page 6).

A. Summary

As one of the most valuable fish species in the GOA, Pacific cod is the primary species targeted by vessels using pot and hook and line (i.e., longline) gear, and is an important species for vessels using trawl gear. Smaller amounts of Pacific cod are harvested by vessels using jig gear. The jig fishery, though relatively small, is a key fishery in the GOA, providing entry-level opportunity into area fisheries and contributes to a diversified fishing portfolio for combination fishing vessels throughout GOA coastal Alaskan communities. The Council has also exempted jig gear from the License Limitation Program (LLP) licensing requirements in the Western and Central GOA (Amendment 86, effective April 21, 2011) to potentially increase opportunities for jig vessels.

There have been many developments in management of the GOA Pacific cod fisheries since the Council passed its motion on the Amendment 83 sector split in December 2009. The timeline below highlights events over the last three years concerning development of the Federal rule on the sector split (effective January 1, 2012) and management of the GOA Pacific jig fisheries.

Recent actions taken by the Board and the implementation of Amendment 83 jig season dates (described in Section II.C.) provide the jig fleet the ability to harvest Pacific cod concurrently in State and Federal waters. Specifically, jig vessels can harvest in the parallel fishery concurrent with the Federal fishery.

Table 1. The Federal and State regulatory process for the GOA Pacific cod jig fisheries

April 2009	Council action to exempt jig vessels from LLP license requirement (Amendment 86)
December 2009	Final Council action on Amendment 83, GOA Pacific cod sector split; Joint Protocol Committee meeting on Federal actions in GOA Pacific cod fishery
December 2010	Council review of discussion paper on management of the GOA Pacific cod jig fishery
April 2011	Council receives Initial Review/Final Action analysis to revise GPA Pacific cod jig fishery management; Council postpones taking action to allow for recommendations from and actions by the Board of Fisheries on management of the State waters jig fisheries
May 2011	NMFS releases early draft rule implementing the sector split in response to questions raised by ADF&G (see Attachment E)
July 2011	NMFS' draft rule published July 26, 2011 (76 FR 44700)
September 2011	Public comment period closes September 9; draft rule receives Secretarial approval
October 2011	Board holds regulatory meeting on GHJ and parallel Pacific cod fisheries in the Prince William Sound, Cook Inlet, Chignik, Kodiak, and South Alaska Peninsula areas
December 2011	Council reviews staff report on GOA Pacific cod jig fishery management
December 2011	Final rule implementing Amendment 83 published December 1, 2011 (76 FR 74670)
January 1, 2012	Implementation of GOA Pacific cod sector allocations by area and gear type for 2012
March 2012	Joint Protocol Committee meeting presentation and update
March 2012	Council will review the management report, a discussion paper on limiting other gear on board jig vessels, and a discussion paper on changing the GOA Pacific cod A season opening dates

II. Council, NMFS, and Board Actions

A. Sector splits under Amendment 83 – jig allocations

At its December 2009 meeting, the Council established sector allocations in the Western and Central management areas. In its final action, the Council also supported increasing entry-level fishing opportunities for the jig sector, recognizing that fishery as the primary tool for the Council to provide true entry-level fishing opportunity in the GOA. Through Pacific cod sector splits, the Council intended to enhance stability in the GOA fisheries, to reduce competition among the gear type and area sectors, and to preserve the historic distribution of catch among sectors. The jig sector, however, received an initial allocation *higher* than its historic catch: **1.5% of the Western and 1% of the Central TAC**. In addition, the jig allocation will increase by 1% if 90% of the TAC in an area is harvested in any given year; i.e., the jig sector will “step-up” by 1%, to be capped at 6%. The jig allocation will decrease, however, by 1% in the following year if at least 90% of the previous allocation is not harvested within *two consecutive years*; i.e., the jig allocation will “step-down” by 1%, but will not fall below the initial allocation of 1.5% and 1% to the Western and Central areas, respectively.

As mentioned before, the Council apportioned 60 % of the Federal TAC to the A season and 40% to the B season. The Council recommended changing the B season opening date for jig gear to June 10 or after the State GHJ jig fishery closed, in order to provide a year-round Pacific cod fishery for jig vessels. The A season would open on January 1 and close when the TAC was reached or on March 15, whichever occurred first. (This March 15 date certain is now moot as it was not adopted in the final rule implementing sector splits, which is explained in Sections II.C. through II.F.

B. The reverse parallel fishery concept

The Council's final action on sector allocations outlined options for revising management of the GOA Pacific cod jig fisheries, requiring coordination between the Council and the Board, and tasked staff with developing a discussion paper. At the December 2010 meeting, the Council reviewed this paper and initiated an analysis of alternative management measures intended to ensure full access by the jig fleet to GOA Pacific Cod Jig Management, March 2012

harvest both State (GHL) and Federal (TAC) jig allocations, i.e., a so-called “reverse parallel fishery” that would open Federal waters to jig gear concurrent with the State GHL fishery. Any harvest that occurred either in State or Federal waters would be deducted from the State GHL allocation after the Federal/parallel TAC was exhausted.

In its motion, the Council recognized that a number of factors may contribute to limiting jig harvests in both state- and federally-managed fisheries. Typically the pot GHL is fully harvested but jig harvests have been very low in some years and un-harvested jig GHL may be rolled over to the pot GHL fishery later in the year, typically after the Federal B season closes. However, in some years, the Federal B season has remained open to vessels using fixed gear from September 1 until December 31, and the B season TAC was not fully harvested. During those years, State managers did not have the opportunity to re-open the State waters season in the fall and roll over unused jig GHL to the pot GHL fishery. Further, the timing of the A and B seasons may have limited the participation of jig vessels in the Federal/parallel fisheries.

At the April 2011 Council meeting, the Council considered a proposal to open Federal waters to directed fishing for Pacific cod with jig gear concurrent with the State GHL fishery. The Council selected Alternative 2, which proposed implementing a reverse parallel fishery, as its preliminary preferred alternative (PPA). Under the reverse parallel fishery, operators using jig gear would have an enhanced opportunity for year-round access to Federal waters. Catches in Federal waters would accrue to the State GHL, which is specified as a percentage of the GOA Pacific cod ABC (currently maxed out at 25%). Under the status quo at that time, jig operators would have had access to Federal waters only during the Federal/parallel fisheries A and B seasons, thus timing of the jig fishery could still be a factor limiting jig catches. The Council postponed further action until a time not sooner than the December 2011 Council meeting in order to provide an opportunity for the Board to comment and take action during its Pacific cod regulatory meeting in October

The Council also added an option to Alternative 2 limiting vessels participating in the Federal jig fishery from having any other gear type onboard and requested that staff include a comparison of State and Federal management regulations in any future analysis (see Tables 2 and 3). This is the subject of a separate discussion paper and will be considered with or without a reverse parallel fishery.

C. NMFS’ Amendment 83 draft rule

In its final action on the sector split in December 2009, the Council recommended the Federal jig sector allocation be divided between an A and B season. The A season would open January 1 and close when the A season allocation was reached or on March 15, whichever occurred first.¹ The B season jig fishery would open June 10 or after the State GHL season closes, whichever occurs later. The Council recommended the March 15 closure date, in part, after reviewing the historic Western and Central GOA Federal A season closure dates. The Council’s recommendations, however, did not account for the different regulatory triggers that open the five State waters GHL fishery in each of the State management areas.

The Council contemplated reciprocal regulatory action by the Board to synchronize the State and Federal seasons. The Board, however, had yet to recommend similar action to establish a seamless jig fishery season. NMFS chose not implement the March 15 deadline in its draft rule and instead proposed that the fishery close when the TAC is harvested or on June 10, whichever occurs first, with the intent to provide a seamless Federal jig fishery while providing the Board the flexibility necessary to open and close the GHL and parallel fisheries in each State management area. Harvest from the Federal and parallel fisheries would be deducted from the TAC, and harvest from the state GHL fishery would be deducted from the GHL.

¹ Again, the March 15 date certain was not adopted in the final rule implementing the Amendment 83 sector splits.

Moreover, the language of the Council's April 2011 motion was not sufficiently clear in regards to opening the Federal B season, mentioning only one GHL season closure as the trigger for opening the B season. There are, however, different GHL closure dates for each of the State management areas depending on the harvest rate and overall GHL available to jig gear. In some areas the GHL season is not closed and GHL is left un-harvested annually, such as in the Chignik management area. To implement the Council's motion, NMFS would need to rely on State closure of a GHL fishery to begin the B season fishery. Due to the ambiguous definition of "a GHL fishery," NMFS could not precisely determine which closure of which GHL fishery would be used to establish the opening date of the Federal B season fishery. This lack of specificity was particularly problematic in the Central GOA, which has four State-managed GHL fisheries: Prince William Sound, Cook Inlet, Kodiak, and Chignik. The Council did not specify if one, two, three, or all four State GHL fisheries would need to be closed by the State before the Federal B season jig fishery could open.

Due to this lack of specificity, NMFS proposed to retain the current jig B season opening date of June 10 in its draft rule, under which the Federal B season jig allocation would remain open from June 10 until the jig TAC is reached, or December 31, whichever occurs first. NMFS released an early version of its draft rule on regulations to implement the sector split on May 3, 2011 in response to questions raised by ADF&G on Amendment 83, which was also available for review by the Board on August 28, 2011. The comment period for the draft rule closed on September 9, 2011, and the Secretary of Commerce approved the final rule in late September 2011.

Table 2. Federal Regulations for Pacific Cod in the GOA (updated as of January 1, 2012)
Source: NPFMC and NMFS

Pacific cod fisheries of the Exclusive Economic Zone, Gulf of Alaska			
	Western	Central	Eastern
NMFS Area(s)	610	620, 630	640, 649, 650, 659
State Area(s)	South Alaska Peninsula (M) Chignik (L)	Kodiak (K) Chignik (L) Cook Inlet (H)	Prince William Sound (E)
Management Plan	<i>Fishery Management Plan for Groundfish of the Gulf of Alaska</i> 50 CFR parts 600, 679-80		
Legal Gear See §679.2	All: trawl, pot, jig, and hook-and-line (i.e., longline) (Subject to limitations, §679.24)		
A Season, 60% TAC §679.23(d)(3)	January 1 – June 10 for hook-and-line, pot, and jig gear January 20 – June 10 for trawl gear		N/A – annual, all gears
B Season,^a 40% TAC §679.23(d)(3)	June 10 – December 31 for jig gear ^b September 1 – November 1 for trawl gear September 1 – December 31 for hook-and-line and pot gear		N/A – annual, all gears
Annual TAC by Gear/Operation Type §679.20(a)(12) or by Processing Type §679.20(a)(6)(ii)			
Inshore / Offshore	N/A		Inshore: 90% Offshore: 10%
Jig (off the top)	1.5% (1% step up possible, to 6% cap) ^c	1% (1% step up possible, to 6% cap) ^c	Annual TAC for all gears is approx. 3% of GOA total
Hook-and-line	CP: 19.8% CV: 1.4%	CP: 5.1% CV < 50 ft.: 14.6% CV ≥ 50 ft.: 6.7%	
Pot Gear	CV/CP: 38%	CV/CP: 27.8%	
Trawl Gear	CP: 2.4% CV: 38.4%	CP: 4.2% CV: 41.6%	
Pacific halibut PSC limits §679.21(d)	Ensures groundfish fisheries do not exceed a maximum mortality of Pacific halibut.		
Federal Fisheries Permit (FFP) §679.4(b)	All vessels targeting groundfish in Federal waters are required to have an FFP (see §679.4(b)(1)). Participants targeting Pacific cod are required to have a Pacific cod endorsement, (see §679.4(b)(5)(vi)) and meet observer requirements (see §679.50(a)). All harvesting vessels with an FFP endorsed with a hook and line, pot, or trawl Pacific cod endorsement are required to have an operational vessel monitoring system (VMS) as described at § 679.28(f)(6). Jig vessels are not required to use a VMS.		
LLP Requirement §679.4(k)	Participants in the groundfish fishery must have an LLP, which limits entry into the fishery. Jig vessels using up to a maximum of five jig machines, one line per jig machine, and a maximum of 30 hooks per line are exempt from the LLP requirements (see §679.4(k)(2)(iii)).		
Rollovers	Priority to CVs first, then to the combined CV and CP pot sector, and finally to all other CP sectors (see §679.20(a)(12)(ii)(B)), to be determined at the end of the B season.		
Sideboard limits	Apply to CVs qualifying under the AFA, crab vessels with QS, Amendment 80 vessels, and trawl CVs in the Rockfish program.		

^a Any A Season overage or incidental catch between June 10 and September 1 counts towards the B Season TAC.

^b Implementation of Amendment 83 changes the start date for the B season for jig gear from June 1 to June 10.

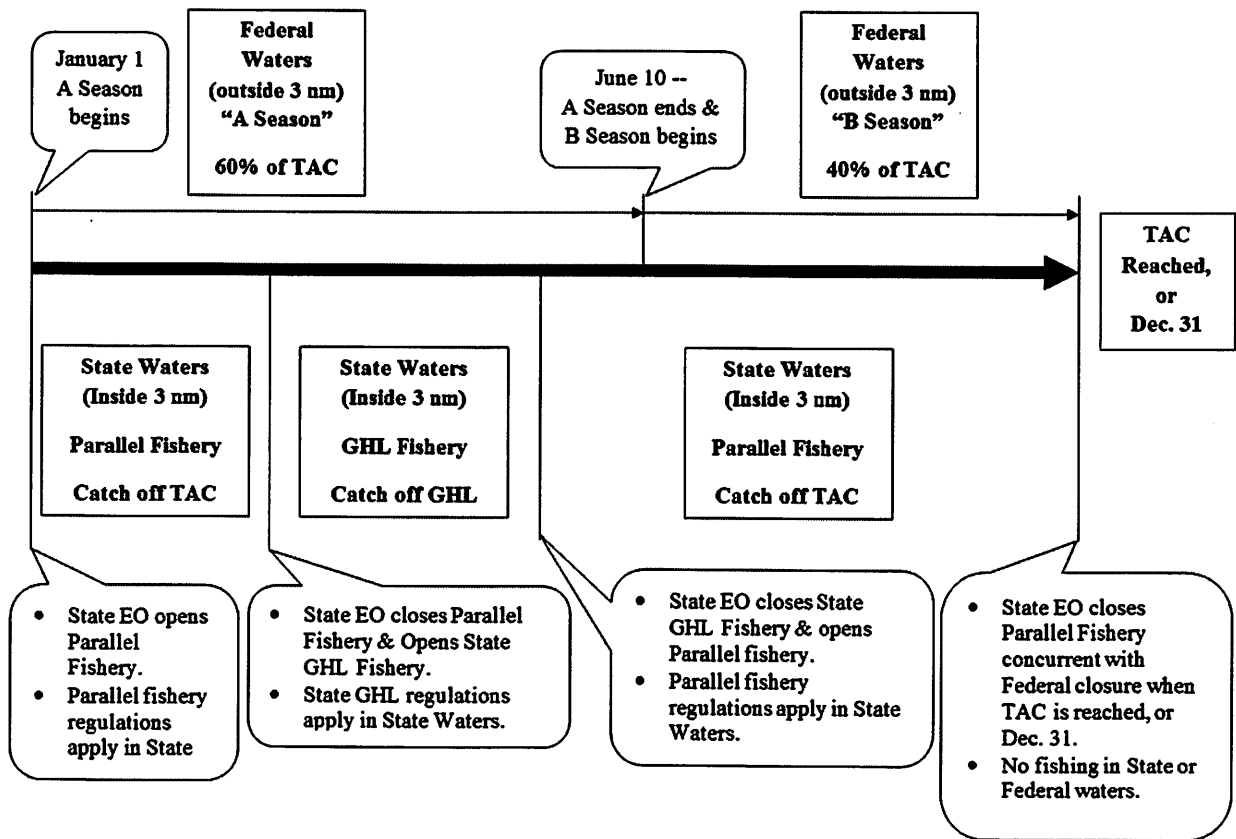
^c May increase by 1% if 90% of the allocation is harvested in a given year; will decrease by 1% in the following year if at least 90% of the previous allocation is not harvested in two consecutive years, but will not drop below the initial allocation.

D. Council and Board coordination

At its December 2009 meeting, the Council met jointly with the Board on management issues of mutual interest, which included GOA Pacific cod Federal actions. The Council recommended that Council staff attend future Board meetings to convey the Council's concerns on proposed increases to the GHL for Pacific cod in State waters.

At its October 2011 meeting in Dutch Harbor, the Council recognized that NMFS' proposed rule on the sector split provided the Board maximum flexibility management of the State GHL and parallel fisheries. The Council requested that the Board, at its October meeting, consider options to provide jig fishing opportunities concurrently in State and Federal waters, as proposed under the draft Amendment 83 sector split rule, when regulations allow and where the Board and State managers find it practical to implement. The Council further recommended that the Board focus on State water considerations relative to the Amendment 83 sector splits, and that any longer-term solutions should be a separate discussion at future Joint Protocol Committee meetings.

Figure 1. Schematic of Federal and State Pacific Cod Fishery Management
Source: NMFS



E. Board regulatory meeting on Pacific cod

At the Board's October 2011 meeting in Anchorage, Council Member Ed Dersham gave a presentation to the Board on the Council's actions regarding the GOA Pacific cod jig fishery and, along with Council and NMFS staff, tracked Board deliberations throughout the meeting. The Board took public comment on a myriad of issues relating to GOA Pacific cod, such as: options for opening and closing the State parallel and GHL fisheries; allocations between gear types; and stand-down time periods for switching gear types.

The Board recommended regulations for each State-waters Pacific cod management area that were generally consistent with Council recommendations and synchronized, to the extent practicable, GHL season opening and closing dates with the Federal jig seasons proposed under the draft rule implementing Amendment 83. The State management areas are: Prince William Sound (Area E), Cook Inlet (H), Kodiak (K), Chignik (L), and the South Alaska Peninsula (M). The Board chose not to recommend that the Council and NMFS implement a March 15 closure date for the Federal A season. Specifically, the Board recommended that ADF&G establish the authority for State managers to open a concurrent season in Kodiak and the South Alaska Peninsula based on an in-season assessment of effort, harvest rate, and remaining GHL quota. In the Chignik management area, the Board recommended that the State GHL seasons open on a date certain to ensure the opportunity for jig vessels to fully harvest the annual GHL. In Cook Inlet and Prince William Sound, the Board recommended that the State GHL seasons open after the Federal A season jig allocation is achieved. See Table 3 for the updated State regulations on Pacific cod.

In addition, the Board reviewed alternative management measures for consideration at an upcoming Joint Protocol Committee meeting, including the reverse parallel fishery concept and recommendations it received to consider possible increases in the State GHL fisheries. The Board will next take up management of Pacific cod for the 2012/2013 cycle on October 11 to 14, 2012, in Anchorage.

Table 3. State of Alaska, ADF&G GOA Pacific cod regulations (updated as of March 1, 2012)

Source: ADF&G

State Area	Prince William Sound (E)			Cook Inlet (H)		Kodiak (K)		Chignik (L)		South Alaska Peninsula (M)	
NMFS Area	630/640			630		620/630		610/620		610	
Board Management Plan	5 AAC 28.081, 5 AAC 28.267			5 AAC 28.081, 5 AAC 28.367		5 AAC 28.081, 5 AAC 28.467		5 AAC 28.081, 5 AAC 28.537		5 AAC 28.081, 5 AAC 28.577	
Opening Date	24 hours after Federal CGOA pot A-season	24 hours after Federal CGOA jig A-season	7 days after Federal CGOA <50' HAL A-season or concurrent with Halibut opening, whichever is later	24 hours after Federal CGOA pot A-season	24 hours after Federal CGOA jig A-season	7 days after Federal CGOA pot A-season	48 hours after Federal CGOA jig A-season*	7 days after CGOA pot A-season or March 7, whichever is later	March 15	7 days after WGOA pot A-season or March 7, whichever is later.	48 hours after Federal WGOA jig A-season**
Legal Gear	Pot	Jig/Hand troll	Longline	Pot	Jig/Hand troll	Pot	Jig/Hand troll	Pot	Jig/Hand troll	Pot	Jig/Hand troll
	5 AAC 28.050 5 AAC 28.230			5 AAC 28.050 5 AAC 28.330		5 AAC 28.050 5 AAC 28.430		5 AAC 28.050 5 AAC 28.530		5 AAC 28.050 5 AAC 28.570	
Gear Limits	60 pots, buoy tags required	5 lines, 30 hooks/line Limits may be removed after Oct. 30	No longlines after May 1	60 pots, buoy tags required	5 lines, 30 hooks/line Limits may be removed after Oct. 30	60 pots, buoy tags required	5 lines, 30 hooks/line Limits may be removed after Sept. 1	60 pots, buoy tags required	5 lines, 30 hooks/line Limits may be removed after Oct. 30	60 pots, buoy tags required	5 lines, 30 hooks/line
Allocations	60% before Oct. 1	None	None	85%	15%	50%	50%	90%	10% (step up to 25% possible)	Capped at 85%	None
Allocation to ≤58 ft. vessels	None			None		None		100%		100%	
Allocation to >58 ft. vessels	None			Capped at 25% prior to Sept. 1		Capped at 25% prior to Sept. 1		0%, although may be allowed to register after Oct. 30		0%, although may be allowed to register after Oct. 30	

Registration	Exclusive, may be lifted after Oct. 30	Exclusive, may be lifted after Oct. 30	Exclusive, may be lifted after Oct. 30	Superexclusive	Exclusive, may be lifted after Oct. 30
	5 AAC 28.020, 5 AAC 28.206	5 AAC 28.020, 5 AAC 28.306	5 AAC 28.020, 5 AAC 28.406	5 AAC 28.020, 5 AAC 28.506	5 AAC 28.020, 5 AAC 28.556
Rollover	Oct. 1	Sept. 1	Sept. 1	Aug. 15	Oct. 31
Delivery requirement	24 hours after close	24 hours after close	48 hours after close	48 hours after close	48 hours after close
	5 AAC 28.271	5 AAC 28.371	5 AAC 28.471	5 AAC 28.541	5 AAC 28.581
Bycatch and Retention requirements	Unless otherwise specified, 20 % of the total round weight of Pacific cod aboard the vessel. All pollock must be retained if the directed pollock season is open. All rockfish must be retained. Rockfish in excess of 5% round weight of Pacific cod must be reported as bycatch overage on fish ticket. Lingcod may be retained after July 1 (with size restrictions).	Unless otherwise specified, 20 % of the total round weight of Pacific cod aboard the vessel. All pollock must be retained if the directed pollock season is open. All rockfish must be retained. Rockfish in excess of 5% round weight of Pacific cod must be reported as bycatch overage on fish ticket. Lingcod may be retained after July 1 (with size restrictions).	Lingcod: 5% of Pacific cod catch by weight, after July 1 only (with size restrictions). Skates and Octopus: 20% of Pacific cod catch by weight. Black rockfish: 5% unless registered for the directed fishery or otherwise specified. All other species follow NMFS bycatch percentages.	All species not actively managed by the state follow NMFS bycatch percentages. Unless otherwise specified, bycatch limit for any species of groundfish is 20% by weight of Pacific cod.	All species not actively managed by the state follow NMFS bycatch percentages. Unless otherwise specified, bycatch limit for any species of groundfish is 20% by weight of Pacific cod. Black and dark rockfish: 5% unless registered for the directed fishery.
	5 AAC 28.070 5 AAC 28.075 5 AAC 28.210 5 AAC 28.270	5 AAC 28.070 5 AAC 28.075 5 AAC 28.310 5 AAC 28.370	5 AAC 28.070 5 AAC 28.07 5 AAC 28.410 5 AAC 28.470 5 AAC 28.472	5 AAC 28.070 5 AAC 28.075 5 AAC 28.510 5 AAC 28.540	5 AAC 28.070 5 AAC 28.075 5 AAC 28.560

* If the Central GOA Federal/parallel A-season jig sector harvest allocation has not been achieved by March 15, the parallel (0 to 3 nm) jig gear sector A-season may close and the Kodiak Area state-waters season for jig gear may open on March 15 or later, depending on ADF&G's ability to provide for orderly fisheries based on inseason assessment of effort, harvest rate or remaining quota.

** If the Western GOA Federal/parallel A-season jig sector harvest allocation has not been achieved by March 15, the parallel (0 to 3 nm) jig gear sector A-season may close and the South Alaska Peninsula Area state-waters season for jig gear may open on March 15 or later, depending on ADF&G's ability to provide for orderly fisheries based on inseason assessment of effort, harvest rate, or remaining quota.

F. Final Amendment 83, sector split rule

Because the Board chose not to recommend a March 15 closure date for the Federal A season jig fishery and synchronized State GHL season opening and closing dates with the A and B seasons proposed under NMFS draft rule, no changes were necessary to the rule implementing Amendment 83 and GOA Pacific cod sector splits. NMFS published the final rule on December 1, 2011 (76 FR 74670), and separate sector allocations were effective January 1, 2012.² Again, the jig sector received an initial allocation higher than its historical catch: 1.5% of the TAC in the Western GOA and 1% of the TAC in the Central GOA. The jig allocation will increase by 1% if 90% of the TAC is harvested in any given year (capped at 6%) and will decrease by 1% if 90% of the previous allocation is not harvested within *two consecutive years* (not to drop below initial allocations).

G. December 2011 Council meeting

At its December 2011 meeting, the Council received a management report from staff that summarized developments in the Amendment 83 rulemaking process and legal and management issues arising out of implementing a reverse parallel fishery for the jig sector. The question and answer exchange between the State and NOAA General Counsel on legal questions and concerns regarding implementation of a reverse parallel fishery was first made public within the management report (Attachment C), though the internal conversation took place in July, 2011. The Council expressed its desire for additional detail on the legal implications of a reverse parallel fishery for consideration at the future Joint Protocol Committee meeting.

H. March Joint Protocol Committee meeting and March/April Council meeting

The Joint Protocol Committee Meeting met on March 19, 2012, in Anchorage. The Joint Protocol Committee contains members of both the Council and the Board, to coordinate between both regulatory bodies. Among other issues of mutual interest, the Committee received staff presentations and briefing materials on three Council discussion papers concerning the management of GOA Pacific cod: 1) this updated management report on the reverse parallel fishery discussion; 2) revising the Federal A season opening date(s); and 3) prohibiting other gear onboard vessels jigging for cod. Because Amendment 83 has only recently been implemented, it is unclear whether the conditions that a reverse parallel fishery would address (e.g., no Federal TAC but adequate State GHL) will occur.

Any Board recommendations not incorporated in NMFS' final Amendment 83 rule will need to occur through the Joint Protocol Committee as a subsequent action that will include the Council's public process, and notice and comment rulemaking. Any subsequent Council and Federal action would not likely be implemented until the 2014 fishing season. The Council will consider these issues at its March/April 2012 meeting and would benefit from any recommendations or discussions of the Joint Protocol Committee.

III. Recent Catch Data

A. Federal TAC fishery – 2012/2013 seasons

The final 2012/2013 harvest specifications were published in the Federal Register on March 14 (77 FR 15194). Overall, the 2012 Pacific cod allocations by area is similar to the allocations in 2011. The Central GOA received 44,363 mt in 2012 compared to 40,362 in 2011. The Western GOA received 21,024 mt in 2012 compared to 22,785 mt in 2011. In addition, all crab vessel sideboard fisheries are closed in the Western and Central GOA. The revised 2012 and 2013 TAC harvest specifications are

² The final rule may be found at: <http://alaskafisheries.noaa.gov/frules/76fr74670.pdf>

provided below in the following Tables:

Table 4. Final 2012 Seasonal Apportionments and allocation of Pacific Cod TAC for the Western, Central and Eastern areas (as of March 14, 2012)

Regulatory area and sector	Annual allocation (mt)	A Season		B Season	
		Sector percentage of annual non-jig TAC	Seasonal allowances (mt)	Sector percentage of annual non-jig TAC	Seasonal allowances (mt)
Western GOA					
Jig (1.5% of TAC)	315	N/A	189	N/A	128
Hook-and-line CV	290	0.70	145	0.70	145
Hook-and-line C/P	4,100	10.90	2,257	8.90	1,843
Trawl CV	7,952	27.70	5,738	10.70	2,216
Trawl C/P	497	0.90	186	1.50	311
All Pot CV and Pot C/P	7,869	19.80	4,100	18.20	3,769
Total	21,024	60.00	12,614	40.00	8,410
Central GOA					
Jig (1.0% of TAC)	427	N/A	256	N/A	171
Hook-and-line <50 CV	6,174	9.32	3,938	5.29	2,235
Hook-and-line ≥50 CV	2,835	5.61	2,372	1.10	484
Hook-and-line C/P	2,158	4.11	1,736	1.00	422
Trawl CV	17,581	21.14	8,936	20.45	8,645
Trawl C/P	1,775	2.00	847	2.19	928
All Pot CV and Pot C/P	11,755	17.83	7,538	9.97	4,217
Total	42,705	60.00	25,623	40.00	17,082
Eastern GOA		Inshore (90% of Annual TAC)		Offshore (10% of Annual TAC)	
	1,971		1,774		197

Table 5. Final 2013 Seasonal Apportionments and allocation of Pacific Cod TAC for the Western, Central and Eastern areas (as of March 14, 2012)

Regulatory area and sector	Annual allocation (mt)	A Season		B Season	
		Sector percentage of annual non-jig TAC	Seasonal allowances (mt)	Sector percentage of annual non-jig TAC	Seasonal allowances (mt)
Western GOA					
Jig (1.5% of TAC)	328	N/A	197	N/A	131
Hook-and-line CV	301	0.70	151	0.70	151
Hook-and-line C/P	4,259	10.90	2,345	8.90	1,915
Trawl CV	8,261	27.70	5,959	10.70	2,302
Trawl C/P	516	0.90	194	1.50	323
All Pot CV and Pot C/P	8,175	19.80	4,259	18.20	3,915
Total	21,840	60.00	13,104	40.00	8,736
Central GOA					
Jig (1.0% of TAC)	444	N/A	268	N/A	177
Hook-and-line <50 CV	6,413	9.32	4,091	5.29	2,322
Hook-and-line ≥50 CV	2,948	5.61	2,464	1.10	482
Hook-and-line C/P	2,242	4.11	1,804	1.00	438
Trawl CV	18,263	21.14	9,282	20.45	8,981
Trawl C/P	1,844	2.00	880	2.19	964
All Pot CV and Pot C/P	12,212	17.83	7,831	9.97	4,381
Total	44,363	60.00	26,618	40.00	17,745
Eastern GOA		Inshore (90% of Annual TAC)		Offshore (10% of Annual TAC)	
	2,047		1,842		205

Note that the final 2013 seasonal apportionments do NOT reflect the anticipated 1% step-up for the Western and Central areas. Assuming the same overall TAC amounts for Pacific cod as in 2012 (21,840 mt for the Western GOA and 44,363 mt for the Central), with a 1% step-up the Western GOA will receive 2.5% of the

overall TAC for Pacific cod, or approximately 546 mt (1.2 million lbs.); the Central GOA will receive 2% of the TAC, or approximately 888 mt (2 millions lbs.). As of March 10, NMFS recorded fisheries closed to prevent the sector from exceeding its TAC and made the following closure projections for the different sectors:³

Table 6. Central GOA Pacific cod sectors (current through March 10, 2012)

Jig	Closed March 6, through June 10 (SFD Info Bulletin 12-25).
Hook-and-line CP	Closed February 23, through September 1 (SFD Info Bulletin 12-20).
Hook-and-line CV < 50 ft.	Closed March 4 (SFD Info Bulletin 12-24)
Hook-and-line CV ≥ 50 ft.	14 CVs have reported 1,754 mt. Setting aside 100 mt for incidental catch and at the current weekly rate of 285 mt per week, the remaining 513 mt is expected to be reached in 12 days (~March 22). Catch rates increased to 285 mt for the week of March 10 compared to 131 mt for the week of March 3.
Pot CV/CP	Closed February 10 (SFD Info Bulletin 12-11)
Trawl CV	42 CVs have reported 4,423 mt. Setting aside 1,800 mt for incidental catch, 2,713 mt remains. Catch rates increased to 1,371 mt for the week of March 10 compared to 1,090 mt for the week of March 3. The fleet is targeting B season pollock starting March 10, 2012.

Table 7. Western GOA Pacific cod sectors (current through March 10, 2012)

Jig	13 vessels have reported 68 mt and 121 mt remains. Catch rates are 17 mt for the week of March 10 compared to 15 mt for the week of March 3. NMFS expects the catch rates to decrease for the week of March 24 with the closure of the parallel waters fishery by the State. No closure date is projected for the federal fishery at this time.
Hook-and-line CP	5 vessels have reported 1,640. Setting aside 55 mt for incidental catch, 563 mt remains. Catch rates have decreased and at the current rate a closure is not projected.
Hook-and-line CV	Setting aside 15 mt for incidental catch, 61 mt remains in the directed fishing allowance.
Pot CV/CP	Closed February 6, 2012 (SFD Info Bulletin 12-10)
Trawl CP	Closed February 14 (SFD Info Bulletin 12-14)
Trawl CV	Closed February 22 (SFD Info Bulletin 12-18)

B. State of Alaska GHL Fisheries – 2012 season

The State of Alaska Pacific cod GHL jig fishery has five subareas that open per regulation or hinge on the Federal/parallel fishery closure date. See Table 3 for the details of the updated State Pacific cod fisheries regulations (as of March 1, 2010).

Prince William Sound (E)

The total Prince William Sound GHL allocation is 1.45 million pounds. The jig fishery opened on March 7, 2012, coinciding with the closure of the Federal/parallel fishery on March 6, 2012. The jig fishery will close when the allocation is reached or when the Federal B season opens on June 10, whichever occurs first. In addition, the fishery opened to pot gear on February 11, 2012. The longline fishery will open on March 17, 2012, concurrent with the IFQ halibut season opening date, and will close when 85% of the GHL is reached (1.23 million pounds). The Federal/parallel longline fishery closed on March 4, 2012 to vessels less than 50 ft LOA.

³ NMFS fishery summary as of March 15, 2012, current through March 10:
<http://www.fakr.noaa.gov/sustainablefisheries/reports/outlook.txt>

Cook Inlet (H)

The jig fishery opened on March 7, 2012, with an allocation of 700,000 pounds (15% of the area GHL). The parallel fishery closed on March 6, 2012, which coincided with the closure of the Federal Central GOA fishery. The jig fishery will close when the allocation is reached or when the Federal B season opens on June 10, whichever occurs first. In addition, the Pacific cod fishery opened to pot gear on February 11, 2012, with an allocation of 4.0 million pounds (85% of the area GHL), coinciding with the closure of the Federal/parallel fishery. The Cook Inlet fishery closed to pot vessels greater than 58 ft. LOA on March 2, which are restricted to 25% of the total area GHL (approximately 1.2 million pounds). Any remaining GHL after September 1, 2012 will be available to all gears with no vessel size restrictions.

Kodiak (K)

The Kodiak jig fishery opened on March 8, 2012 with an allocation of 7.845 million pounds. In addition, the Kodiak pot fishery opened at noon on February 17, 2012, coinciding with the closure of the Central A season pot gear sector. The pot fishery closed on March 1, 2012. The preliminary estimate is that 7.41 million pounds was harvested. Vessels longer than 58 ft. LOA were capped at 25% of the area GHL. By regulation, if the Central GOA Federal/parallel A-season jig sector harvest allocation has not been achieved by March 15, the parallel (0–3 nm) jig gear sector A-season may close and the Kodiak Area state-waters season for jig gear may open on March 15 or later, depending on ADF&G's ability to provide for orderly fisheries based on inseason assessment of effort, harvest rate, or remaining quota.

Chignik (L)

The jig gear fishery opens March 15, 2012, with an allocation of 1.1 million pounds (10% of the area GHL), coinciding with the Federal/parallel fishery closure on March 14, 2012. Vessels are limited to 58 ft. LOA. In addition, the State GHL fishery opened to pot gear on Wednesday, March 7, 2012 with an allocation of 9.88 million pounds (90% of the area GHL).

South Alaska Peninsula (M)

The jig fishery is expected to open March 19, 2012, with an allocation of 2.32 million pounds (15% of the area GHL), 48 hours after the Federal/ parallel fishery is expected to close on March 17, 2012. In addition, the South Alaska Peninsula pot fishery opened on Wednesday, March 7, 2012 with an allocation of 13.13 million pounds (85% of the area GHL). The Federal/parallel fishery closed to pot gear on February 10. All vessels participating in the South Alaska Peninsula Pacific cod GHL fishery may not exceed 58 ft. LOA.

IV. Discussion

A. Benefits of a reverse parallel fishery

The reverse parallel concept initially appears to primarily be of benefit to jig fishermen in the A season, in instances where federal TAC closures occur prior to mid-March, thereby allowing access to federal waters during the favorable fishing period from mid-March to late May. The Central GOA/Kodiak area appears to be the area where such a fishery construct may likely be most beneficial. To attempt to project the likely Federal A season duration—and thereby determine whether and to what extent the reverse parallel construct would accomplish the Council's intended goals—staff have examined catch data from State and Federal sources. Data examined included weekly catch rates in the State GHL fisheries from 2006 to 2011, weekly catch rates in the Federal/parallel fisheries from 2006-2011, overall catch rates from all sources from 2006-2011, and limited catch data (through February) for the current 2012 Federal/parallel fisheries. Ideally one would compare potential catch rates with projected TAC levels (e.g., in 2013 and

2014) to assess the likely duration of the Federal A season, and the potential for that season to extend beyond mid-March and thus overlap with the likely State GHL fishery, providing fishermen the opportunity to access Federal waters during the GHL fishery.

B. Analysis – uncertainty in projections

Such catch rate projections as described above are highly dependent upon the catch rates used (i.e., the Federal/parallel fisheries catch rates versus the Federal/parallel and GHL catch rates), the weeks or months that are utilized, and the weeks or months to which the average catch rates are applied, in order to make the Federal/parallel season-duration projections. Prior to 2012, there were no sector allocations and the Federal cod A season closures were based on the overall Pacific cod A season catch. State GHL seasons were opened in response to these overall closures, and were not predicated upon catch by the jig sector specifically. For example, the State GHL fisheries in the Kodiak and South Alaska Peninsula State GHL subareas have been fully taken prior to the start of the federal B season (June 10) since 2009, with the majority of effort and catch occurring March through May. The opening of the Kodiak area GHL fishery has been in early February over the past three years. The opening dates for the South Alaska Peninsula area have become earlier over time, from late March in 2008, to mid-March in 2009, to early March in 2010, and finally to late February in 2011. Overall, total jig catch has predominately been from state-waters fisheries, though it is uncertain to what extent that may change under the newly-implemented separate Amendment 83 sector allocations.

To underscore the uncertainty in calculating any Federal A season-duration projections at this time, simply using the average weekly catch rates in the Federal and parallel fisheries—irrespective of the number of unique vessels participating—during the A season by fishermen using jig gear in the two most recent years (2010 and 2011), it is projected that the 2013 A season Federal fishery could last through the entire fishing year in both the Western and Central GOA, based on current projected TAC levels (which assume the 1% step-up for 2013) and presuming no concurrent State GHL fishery.

On the other hand, if average weekly A season catch rates are used that include all jig fisheries—State GHL fisheries as well as Federal/parallel fisheries—and those rates are applied beginning January 1, 2013, the fishery could be projected to close in mid-February. Finally, looking at only the overall catch rates for the first two months of 2012, the fishery could be projected to last all year long in 2013.

All of the scenarios above are highly unlikely and are not realistic projections due to the following uncertainly factors:

1. The projections look only at the two most recent years (and only the first two months of 2012);
2. There is high variability regarding the number of vessels participating in the jig fishery between years;
3. There is high variability in participation between months within each year;
4. There is variability across years in the timing (opening) of the GHL fishery;
5. The Federal A season closures in 2010 and 2011 (and in all prior years) were based on overall cod catch before the sector allocations were in place; and
6. There is a high degree of uncertainty with regard to jig sector participation under the newly implemented Amendment 83 sector allocations (and the relative size of the GHL allocations to the federal jig fishery allocations).

C. Qualitative description

For the above reasons, it is useful to attempt a more qualitative, practical assessment of the likely duration of the Federal A season under Amendment 83 allocations. Under Amendment 83, the Federal jig TAC

allocations will increase by 1% each year (a step-up to the 6% cap) in the Central and Western GOA areas if 90% of the TAC is taken in a given year. Based on the 2012 experience thus far (jig TAC was reached in the Kodiak area on March 6 and is projected to be reached by late April in the South Alaska Peninsula), this 1% step-up is expected for the 2013 fishing year, which would result in a projected 2013 TAC of approximately 546 mt (1.2 million pounds) for the Western GOA and approximately 888 mt (2 million pounds) for the Central. These catch amounts reflect an overall 16% increase in the TAC over 2011 with the addition of the 1% step-up. While catch rates typically increase significantly during March and April, it appears likely that the additional quota in 2013 (e.g., double the amount of the 2012 Federal jig TAC in the Central) will result in an extended season for many subareas, and for the Kodiak area, beyond March 6, likely into the month of April, and possibly even further.

Assuming the required 90% prosecution of the sector allocation is again reached in 2013, an additional 1% step up would occur for the 2014 fishing season (i.e., a 33% increase over 2013 for the Central GOA), further increasing the likelihood of an extended Federal season, though if substantial additional jig fishing effort occurs prior to the opening of the State GHL fishery, then the additional duration of an extended Federal A season for jig gear will be reduced. It seems likely, however, that jig fishermen will indeed have access to fish outside 0 to 3 nm throughout much of the period of high fishing productivity and favorable weather (mid-March through May), without the necessity of a reverse parallel regulatory change. As the federal jig allocation ramps up, it increases the likelihood of a dual fishery even in the absence of a reverse parallel regulatory structure because fishermen would have access to fish on both sides of the 3 nm State/Federal boundary line.

Under the status quo, without a reverse parallel fishery but under the Amendment 83 sector allocations, the State will have the option to open its GHL fishery in mid-March and have catch accrue to the State GHL quota rather than to the Federal/parallel TAC quota, in order to ensure that the full GHL is taken and fish are not stranded (or rolled over to other gear types, such as pot). Because interest in the GHL fishery is reduced during the summer months, due to disaggregation of cod and other fishing opportunities such as salmon and halibut, it may be likely that the State would choose to open the GHL fishery in mid-March and allow concurrent fishing opportunities.

D. Legal questions and management concerns

If a reverse parallel fishery is created, there are a number of legal concerns that will need to be overcome. The most significant of these are most recently described in the attached letter from the Council to NOAA General Counsel (Attachment A), the recent response from NOAA General Counsel (Attachment D, received March 16, 2012 and referencing a 2008 letter regarding removal of the jig fishery from the FMP), and in a question and answer discussion between the State and NOAA General Counsel (Attachment C). A significant concern is the possibility of unregulated fishing if NMFS is unable to require vessels fishing in the reverse parallel fishery to register with the State, subject to State jurisdiction. Under this scenario, vessels would fish for Pacific cod using jig gear exclusively in Federal waters off of the State GHL. Of particular concern are CPs jigging, of which there may be as many as four. Though these vessels would still be subject to Federal regulations, State regulations are more restrictive. This situation could result in jig vessels (including CPs) fishing in Federal waters inconsistent with the intent of the reverse parallel concept, rapidly harvesting quota credited against the State GHL account. Based on recent correspondence from NOAA General Counsel (see Attachment D), it appears that we do not have the authority to require vessels to register with the State.

E. Summary

It is anticipated that the jig sector will be able to harvest the full Federal TAC allocation for Pacific cod this year and the next. This full prosecution will result in a greater percent allocation of the Federal TAC each

year to the jig fishery through the “stair-step” provisions established under the Amendment 83 GOA Pacific cod sector split. As the percentage of the Federal TAC allocated to the jig fishery increases, one could assume that not all of the increased TAC will be caught prior to the opening dates for the State GHL fisheries, which generally the State anticipates will be in mid-March. The assumption that not all of the Federal TAC will be taken by mid-March is based on likely harvest rates by jig vessels during the first few months of the year (during the Federal A season fishery). That could result in the State making one of two choices concerning the opening date of the State GHL fishery:

- (1) The State GHL fishery could open later in the year once the Federal TAC is fully taken; or
- (2) On a date certain (e.g., March 15), the State could close the parallel fishery and open the State waters to the State GHL fishery though not all of the Federal TAC has been taken; in other words, the catch of Pacific cod inside State waters would no longer come off of the Federal TAC.

Under the second scenario, there would be concurrent jigging and catch in State waters would be deducted from the State GHL allocation. Jig catch in Federal waters would be deducted from the remaining amount of Federal TAC. This concurrent fishing would provide harvest opportunities for jig fishermen inside and outside of State waters at the same time. The potential for concurrent fishing would likely be limited to a short period of time from mid-March through April, possibly through May, which are the optimal months for jig access to quota in either State or Federal waters.

If the State would like to ensure that jig vessels have an opportunity to harvest catch in State and Federal waters at the same time, then the State could choose to structure the opening of the State GHL fisheries to ensure that the GHL fisheries open prior to the Federal A season TAC being taken, in order to enable concurrent fishing. Given the likely trends in jig harvests, the increasing allocation to the jig fleet, and the currently available tools for the State to allow concurrent fishing by scheduling the opening of the State GHL fishery, it is not clear that there is currently any need to establish a reverse parallel fishery.

Until there is more experience under the current Amendment 83 sector split management structure and the potential step-ups of TAC allocations, it is difficult to assess whether and to what extent the reverse parallel structure would be relevant or beneficial, and for what period of time. Given the management difficulties and legal hurdles, it may be prudent to gauge the full prosecution of the 2012 and 2012 Pacific cod jig fisheries to better inform a Council and Board decision on whether to implement a reverse parallel fishery.

V. Preparers and Persons Consulted

NPFMC:	Chris Oliver, Sarah Melton
ADF&G:	Karla Bush, Nicole Kimball
NMFS:	Glenn Merrill, Seanbob Kelly, Josh Keaton

VI. Attachments

- A. NPFMC letter to NOAA General Counsel, December 2011
- B. NOAA General Counsel letter, 2008
- C. NOAA General Counsel responses to legal questions from the State of Alaska, July 2011
- D. Updated NOAA General Counsel responses to legal questions from NPFMC, March 2012
- E. ADF&G comments on the draft rule on the Federal sector split, September 2011

North Pacific Fishery Management Council



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December 27, 2011

Ms. Lisa Lindeman
NOAA General Counsel
P.O. Box 21668
Juneau, AK 99802-1668

Dear Ms. Lindeman:


I am writing to request further assistance from your office regarding the 'reverse parallel' fishery concept being contemplated by the Council and the Board of Fisheries, for management of the Gulf of Alaska (GOA) Pacific cod jig fishery. Our Joint Protocol Committee will be meeting on March 19 to further discuss this concept, and the Council will subsequently consider the viability of this management approach at its April 2012 meeting in Anchorage. An analysis of the 'reverse parallel' fishery was originally developed in early 2011, but was put on hold pending the January 2012 implementation of Federal GOA Pacific cod sector allocations (Amendment 83), and Board of Fisheries action in late 2011 to coordinate State management of Pacific cod in 2012. The 'reverse parallel' concept could, in essence, provide additional jig harvest opportunities in Federal waters where State GHL allocation is available but the Federal TAC has been exhausted. I have attached a brief discussion paper on this issue, recently presented to the Council, for your reference and to provide some additional context.

While the 'reverse parallel' fishery concept has the potential to maximize jig fishery opportunities, it also presents an array of management and legal complexities which must be reconciled in order to be viable. Over the past several months we have worked with staff from GC and Sustainable Fisheries to explore these issues, including examination of a set of key legal questions. Preliminary answers to these questions were posed in the context of Amendment 83, which did not contemplate the 'reverse parallel' concept (and are included in the attached discussion paper); however, we would like to pose a subset of these questions once again, not in the context of Amendment 83 but in the context of a potential new and separate amendment package specific to the 'reverse parallel' concept. The key questions are:

- (1) Does the MSA authorize Federal regulations which would require jig vessels fishing in the EEZ, but fishing off of the State GHL, to register with the State, thereby submitting themselves to State jurisdiction? And, if not, could a gear limit (for example, 5 machines/one line per machine/50 hooks per line (from the Amendment 86 fixed gear reciprocity action)), be added to the Federal regulations that open the Federal parallel fishery to jig gear in order to reduce the potential impact of unregistered fishing activity?
- (2) Is it possible to open and close the EEZ to jig gear by State management area boundaries (noting that the central GOA contains all or a portion of four State management areas, which could open/close at different times)?
- (3) Could the EEZ be opened to jig gear during the State GHL season through an in-season action rather than through Federal regulations? Specifically, could NAFS close the EEZ to all jig vessels except for those delivering for processing in a State GHL fishery?

I understand that these are not simple questions, and recognize that there are also numerous management concerns that may impede progress on the 'reverse parallel' concept. However, we need some resolution of these key legal questions in order to determine whether this concept is even legally viable, and in order to have a productive discussion at our March 19, 2012 Joint Protocol Committee meeting. I appreciate any assistance you can provide on these questions. If you have any questions regarding this request, please contact me or Sarah Melton who is our staff lead on this project.

Respectfully,



Chris Oliver
Executive Director

CC: Mr. Tom Meyers, NOAA GC
Mr. Glenn Merrill, NMFS SF
Mr. Seanbob Kelly, NMFS SF
Ms. Karla Bush, ADF&G

B. NOAA General Counsel letter, 2008

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

Dear Chairman Olson:

At its December 2007 meeting, the North Pacific Fishery Management Council requested that we provide guidance on legal considerations associated with State of Alaska (State) management of the Pacific cod jig gear fishery in Federal waters of the Gulf of Alaska (GOA). While a more specific proposal is required to fully assess legal, management, and policy considerations, we offer the following perspectives.

First, we assume the option under Council consideration would retain Pacific cod harvested by jig gear under management of the Council's Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). Given the widespread distribution of Pacific cod in the GOA, the importance of this resource to numerous Federal water fishery sectors, and Federal oversight of Steller sea lion protection measures associated with Pacific cod as a prey species, we do not believe legal justification exists to remove the jig gear fishery from the FMP. Thus, any State management in Federal waters would occur under delegated authority established in the FMP and not by removing the Pacific cod jig gear fishery and associated harvest from the FMP, as has been done for several rockfish species distributed primarily in State waters.

Second, any management authority delegated to the State under the FMP must be consistent with provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Section 306(a)(3)(B) of the MSA allows for state management of a fishery in Federal waters provided such management is consistent with the FMP authorizing such delegation, the MSA, and other applicable law. The specific statute language is enclosed.

As with the existing delegated authority for management of crab in the Bering Sea/Aleutians and demersal shelf rockfish in the Southeast Outside District of the GOA, the State would need to identify management measures it believes would be necessary to manage the Federal water jig gear fishery and demonstrate consistency of those measures with the MSA. This constraint likely would prohibit the State's use of some management measures in Federal waters that it currently employs to manage State water fisheries, such as vessel size restrictions, exclusive registration areas, or other measures that would limit

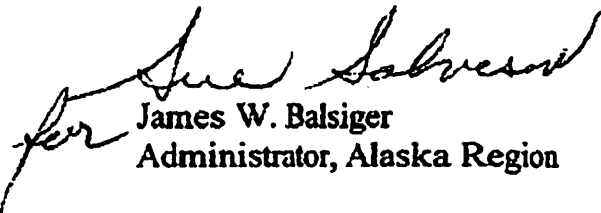
classes of vessels from participation in the Pacific cod jig gear fishery. Further, jig gear fishing for rockfish or other groundfish species could still occur under the FMP which creates complexity with respect to State management of incidental catch of Pacific cod by jig gear under a sector specific allocation.

Other management measures, such as exempting some or all jig gear vessels from Federal license limitation program requirements and the specification of a total allowable catch allocation to the jig gear sector must be developed by the Council and implemented by amendment to the FMP. Even under delegated management, Federal requirements necessary for the management and conservation of Federal water fisheries would continue to apply to jig gear vessels, such as the need for a Federal Fishing Permit and compliance with any relevant Steller sea lion protection measures such as season restrictions. Depending on the range of management measures delegated to the State, the FMP also may need to provide for Federal oversight of State management actions to ensure the fishery is managed consistent with the FMP, the MSA, and other applicable Federal law.

Finally, given the above considerations, the Council and the State of Alaska may wish to consider an alternative that would allow for Federal management of the jig gear fishery in State and Federal waters under a single TAC allocation which could remove the need for a separate State managed guideline harvest level for jig gear. An option to exempt some or all jig gear vessels from LLP requirements could be considered. We note that an increased harvest of Pacific cod in a new open access jig gear fishery could create additional management challenges under either Federal or State management authority that would need to be assessed in the analysis.

We would be pleased to offer additional guidance and perspective as the Council continues to refine its analysis of alternatives for management of Pacific cod sector allocations.

Sincerely,


James W. Balsiger
Administrator, Alaska Region

Enclosure

Magnuson-Stevens Fishery Conservation and Management Act

SEC. 306. STATE JURISDICTION 16 U.S.C. 1856

(3) A State may regulate a fishing vessel outside the boundaries of the State in the following circumstances:

(A) The fishing vessel is registered under the law of that State, and (i) there is no fishery management plan or other applicable Federal fishing regulations for the fishery in which the vessel is operating; or (ii) the State's laws and regulations are consistent with the fishery management plan and applicable Federal fishing regulations for the fishery in which the vessel is operating.

(B) The fishery management plan for the fishery in which the fishing vessel is operating delegates management of the fishery to a State and the State's laws and regulations are consistent with such fishery management plan. If at any time the Secretary determines that a State law or regulation applicable to a fishing vessel under this circumstance is not consistent with the fishery management plan, the Secretary shall promptly notify the State and the appropriate Council of such determination and provide an opportunity for the State to correct any inconsistencies identified in the notification. If, after notice and opportunity for corrective action, the State does not correct the inconsistencies identified by the Secretary, the authority granted to the State under this subparagraph shall not apply until the Secretary and the appropriate Council find that the State has corrected the inconsistencies. For a fishery for which there was a fishery management plan in place on August 1, 1996 that did not delegate management of the fishery to a State as of that date, the authority provided by this subparagraph applies only if the Council approves the delegation of management of the fishery to the State by a three-quarters majority vote of the voting members of the Council.

(C) The fishing vessel is not registered under the law of the State of Alaska and is operating in a fishery in the exclusive economic zone off Alaska for which there was no fishery management plan in place on August 1, 1996, and the Secretary and the North Pacific Council find that there is a legitimate interest of the State of Alaska in the conservation and management of such fishery. The authority provided under this subparagraph shall terminate when a fishery management plan under this Act is approved and implemented for such fishery.

C. NOAA General Counsel responses to legal questions from the State of Alaska, July 2011

In the preamble to the proposed rule implementing Amendment 83, NMFS acknowledged the burden that concurrent Federal and State Pacific cod jig seasons could have on State fishery managers. Below are answers NMFS provided to ADF&G regarding questions it raised on the implementation of a reverse parallel GOA Pacific cod jig fishery:

1. *State of Alaska Question: Is it possible to require jig vessels participating in the EEZ during the State season (Federal parallel) to register with the State?*

NMFS Response: A State registration requirement for jig vessels fishing in the EEZ was not contemplated by the North Pacific Fishery Management Council (Council) and is outside the scope of the Council motion. If the Council were to consider imposing a State registration requirement, several issues would need to be resolved. One important question is whether the Magnuson-Stevens Fishery Conservation and Management Act authorizes Federal regulations requiring vessels fishing in the EEZ to register with a State, thereby submitting themselves to State jurisdiction. A related issue is the extent to which State registration imposes requirements under State law that are outside NMFS' authority to impose under the Magnuson-Stevens Act. Furthermore, it is unclear whether this approach would constitute an impermissible delegation of NMFS' authority to the State. NMFS and NOAA General Counsel would examine these issues as the Council developed its action.

- 1b. *State of Alaska Question: If not, then could a gear limit of 5 machines/one line per machine be added to the Federal regulations that open the Federal parallel fishery to jig in order to reduce the potential impact of unregistered fishing activity?*

NMFS Response: Gear limitations are often used to accomplish legitimate conservation and management objectives. However, a limit on the number of jig machines and lines per machine was not contemplated by the Council and is outside of the scope of the alternatives analyzed in the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for Amendment 83. The Council could, if it chooses, address jig gear limits in a subsequent amendment. If the Council adopted gear limits in the jig fishery, it is unlikely those regulations could be implemented

2. *State of Alaska Question: The State may, and occasionally does, open and close a GHL fishery with less notice than NMFS would require to open or close, Federal waters. State managers may also decide to open or close a season on weekends or holidays, which the Federal system cannot accommodate. Could NMFS open and close Federal waters to the Federal parallel season based on input from State managers that they estimate the GHL season could close within the next several days rather than based on an actual closure notice?*

NMFS Response: NMFS regularly closes Federal fisheries based on its own inseason harvest projections. Given sufficient coordination with State managers and access to State data upon which closures are projected, NMFS should be able to project jig fishery closure dates in the same manner. However, once NMFS makes a decision to close a fishery, the closure notice must be published in the *Federal Register* in order to constructively notify the affected public of the closure. This process requires that NMFS file closure notices with the *Federal Register* one business day prior to the effective date of the closure. Preparing, filing, and publishing a closure notice can take several days depending on the time of week that the closure occurs. Once a closure notice has been filed, NMFS can rescind or modify a closure by subsequent notice in the *Federal Register*.

It is possible for NMFS to close or open a fishery on a weekend or a holiday; however, the notice has to be filed with the *Federal Register* prior to the weekend or holiday to be effective. For example, a closure/opening date on a Saturday, Sunday, or holiday on Monday, the Regional Administrator's decision on the effective date has to be sent to NMFS headquarters by the close of business (EST) that Thursday for Friday publication. For an action on Monday (not a holiday) the *Federal Register* notice needs to be sent to NMFS headquarters by close of business Friday for a Monday publication. If a holiday is on a Thursday, the notice needs to be sent to NMFS headquarters by close of business Tuesday.

3. *State of Alaska Question: Is it possible to open and close the EEZ to jig gear by State management area boundaries? (The Central GOA contains all or a portion of 4 State management areas, which could open/close at different times).*

NMFS Response: Given adequate justification, there is nothing to prevent the Council from adopting new jig fishery management areas in the EEZ adjacent to State waters. However, this action was not analyzed in Amendment 83 and is not a logical outgrowth of the Council's recommendations for Amendment 83. Establishment of new jig fishery management areas would require Federal rulemaking. Subsequently, any change to those Federal boundaries (e.g., modification in response to a change to State management area boundaries) would require a subsequent Federal rulemaking. Should the Council recommend complementary Federal regulatory areas for the jig fishery, it is unlikely NMFS could publish implementing regulations prior to 2014, at the earliest.

4. *State of Alaska Question: Is it possible to allow State bycatch limits and retention requirements to apply to jig vessels fishing in Federal waters during the State GHL season?*

NMFS Response: The Federal process for modifying maximum retainable amounts (MRAs) of groundfish and prohibited species catch (PSC) limits differs from the State's process. Following the State's issuance of an MRA or PSC limit, the Council would have to recommend changes to Federal PSC limits or MRAs measures through a subsequent action. Federal MRAs and PSC limits are established by regulation, and changing those measures would require Federal rulemaking. Establishing unique Federal MRAs or PSC limits for one gear type and for one season is not typical. If the Council elected to pursue this course, it would need to build a rationale for adopting bycatch and retention requirements that are less conservative than currently established for federally managed species in the Western and Central GOA. Moreover, it is doubtful that NMFS could successfully and timely respond to State changes to its bycatch limits and retention requirements. A previous attempt to coordinate State and Federal inseason management actions resulted in failure and ultimately the repeal of the *Fishery Management Plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska* (52 FR 17577; May 11, 1987). Acknowledging the difficulty of timely implementing Federal measures in coordination with State management actions, NMFS repealed the FMP. Thus, under its existing authority and rulemaking process, it is unlikely NMFS could implement State bycatch and retention requirements.

5. *State of Alaska Question: Could the EEZ be opened to jig fishing during the State season through an inseason action rather than through regulation? Specifically, could NMFS close the EEZ to all jig vessels except those delivering for processing in a State GHL fishery?*

NMFS Response: These measures were not contemplated by the Council and are outside of the scope of the alternatives analyzed in the EA/RIR/IRFA prepared for Amendment 83. The Council could, if it chooses,

consider a subsequent amendment to address inseason management of the jig fishery. The Council would have to consider the conservation and management basis for a Federal regulation prohibiting fishing with jig gear except from vessels delivering catch for processing in a State GHL fishery.

March 16, 2012

Mr. Chris Oliver
Executive Director
North Pacific Fishery Management Council
605 W. 4th Avenue, Suite 306
Anchorage, Alaska 99501-2252

Dear Chris,

This responds to your letter of December 27, 2011, requesting assistance from NOAA General Counsel, Alaska Section, regarding the authorities of the North Pacific Fishery Management Council (Council) and the Secretary of Commerce (Secretary) to implement a "reverse parallel fishery" concept for managing the Gulf of Alaska (GOA) Pacific cod jig gear fishery. From your letter and attachments, we interpret the concept as the reverse of the commonly used "parallel groundfish fishery" term, which is a fishery that occurs in State of Alaska (State) waters, is open at the same time as the federal groundfish fisheries in federal waters, and groundfish catch is deducted from the federal total allowable catch. Our understanding of the "reverse parallel fishery" concept in the context of the Pacific cod jig gear fishery is that NOAA Fisheries would open and close federal waters for the jig gear fishery when the Pacific cod fishery for jig gear is open in the State of Alaska and any harvest in either federal or state waters is deducted from the state's Guideline Harvest Level allocation.

The enclosed letter to the Council dated January 23, 2008, from Dr. James Balsiger, Regional Administrator, NOAA Fisheries, describes legal, management and policy considerations regarding State of Alaska management of the Pacific cod jig gear fishery in federal waters of the GOA. The letter was developed in consultation with this office. While the letter was prepared in response to issues raised in the context of a different proposal, it accurately describes the legal issues associated with a reverse parallel fishery concept.

The question you raise is whether the Council and the Secretary could approve a fishery management plan provision that *requires* a vessel owner who has no contacts with the State of Alaska to submit his vessel to state jurisdiction in order to fish in the Exclusive Economic Zone (EEZ).

Based on the skeletal description of the reverse parallel fishery concept, our initial response is that such a provision is not authorized under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Federal fishery management responsibilities for fisheries seaward of Alaska are exercised in the first instance by the Council as it develops fishery management plans (FMPs) to guide the Secretary in the promulgation of

regulations. Management of fishery resources within State boundaries was left generally to the State.

Section 306(a)(3) of the MSA authorizes the State to regulate a fishing vessel outside the boundaries of the State if the vessel is registered with the State and there is no FMP or other applicable federal fishing regulations for the fishery in which the vessel is operating; or the State's laws and regulations are consistent with the FMP or other applicable federal fishing regulations for the fishery in which the vessel is operating. Vessel registration with the State is an initial condition for the State to exercise its authority outside its boundaries. This condition does not authorize the Council to require a vessel owner to register with the State.

An FMP provision requiring a vessel owner with no contacts with the State to register with the State in order to fish in the EEZ would submit the vessel owner and his operation to the State's jurisdiction, which includes *all* the state's police power, including taxation, service of process, workplace regulation -- not just fishery management authority. How would such other obligations and requirements relate to conservation and management of fisheries in the EEZ? For what conservation and management purpose would the Council require residents of different states fishing in the EEZ, who have no other contact with the State, to submit to the jurisdiction of the State?

The issue you raise differs from the requirement in the Alaska salmon FMP that in order to fish for salmon in the EEZ, a vessel owner needs either a permit issued by the State of Alaska *or* a permit issued by NMFS. Under that FMP, a vessel owner fishing in the EEZ would submit to the State's jurisdiction only if that vessel owner *chose* to obtain the State's permit. If he has a permit from NMFS, the vessel owner does not need to submit the vessel to the State of Alaska's jurisdiction.

Sincerely,



Lisa L. Lindeman
Chief, Alaska Section

Enc.

cc: Jonathan Pollard
Dr. James Balsiger
Glenn Merrill

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME OFFICE OF THE COMMISSIONER

SEAN PARNELL, GOVERNOR

P.O. BOX 115526
JUNEAU, AK 99811-5526
PHONE: (907) 465-4100
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September 8, 2011

Mr. Glenn Merrill
Assistant Regional Administrator
Sustainable Fisheries Division, Alaska Region, NMFS
P.O. Box 21668
Juneau, AK 99802

Attention: Ellen Sebastian

Subject: RIN 0648 – AY53 – Proposed rule to implement Amendment 83 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA)

Dear Mr. Merrill:

The Alaska Department of Fish and Game submits these comments in response to the National Marine Fisheries Service's (NMFS) request for public comment on the July 26, 2011 proposed rule to implement Amendment 83 to the Fishery Management Plan for Groundfish of the Gulf of Alaska. We support the implementation of sector allocations in the Western and Central GOA. However, we have a few comments regarding the proposed rule and some concerns with the coordination of our state-water Pacific cod fisheries.

We request a correction be made in the third column, second paragraph on pg. 44709 of the proposed rule where allocations to the jig sector are described. The last sentence in that paragraph misstates the Council's final motion on component 5 whereby *the Federal B season would open on June 10 or after the State GHL season closes, or whichever happens first*. The Council's motion specified whichever happens later.

The proposed rule reiterates the need for ongoing coordination of state and federal Pacific cod fisheries and specifically cites the October 2011 Board of Fisheries (BOF) meeting as part of the coordination process. The proposed rule does not include a March 15 closure date for the federal A season jig fishery. By not implementing this date in the proposed rule, the federal jig fishery may remain open until the federal total allowable catch (TAC) is achieved, which may result in concurrent state-waters guideline harvest level (GHL) and federal TAC jig fisheries. Concurrent seasons would occur if the BOF selects a date certain opening for the state-waters GHL fishery and the fishery opens while federal TAC fishery is ongoing. Alternatively, the BOF could implement a triggered opening of the state-waters jig fishery at the conclusion of the federal season. This scenario would afford the jig fleet maximum access to both the parallel fishery and federal waters along with the sector step-up provisions while possibly stranding state-waters jig quota, an outcome not favored by the Council or the federal non-jig sectors.

The BOF retains the flexibility to open and close the state-waters GHL and parallel Pacific cod fisheries with or without a fixed federal A season closure date for the jig fishery. If there is no fixed closure date in federal waters, management and enforcement issues may arise where concurrent state-waters and federal

Pacific cod seasons occur. Currently, a majority of the jig effort in the GOA occurs in the Kodiak Management Area. During the 2011 Kodiak state-waters Pacific cod jig season, 140 jig vessels harvested up to 225 mt of Pacific cod per day. The burden of increased coordination and outreach efforts would fall to our Kodiak management staff to ensure an accurate accounting of landings during concurrent seasons. We have not yet identified the additional resources necessary for these efforts.

Unfortunately, the BOF will not deliberate on proposals to coordinate state-waters Pacific cod fisheries until after the proposed rule public comment period has ended. We appreciate that NMFS could revise the final rule to establish a March 15 closure date for the federal A season jig fishery if the BOF takes action to establish that closure date in the parallel fishery and advises federal waters be closed to avoid the potential for concurrent seasons. The BOF will conclude deliberations on October 10, 2011 and it is our assumption that if a March 15 closure date for federal waters is recommended, it would be forwarded to NMFS for incorporation into the final rule.

Our final comments concern the jig fishery stair-step provisions and access to the federal jig sector. The proposed rule does not specify how the stair-step provisions will work in the Western GOA where the initial allocation is 1.5%. It is assumed that step-ups would proceed in 1% increments until 5.5% is achieved and the last step-up would be 0.5% to the maximum 6%. If this is the case, then it is unclear if step-downs would then occur in the reverse (6%, 5.5%, 4.5%...1.5%) or if they would also occur in 1% increments (6%, 5%, 4%...1.5%).

Finally, there is some concern regarding who will have access to the federal jig sector. The action is intended to expand entry-level opportunities in the GOA through provisions to increase harvest by the jig sector. Amendment 86 exempted jig vessels that do not exceed gear limits from the limited license permit (LLP) requirement in federal waters. Would federally-permitted vessels that qualified for a non-jig Pacific cod LLP in the Central and Western GOA be able to participate in the LLP-exempt jig sector after fishing for their sector has closed?

The proposed rule states that operators who hold an LLP license and a federal fishing permit (FFP) be required to have the appropriate gear, area, and species endorsements on the LLP license and FFP in order to participate in the Western or Central GOA Pacific cod parallel waters fisheries. This recommendation was made by the Council to prevent federally-permitted vessels from entering the parallel fishery and eroding the catches of historical participants. In addition, federally-permitted vessel operators are required to adhere to federal seasonal closures and sector allocation closures while targeting Pacific cod in parallel waters. The same reasoning should apply to protect the jig sector allocation whereby vessels that have an LLP for Pacific cod in the Central or Western GOA with trawl, hook-and-line, or pot gear are prohibited from entering the jig sector to preserve the entry-level opportunities for entry-level vessels.

If you have questions regarding these comments or information for distribution to BOF members in advance of their October Pacific cod meeting, please contact Stefanie Moreland at stefanie.moreland@alaska.gov or Karla Bush at karla.bush@alaska.gov. We understand NMFS staff is attending the BOF meeting to present and address questions on the proposed rule and process to finalize federal regulations for the 2012 season. Thank you for making yourselves available.

Respectfully,



Cora Campbell
Commissioner

Limiting other gear on board vessels jigging for Pacific cod in the Gulf of Alaska
North Pacific Fishery Management Council
Discussion paper – March 2012

Introduction

The North Pacific Fishery Management Council (Council) has directed staff to develop a discussion paper on limiting other gear on board vessels jigging for Pacific cod (*Gadus macrocephalus*) in the Gulf of Alaska (GOA). This tasking stems from and is related to other GOA Pacific cod management issues though will be considered a separate action for purposes of analysis.¹ This discussion paper will identify possible issues for the Council to consider at its March/April meeting in deciding whether to move forward with a full analysis on implementing other gear prohibitions for vessels using jig gear to fish for Pacific cod. The Joint Protocol Committee has received a briefing on this issue, and the Enforcement Committee will also receive this discussion paper and report to the Council.

At this point, the discussion paper is qualitative in nature, focusing on identifying and discussing the interactions among and between State and Federal regulations, GOA Pacific cod management areas, jig vessel participation, the utilization of other gear types by vessels jigging, and the implications of limiting other gear on board for participants and managers. Also under consideration regarding management of the GOA Pacific cod fishery are implementation of a reverse parallel fishery for the jig sector whereby vessels could jig in Federal waters under the State GHL allocation, and changing the A season opening dates.

The Pacific cod fisheries in the GOA are prosecuted under three distinct management structures: the Federal fisheries, State of Alaska (State) fisheries, and the state-waters parallel fisheries. Pacific cod fisheries in waters 3 to 200 nm offshore are managed federally through the National Marine Fisheries Service (NMFS) under the *Fishery Management Plan for Groundfish of the Gulf of Alaska* (FMP). Federal regulations specify the amount of annual total allowable catch (TAC) assigned to jig vessels. Sixty percent of the total Federal TAC is allocated to the A season that opens on January; forty percent is allocated to the B season, available beginning June 10.

The State fisheries for Pacific cod in State waters 0 to 3 nm offshore are managed by the Alaska Department of Fish and Game (ADF&G), under Board of Fisheries (Board) management plans. The State manages its own exclusive allocation of Pacific cod under guideline harvest level (GHL) regulations. The State also opens its waters to allow jig fishermen to catch Pacific cod allocated to the Federal TAC – the parallel fishery. The Federal TAC fishery and State parallel fishery are opened and closed concurrently. The State does not allow concurrent opening of a parallel fishery and a State GHL fishery within State waters. Historically, there has not been concurrent fishing under a State GHL fishery occurring in State waters and a Federal TAC fishery occurring in Federal waters at the same time. State GHL fisheries are typically open when the Federal and parallel fisheries are closed.

Background

At its December 2011 meeting, the Council tasked staff with developing a discussion paper on limiting other gear on board jig vessels fishing for Pacific cod in the GOA, in preparation for the March 2012 Joint Protocol Committee meeting. The Council moved to add the issue of limiting other gear on board to the Joint Protocol Committee's agenda, as well as any additional information NOAA General Counsel (GC) NMFS may have at that time. The Council also moved to have the discussion paper reviewed by the Enforcement Committee for the meeting at which it is to be presented before the Council.

¹ See the discussion paper on the GOA Pacific cod A season opening dates from November 2011 and March/April 2012, and the discussion paper on GOA Pacific cod jig management from March/April 2012.

This tasking stems from a proposal the Council considered in April 2011 on implementing a “reverse parallel fishery” for the Pacific cod jig sector in the GOA. Under a reverse parallel fishery, vessels could jig for cod in Federal and catch would accrue to the State Guideline Harvest Limit (GHL) allocations instead of the Federal total allowable catch (TAC) allocation. A reverse parallel fishery could provide harvest opportunities in Federal waters for jig vessels when GHL is available but the TAC has been taken. At the April meeting, the Council moved to add the option of prohibiting operators participating in the Federal jig fishery from using any other gear type on board to Alternative 2, which would have implemented a reverse parallel fishery.

Council Motion, April 2011:

Alternative 1: Status quo.

Alternative 2: Reverse parallel fishery.

Federal openings of the Pacific cod jig fisheries in the EEZ will be concurrent with State of Alaska seasons when the State GHL fishery is opened. Catch in Federal waters during the State GHL season will be deducted from the State GHL allocation. Catch in Federal waters or State waters when the State GHL is not open will be deducted from the Federal jig TAC.

Option: Prohibit the use of any other gear type on board while operators are fishing in the Federal reverse parallel jig fishery.

The Council postponed taking any further action until a time no sooner than after its December 2011 meeting to provide an opportunity for the Alaska Board of Fisheries (Board) to comment and take action during its October 2011 regulatory meeting. Thus, the option to limit other gear on board jig vessels was tabled along with any action on implementing a reverse parallel jig fishery until brought back during discussion of Pacific cod management at the December 2011 Council meeting.

Need for limiting other gear

The need for limiting other gear on board vessels jiggling for Pacific cod was discussed during the December 2011 Council meeting. The new management and allocation structure implemented by Amendment 83 and sector splits has created a degree of uncertainty as to how catch will be prosecuted and reported, particularly for the jig fleet. An un-observed vessel with jig and other gear on board is on their honor as to how they report the fish was caught. How catch was reported was not an issue before sector splits because all sectors were fishing off of the same TAC. Once the TAC was caught, the GOA Pacific cod season was over for all sectors.

With separate sector allocations, there could be incentive to increase the duration of one gear-type sector at the expense of another; specifically extending the duration of the longline or pot sectors by misreporting catch as jig-caught and/or increasing likelihood of attaining the jig quota and thereby receiving subsequent ‘step-up’ in the jig gear allocation. Under the new management structure, vessels are not required to have a Limited License Program (LLP) to jig for cod.² Therefore, pot and longliners can move seamlessly from one sector to the other, increasing competition for operators that jig exclusively and exhausting the jig allocation more quickly. Further, with the stair-step structure that increases the jig TAC if 90% is caught in a year, some jig fisherman may have an incentive to bump up the jig catch.

Prohibiting other gear on board jig vessels could alleviate this concern and eliminate this uncertainty. If a vessel is registered with the jig fishery, to remove all doubt, other gear could be prohibited or made inoperable.

² Amendment 86, 76 FR 15826, effective April 21, 2011.

Current jig fishery under Amendment 83 – expanding opportunities

As one of the most commercially valuable fish species in the GOA, Pacific cod is the primary species targeted by vessels using pot and hook-and-line gear, and is an important species for vessels using trawl gear. Smaller amounts of Pacific cod are taken by vessels using jig gear. Under Amendment 83, the Council supported expanding opportunities for jig vessels by: 1) potentially extending the Federal jig sector seasons to allow additional access to Federal waters; 2) providing an initial allocation that is higher than the sector's historical catch in the fishery; and 3) potentially increasing the jig allocation, if a prior annual allocation is fully harvested. Historically, jig gear has been used by small-boat operators, and the Council sought to enhance access for those entry-level participants.

Under Amendment 83, the jig sector received an initial allocation higher than its historic catch: **1.5% of the Western and 1% of the Central TAC**. In addition, the jig allocation will increase by 1% if 90% of the TAC in an area is harvested in any given year; i.e., the jig sector will “step-up” by 1%, to be capped at 6%. The jig allocation will decrease, however, by 1% in the following year if at least 90% of the previous allocation is not harvested within two consecutive years; i.e., the jig allocation will “step-down” by 1%, but will not fall below the initial allocation of 1.5% and 1% to the Western and Central areas, respectively. After the jig sector’s allocation (Western, 1.5%, and Central, 1%) is taken off of the top of the TAC, the other sectors receive a certain percentage, as described in the table below:

Table 1. Sector allocations under the final rule implementing Amendment 83 for the Western and Central GOA areas, in the Federal fisheries

Western GOA sectors	Seasonal allowances		Central GOA sectors	Seasonal allowances	
	A season (%)	B season (%)		A season (%)	B season (%)
Hook-and-Line CV	0.70	0.70	Hook-and-Line CV < 50 ft.	9.31552	5.28678
			Hook-and-Line CV > 50 ft.	5.60935	1.09726
Hook-and-Line CP	10.90	8.90	Hook-and-Line CP	4.10684	0.99751
Trawl CV	27.70	10.70	Trawl CV	21.13523	20.44888
Trawl CP	0.90	1.50	Trawl CP	2.00334	2.19451
Pot CV/CP	19.80	18.20	Pot CV/CP	17.82972	9.97506

Source: NMFS (79 FR 74670, 74688)

Historical participation

A Federal regulation prohibiting other gear on board jig vessels (or requiring other gear to be inoperable or stowed) would only be binding on vessels fishing in Federal waters, unless the State implemented complimentary regulations. Participation in the Federal jig fishery over the last 17 years is shown in the table below:

Table 2. Jig vessels with a retained catch from Federal Pacific cod fisheries, 1995-2011

Year	Western GOA	Central GOA	Combined
1995	10	15	25
1996	7	13	20
1997	2	8	10
1998	2	16	18
1999	0	10	10
2000	2	16	18
2001	16	14	30
2002	26	7	33
2003	11	7	18
2004	22	30	52
2005	8	26	34
2006	1	24	25
2007	4	18	22
2008	9	10	19
2009	11	13	24
2010	29	22	51
2011	8	23	30

Source: NMFS Catch Accounting/Blend and ADF&G fish tickets, 1995–2011.

2011 participation

Catch data and vessel participation for the 2011 State and Federal Pacific cod fisheries will be available to analysts sometime in late April or early May 2012.

Detailed 2010 participation

In 2010, there were a total of 140 jig vessels participating in the State and Federal fisheries in either the Western or Central areas, or both (see Table 3 below). Of these 140 vessels, 40 also longlined (i.e., hook and line), 23 also used pot gear, and 75 also used some other type of gear (troll, seine, etc.). None trawled. Of the 40 vessels that jigged and longlined, 14 specifically targeted Pacific cod and 2 specifically targeted Pacific cod with pot gear. These groupings are not mutually exclusive; there could be overlap between vessels across gear types.

Following below are three tables that show the number of vessels with a 2010 targeted Pacific cod jig landing, along with any other gear utilized on the vessel in 2010, for the Western GOA, Central GOA, and the Western and Central areas combined, in both State and Federal fisheries. These tables illustrate the potential for the cross over effects of a prohibition limiting other gear on board jig vessels with other vessels using other gear types to fish for Pacific cod in the GOA.

Table 3. Western and Central GOA jig participation, combined, in State and Federal fisheries

Gear Type	Jig	Hook and line Pacific cod	Total hook and line	Pot	Other gear	Trawl
Jig	140	14	40	23	75	0
HAL Pacific cod	14	14	14	2	8	0
Total hook and line	40	14	40	11	25	0
Pot	23	2	11	23	17	0
Other gear	75	8	25	17	75	0
Trawl	0	0	0	0	0	0

Table 4. Western GOA jig participation, in State and Federal fisheries

Gear Type	Jig	Hook and line Pacific cod	Total hook and line	Pot	Other gear	Trawl
Jig	52	3	15	7	35	0
HAL Pacific cod	3	3	3	1	2	0
Total hook and line	15	3	15	4	11	0
Pot	7	1	4	7	6	0
Other gear	35	2	11	6	35	0
Trawl	0	0	0	0	0	0

Table 5. Central GOA jig participation, in State and Federal fisheries

Gear Type	Jig	Hook and line Pacific cod	Total hook and line	Pot	Other gear	Trawl
Jig	95	13	30	18	43	0
HAL Pacific cod	13	13	13	2	7	0
Total hook and line	30	13	30	9	17	0
Pot	18	2	9	18	13	0
Other gear	43	7	17	13	43	0
Trawl	0	0	0	0	0	0

Cross over with other fisheries

There is potential for other fisheries to be affected by a Pacific cod jig regulation, notably the State Tanner (*Chionoectes bairdi*) and State Dungeness crab (*Cancer magister*) fisheries. The table below shows the number of vessels that had a Pacific cod jig landing in the State and Federal fisheries in the Western and Central GOA, with the corresponding number of vessels with a State Dungeness, Tanner, or king crab pot landing in the same year:

Table 6. Vessels with a Pacific cod jig landing and a State fisheries crab pot landing, 2006-2010

Year	Jig vessels with a Pacific cod landing		Jig vessels with a Dungeness crab landing		Jig vessels with a Tanner crab (<i>C. bairdi</i>) landing		Jig vessels with a king crab landing	
	Central	Western	Central	Western	Central	Western	Central	Western
2006	80	13	1	0	13	1	0	0
2007	69	16	3	0	8	1	0	0
2008	76	56	1	1	7	2	0	0
2009	103	31	1	1	6	0	1	0
2010	93*	49*	3	1	12	4	0	0

* The numbers here are less than other entries for 2010 because this table does not have the areas by all gear.

Expected Impacts

The table below displays exclusive jig history from 2006-2010, showing the number of jig vessels that targeted cod in the Central or Western GOA with jig gear and did not fish any other gears in the same year. There have been only two instances where a vessel fished in both the Central and Western GOA, strictly with jig gear.

Table 7. Vessels exclusively targeting Pacific cod with jig gear only, in State and Federal fisheries

Year	Central GOA	Western GOA
2006	28	1
2007	20	4
2008	23	12
2009	32	9
2010	36	10

Source: NPFMC.

Ability to implement

Federal regulations at 50 CFR 679.25 establish the authority for NMFS to modify the allowable gear types for use in all or part of a management area. NMFS also has the authority: to close, to extend a closure, or to open a fishing season in all or part of a management area; and to establish interim closures of statistical areas, or portions thereof, to directed fishing for specified groundfish species. However, current regulations limit NMFS authority to adjust a fishery in-season based on conservation and management concerns only, typically for an allocation or apportionment of a TAC, or because a PSC limit has been, or is estimated to be, reached.

NMFS managers have commented that utilizing the analogy of a fishing trip for limiting other gear when crafting the regulation would not seem a likely fit. To require a jig vessel to begin a new fishing trip and deliver fish before deploying new gear would be based on an existing requirement for CPs. The same sort of regulatory framework will not work well for CVs. For observers on CPs, deploying new gear means a new trip for catch accounting purposes but CPs do not have to deliver. So for vessels using jig gear in particular, with little observer coverage, this would not seem to be useful.

NMFS has several regulations limiting gear for a particular target species. A possibility for further discussion and analysis is a regulation that limits a jig vessel to using only jig gear for the entire year (or fishing season). However, this possibility may be difficult to implement because many types of gear are typically used to target Pacific cod and many of these same vessels also have IFQ: Halibut IFQ must be used only to harvest halibut with fishing gear authorized in § 679.2. Sablefish fixed gear IFQ must not be used to harvest sablefish with trawl gear in any IFQ regulatory area, or with pot gear in any IFQ regulatory area of the GOA (§ 679.42(b)(1)).

Ability to Enforce

Observer coverage

Currently, jig vessels in the GOA are not required to have observer coverage, or are required to have 30% observer coverage, depending on vessel length. Under GOA FMP Amendment 76, Observer Program restructuring, NMFS has proposed that vessels using jig gear and catcher vessels ≤40 ft. LOA using pot and/or hook-and-line gear would not be selected to carry an observer in the initial year(s) of the program. As of release of this document, Amendment 76 is receiving public comments until May 14, 2012 (50 FR 15020). In 2008, a total of 158 vessels used jig gear only and 43 vessels ≤40' LOA used jig and fixed gear in the Federal GOA groundfish fisheries.

VMS exemption

The degree of VMS coverage largely depends on the fleet. As of April 2012, there are 56 jig vessels without a VMS unit and 11 vessels with VMS. Of those 56 vessels without VMS, 18 have an FFP. Of the Jig vessels that do have a VMS unit (11), 7 of those vessels have an FMP.

Table 8. Jig vessels with and without VMS and an FFP (as of April 2012)

Holds an FFP	Has VMS unit	Number of jig vessels
Yes	YES	7
No		4
Yes	NO	18
No		48

Source: NPFMC, Overview of Vessel Monitoring System, Discussion Paper, April 2012

CPs, however, are required to have VMS onboard, whether or not the CP is jigging. Between 2010 and 2012, there have been 4 vessels registered in the jig sector.

Table 9. Catcher Processors with Pacific cod jig landings in State and Federal fisheries

Area	2006	2007	2008	2009	2010	2011	2012
Western GOA	0	0	0	0	1	2	1
Central GOA	0	0	0	0	0	0	0

Source: NPFMC.

Discerning whether other gear is “on board” a jig vessel

There is no definition of what would construe whether gear is “on board” a vessel in Federal regulations. NMFS also does not have any regulations that limit legal gear on-board a vessel during a fishing year. Though there are gear limits associated with vessels targeting halibut, those gear limits are in place for the entire fishing season – Prohibitions on Pacific halibut fishing, line limit: The number of lines used to fish for halibut onboard a vessel must not exceed six or the number of charter vessel anglers, whichever is less (300.66(d)(2)(iii)).

From the perspective of the U.S. Coast Guard, “on board” would indicate to enforcement officers that the gear is present, on the vessel. For example, if vessels are not allowed to have longline gear “on board” the vessel while jigging, there could be no skates of longline gear present on the vessel. The prohibition could be expanded to include the line reel, should the Council define “longline” as such. The only gear that would be allowed on the vessel would be the jigging machines, associated line for those machines, and hooks. If the vessel had longline gear on board, and it was capable of being deployed (i.e., equating “on board” with whether the gear were operational), that would likely be viewed as a violation.

The definitions of jig and longlining gear in regulation are as follows (§679.2):

- (8) Jig gear means a single, non-buoyed, nonanchored line with hooks attached, or the taking of fish by means of such a device;
- (9) Longline gear means hook-and-line, jig, troll, and hand line or the taking of fish by means of such a device.

For comparison purposes, vessels fishing for Northeast Multispecies have been prohibited from having trawl nets on board smaller than a certain mesh size, and prohibited from having pot gear on board the vessel. This presented problems for occasions when the vessels trawled up derelict lobster pot gear. Regulations were developed so that trawled up derelict gear could be rendered unusable by cutting nets to a specific size and removing the netting from pots, rendering it inoperable, and thus allowing the gear to be returned to port and disposed of rather than dumping it at sea.

Discerning whether mixed gear is used on the same trip

The Federal definition of a “fishing trip” for a CV targeting groundfish is, “from the time the harvesting of groundfish is begun until the offload or transfer of all fish or fish product from that vessel” (§679.2). From the U.S. Coast Guard’s perspective, it would use whatever definition the Council has provided for a “trip.” In some areas, it is defined as from the time the vessel leaves port to begin fishing until the time the vessel offloads catch. In others instances, it is defined as the time from when a vessel first puts gear in the water until they offload catch. The Coast Guard is able to enforce either definition, so long as it is made explicit in the Council’s motion. The Coast Guard would not want vessels to be able to mix state and federal trips without fully offloading all catch and checking out of the state or federal fishery.

Recordkeeping and reporting requirements

Upon offloading, a vessel is required to fill out a fish ticket, which is determined by gear type. The CV operator must the date the gear was deployed and hauled back in. Regardless of the target of the catch, each fish ticket reflects one gear type’s catch.

Federal permits – FFP and LLP

All vessels harvesting or receiving fish from the EEZ are required to hold a Federal Fisheries Permit (FFP). Data collected are used for making in-season and inter-season management decisions that affect the fishery resources and the fishing industry that utilizes them. An FFP collects owner and vessel information, including the U.S. Coast Guard and ADF&G vessel registration numbers, and the vessel’s home port. Harvesting vessels (CV and CPs) must indicate the gear type(s) the vessel will use for GOA groundfish fishing. NMFS reports harvest as hook-and-line (i.e., longlines), jig - mechanical, pot, trawl (nonpelagic/bottom), trawl (pelagic/midwater), troll (dinglebar, hand, and power gurdy), and other gear. If fishing for Pacific cod and using any gear other than jig gear, the vessel must indicate the gear type(s) and whether to remove the endorsement.

Amendment 86 exempts vessels that use jig gear from the requirement to hold an LLP license, so long as the vessel has at least one landing in the Pacific cod directed fishery from January 1, 2002, through December 8, 2008, and provided those vessels do not use more than five jigging machines, more than one line per machine, and more than 30 hooks on any one line (50 FR 15826).

State – Fish tickets

5 AAC 39.130 is the primary regulation addressing State reporting regulations. Groundfish harvest is documented and submitted via the electronic reporting system “eLandings,” which generates a printable fish ticket. As a general rule, a fish ticket must be submitted for all fishing activity, off-loading, sales, processing, etc. that takes place within the State and state waters (0 to 3 nm). Upon completion of the off-load, all fish harvest purchased, retained, or discarded must be recorded on a fish ticket and submitted within seven days to the nearest ADF&G office. Any first purchaser, processor, exporter or transporter of raw fishery resources must complete and submit a fish ticket.

The eLandings system collects the following information: valid permits for that year and fishery (i.e., crab, IFQ sablefish and halibut, and groundfish); the vessel ID number, permit and port of landing location information for each entry at the time the off-loading begins; the State statistical area; species, delivery condition, and disposition categories, and any overages; dates of fishing and the duration of trip; the crew size, number of observers, and - most important - the ADF&G gear code. There is only one entry field for a possible for a gear type (see figure below). The ADF&G code for “mechanical jigs” (number 26) corresponds with the NMFS code “Jig/Troll,” which in turn corresponds with the Pacific

Fisheries Information Network (PacFIN) code "JIG."³ ADF&G recognizes a more diverse group of gear types than NMFS because of the fisheries it manages (22 different types).

(NOTE: Not an actual fish ticket)

ALASKA DEPARTMENT OF FISH & GAME ELECTRONIC GROUND FISH TICKET						DO NOT WRITE IN THIS SPACE			
						E06 002792			
Statistical Area Worksheet									
Stat. Area			%			Stat. Area			
505231			60			515231			
Vessel		SHEMYA		Crew Size		4		Mgmt Pgm	IPQ
ADF&G NO.		29478		Observers onboard		1		ID	
Permit		B06B 15624X 0401Z Gordon Diaz		Date Fishing Began (Gear in Water)		12/29/2004		Port of Landing or off-shore operation type	
Owner:		F1234 WAI Seafoods Juneau		Date Landed		01/04/2005		JNU Juneau Borough	
Custom Processor:								Type of Gear used	
								61 Longline	
						PARTIAL DELIVERY:			
						<input type="checkbox"/> Partial Delivery			
						<input type="checkbox"/> Last Landing for Trip			
						<input type="checkbox"/> Multiple IFQ Permits			
SPECIES	STAT AREA	DELIV. COND	SCALE WEIGHT	DISPOSITION	SIZE & GRADE	SOLD WEIGHT	PRICE	AMOUNT	
200 halibut, Pacific		95 headed and gutted	5,143.0000 r/s	95 sold for human consumption					
Not Sold - Retained for Bait - Personal Use									
200 halibut, Pacific		95 headed and gutted	115.0000 r/s	95 personal use (not sold)					
								Total Amount:	0.0000
FISH DELIVERED HEREBY WERE CAUGHT IN COMPLIANCE WITH STATE LICENSING LAWS AND STATE LABOR LAWS AND REGULATIONS FORM 11-218EG REVISED 1/05									
Permit Holder's Signature						ADF&G USE			
						Interview			
						Observer			
						Logbook			
Fish Received by						Date			
Landing Report ID: 3775			CFEC Serial Number: 15624						
Other Fish Tickets: E06 002793									
halibut, Pacific Round Weight: 6,892.2133						halibut, Pacific Net Weight: 5,161.6600			

Figure 1. ADF&G fish ticket, showing entries for the date fishing began, the date landed, and the type of gear used.

Current Federal regulations for legal gear in the Pacific cod fishery

Generally, all gear types are legal in the Federal Pacific cod fisheries, so long as the proper permits are held. There is an exemption from the groundfish LLP requirement in the Western and Central GOA for vessels using jig gear that use a maximum of 5 jigging machines, 5 lines, and 30 hooks per line; i.e., there is no LLP required for vessels jigging in the EEZ (per Amendment 86, effective April 1, 2011).

In addition, federally permitted CVs using jig gear (or hook-and-line) fishing for groundfish and Pacific halibut in the Southeast Outside (SEO) District of the GOA are required to retain all DSR (§ 679.20(j)). The FMP authorizes the Council to exempt specific gear from the halibut PSC limits. NMFS, after consultation with the Council, has exempted jig gear (and also pot gear and sablefish IFQ hook-and-line

³ Funded by a grant from the National Marine Fisheries Service (NMFS), PacFIN is a joint federal and state project focused on fisheries data collection and information management.

gear) from the non-trawl halibut limit for 2011 and 2012. Council recommended these exemptions because NMFS estimates that halibut mortality is negligible in the jig gear fisheries given the small amount of groundfish harvested by jig gear (averaging 275 mt annually from 2001 through 2010), the selective nature of jig gear, and the high survival rates of halibut caught (and subsequently released) with jig gear.

Actions taken by the Board in October and the jig season dates established under NMFS' final rule on the Amendment 83 GOA sector split, which took effect January 1, 2012, allows for concurrent harvest in State and Federal waters. Jig vessels are able to harvest in the State waters parallel fishery concurrent with the Federal fishery.

Current State regulations for legal gear in the Pacific cod fishery

In general, pot and jig/hand troll gear are legal in all management areas of the State GHL Pacific cod fishery. Longline gear is also legal in Prince William Sound. Jig gear is limited to 5 lines and 30 hooks per line, though these limits may be removed after a date certain in the fall if enough GHL remains. In the Cook Inlet, the jig/hand troll sector is limited to 15% of the GHL allocation; in the Chignik, to 10%, though a step up to 25% is possible. In the Kodiak area, the allocation is split 50/50 between the jig and pot sectors.

Identified issues for discussion

Staff have identified many possible issues for the Council to consider at its March/April meeting in deciding whether to move forward with further discussion on implementing gear prohibitions.

- Where and when would this gear limitation apply – possible scenarios and different fishing strategies
 - Setting longlines and/or pots while coming out of port, jigging for the day(s) while the longline and/or pots soak, and collecting any catch from the longlines and /or pots on the way back to port from the Pacific cod jig fishery.
 - Importance of diverse fishing portfolio's and a diversified catch
- How are landings mis/reported and what are fishticket requirements – e.g., 1 landing, different gear types
 - Appears that a state elanding report allows only one gear type per ticket
 - Appears an FFP allows multiple gear types for the permit
 - Are supposed to report a separate ticket for each landing with a different gear
- Who would be impacted by gear restrictions – number of vessels exclusively jigging and mixed-use (see Tables)
- How would violations be enforced – defining “on board,” ‘same trip,’ “operational,” ‘in the water,’ gear that is never physically on the vessel (pots), etc.; difficulties with discerning the target fishery
 - USCG working definition
- What is the need for this gear limitation – how extensive or pervasive is misreporting?
 - Risk of catching Pacific cod with pot or longline geat (any other?) and reporting it as jig-caught
- What is the potential for building catch history in the jig and attaining step-ups versus reaching the TAC prematurely?
- What effects will increased participation and landings in the jig sector have on other sectors, fisheries, and annual allocations – the TAC step-ups and potential GHL strandings
- Consideration of relative allocations across gear types
- What are the incentives to misreport?
- Consideration of the potential for longline or pot gear to misreport to respective allocations in absence of jig gear
- Extent and the use of pot gear to catch bait for jigging?

Council direction and next steps

Until there is more experience under the sector split management structure, and the potential step-ups for the jig TAC allocations are known, it is difficult to assess whether and to what extent a prohibition on other gear on board a jig vessel would be relevant or beneficial, and for which participants and sectors. Given the various management difficulties and participation unknowns, it may be prudent to gauge the full prosecution of the 2012 and 2012 Pacific cod jig fisheries to better inform a Council and Board decision on whether to implement a gear prohibition. If the Council wishes to further pursue limiting other gear types on board jig vessels, staff will need to further explore the issues identified above. Any input from the public, the Enforcement Committee, the AP, and the Council would be useful.

Preparers and persons consulted

NPFMC	Chris Oliver, Sarah Melton, Mike Fey
NMFS	Glenn Merrill, Seanbob Kelly
OLE:	Ken Hansen
USCG	LT Anthony Kenne

PUBLIC TESTIMONY SIGN-UP SHEET

Reverse Parallel
gear limit
outboard

Agenda Item: C-6apGOA Pacific Cod Management

	NAME (PLEASE PRINT)	TESTIFYING ON BEHALF OF:
1	Theresa Peterson	Alaska Tug Association
2	Alexus Kwachka	Self
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: C-6(c) GOA P. Cod A- SEASON date

NAME (PLEASE PRINT)	TESTIFYING ON BEHALF OF:
1 Paul Gronholt & Eunie Weiss	AEB
2 Bern Stewart	Peninsula Fishermen's Coalition
3 Jeff Steplin	IFMA
4 Theresa Peterson	Alaska Tug Assoc.
5 Julie Bonny	AGDB
6 Bob Krueger	AK Whitetail Trawlers
7 Bern Stewart	P. C. C
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