

## EXECUTIVE SUMMARY

At its April 2008 meeting, the Council requested that staff develop a discussion paper that addressed potential Council actions regarding Federal permit and licensing requirements for vessels that wish to participate in the parallel waters fisheries. Specifically, the Council requested that the discussion paper focus on hook-and-line and pot CPs participating in the BSAI Pacific cod parallel waters fishery that do not hold the Federal permits and licenses required to fish in Federal waters. The intent of the discussion paper was to explore potential management measures that could apply specifically to the BSAI Pacific cod parallel waters fishery, but could also be applied more broadly to other parallel waters fisheries. The Council reviewed the discussion paper at the October 2008 meeting and initiated a regulatory amendment analysis (EA/RIR/IRFA).

The proposed amendment would preclude Federally-permitted catcher processors from participating in the BSAI Pacific cod parallel waters fishery using pot or hook-and-line gear if they do not have an Amendment 67 Pacific cod endorsement and the appropriate area (BS or AI) endorsement. The amendment would also require that pot and hook-and-line catcher processors that have an FFP or LLP adhere to seasonal closures of their respective sector allocations, and would restrict those vessels from surrendering and later reapplying for the FFP within a specified time period. The intent of the amendment is to prevent pot and hook-and-line catcher processors from circumventing the intent of previous Council decisions regarding license limitation, sector allocations, and catch reporting while participating in the BSAI Pacific cod parallel waters fishery.

The rationale for this action is concern over the impacts that increased participation in the parallel waters by pot and hook-and-line catcher processors that lack Federal permits or licenses may have on long-term participants in the BSAI Pacific cod fishery. Increased parallel waters participation has the potential to erode historic catch shares of those participants who contributed catch history to the Amendment 85 sector allocations and depend on the BSAI Pacific cod resource. Specifically, this amendment is intended to provide protection for pot and hook-and-line catcher processors that hold LLP licenses with Amendment 67 Pacific cod endorsements from entry into the parallel waters fishery by vessels that do not hold these license endorsements. The pot catcher processor sector has historically been very small, and the Amendment 85 allocation to this sector is only 1.4% of the BSAI Pacific cod TAC. The hook-and-line catcher processor sector recently completed a voluntary capacity reduction program, and in January 2008, the owners of vessels in this fleet began repaying a \$35 million Federal loan. The ability to repay the loan is based on average catch shares of the hook-and-line CP allocation by vessels that hold Amendment 67 endorsed LLP licenses.

The scope of this amendment is limited to pot and hook-and-line catcher processors that hold an FFP or LLP. The amendment would not preclude catcher processors that do not hold an FFP or LLP from participating in the BSAI Pacific cod parallel waters fishery. Finally, it is important to note that in December 2008, the State Board of Fisheries (BOF) took action to limit the size of hook-and-line vessels allowed to participate in the BSAI parallel waters fishery to 58 ft LOA. The vessel size restriction will take effect on June 1, 2009, and will preclude some of the vessels that lack Federal permits or licenses and that participated in the AI parallel waters fishery in 2008 from continuing to participate in that fishery using hook-and-line gear.

## Draft Purpose and Need Statement

The Council adopted the following draft Statement of Purpose and Need in October 2008:

Several fixed gear CPs are participating in the parallel waters fisheries that do not hold the permits, licenses, and endorsements necessary to participate in the Federal waters fisheries, and the potential exists for participation to increase. This vessel activity may be circumventing the intent of previous decisions made by the Council regarding license limitation and endorsements, sector allocations, and catch reporting. Additionally, the increased participation in the BSAI CP hook-and-line sector in the parallel fishery undermines recent capacity reduction undertaken by that fleet. While this vessel activity could occur in numerous fisheries, it has recently occurred in the BSAI Pacific cod fishery within the CP pot and hook-and-line sectors. An increasing number of vessels without LLPs, or without Amendment 67 Pacific cod endorsements on their LLPs, have entered the BSAI Pacific cod parallel waters fishery in recent years. This vessel activity has resulted in shortened seasons, has exacerbated the race for fish, and has increased the concentration of Pacific cod harvest inside of 3 miles. Long-term participants in the fishery need protection from those who have little or no recent history and have the potential to increase their participation in the fisheries. The intent of the proposed action is to prevent fixed gear CPs which lack Federal permits and licenses from entering the BSAI parallel waters Pacific cod fishery. This action requires prompt attention to promote stability in the fixed gear sectors that participate in the BSAI Pacific cod fishery.

## Description of the Alternatives

In order to address the problem identified in the purpose and need statement, the Council identified the following alternatives and options for analysis. For the purposes of this action, a catcher processor is defined as a vessel that is used to catch and process fish. A vessel that has a catcher processor license, but is not used to catch and process fish, is not considered a catcher processor for purposes of this action. This definition is consistent with the way in which NMFS accounts for catch under the Amendment 85 sector allocations.

**Alternative 1** No action.

**Alternative 2** Require any catcher processor using pot or hook-and-line gear with an FFP or an LLP to have an Amendment 67 Pacific cod endorsement and the appropriate area endorsement to participate in the BSAI Pacific cod parallel waters fishery.

**Suboption 1:** In addition, require the above Federally permitted or licensed vessels that fish in parallel waters to adhere to seasonal closures of the BSAI Pacific cod CP pot or CP hook-and-line sectors (as defined in Amendment 85) corresponding to the sector the vessel is operating in.

**Suboption 2:** In the BSAI, CP pot and CP hook-and-line vessels with a CP designation on their FFP can only surrender and/or reactivate the FFP:

- (a) once per calendar year
- (b) once every eighteen months
- (c) once every two years

**Suboption 3:** FFP cannot be surrendered during the 3 year term of the permit.

## Background

The parallel waters groundfish fisheries occur in State waters adjacent to the GOA and BSAI management areas. Each year, the ADFG commissioner opens and closes, by emergency order, parallel seasons in the GOA and BSAI that coincide with the Federal seasons in the GOA and BSAI. The same gear types that may be used in the Federal GOA and BSAI fisheries are permitted in the parallel fisheries, unless specifically prohibited under State regulations.

Currently, vessels may participate in the BSAI and GOA parallel waters groundfish fisheries without holding the Federal permits, licenses, and endorsements necessary to participate in the Federal waters fisheries. This parallel waters activity may be circumventing the intent of previous decisions made by the Council regarding license limitation and endorsements, sector allocations, and catch reporting. While this parallel waters activity could occur in numerous fisheries, it has recently occurred in the BSAI Pacific cod fishery within the pot and hook-and-line CP sectors. Specifically, the majority of this parallel waters CP activity has occurred in the Aleutian Islands, and has the potential to increase fishing pressure in the Aleutian Islands parallel Pacific cod fishery and create several management issues.

The BSAI Pacific cod TAC is currently allocated among gear and operation types under Amendment 85. These allocations are typically fully harvested (Table E-1). The initial allocations to each sector are:

- 48.7% hook-and-line CP
- 22.1% trawl CV
- 13.4% Amendment 80
- 8.4% pot CV  $\geq$ 60 ft LOA
- 2.3% AFA trawl CP
- 2.0% pot and hook-and-line CV <60 ft LOA
- 1.5% pot CP
- 1.4% jig
- 0.2% hook-and-line CV  $\geq$ 60 ft LOA

During 2008, 5 pot and hook-and-line CPs participated in the BSAI Pacific cod parallel waters fishery that do not have the Federal permits, licenses, or endorsements needed to participate in the Federal waters fishery (Table E-2). These vessels included 3 non-Amendment 67 endorsed pot CPs that participated in the AI parallel waters fishery during both the A and B seasons. Catch by the 3 non-Amendment 67 endorsed pot CPs that fished in the AI parallel waters fishery during 2008 cannot be reported, because it would reveal the catch by the 2 Amendment 67-endorsed pot CPs that fished during 2008. Three non-Amendment 67 endorsed hook-and-line CPs fished in the AI parallel waters fishery during the B season; none fished during the A season. One of the non-Amendment 67 endorsed hook-and-line CPs began fishing when the hook-and-line season opened on August 15 and switched to pot gear on September 1 when that season opened.

In 2008, the number of non-Amendment 67 pot and hook-and-line CPs that participated in the BSAI Pacific cod parallel waters fishery, and their total catch, was a relatively small component of the BSAI Pacific cod fishery (Table E-3). However, the number of CPs fishing in the parallel waters fishery has the potential to increase. Both the pot and hook-and-line allocations are fully harvested, and additional participants in the pot and hook-and-line CP sectors that do not have Amendment 67 endorsements will erode the catch shares of vessels that have historically participated in the BSAI Pacific cod fishery.

**Table E-1. Final allocations (including rollover amounts) and catches (mt) in the BSAI Pacific cod fishery by the fixed gear sectors.**

Year		Jig CV	HAL & Pot <60 ft	HAL CV ≥60 ft	Pot CV	HAL CP	Pot CP
2004	Vessel count	17	25	28	64	39	4
	Final allocation*	442	2,961	303	11,735	97,795	3,432
	Catch	231	2,037	289	12,311	95,095	3,234
	Percent harvested	52%	69%	95%	105%	97%	94%
2005	Vessel count	19	42	24	51	39	2
	Final allocation*	166	2,601	230	12,828	99,519	3,352
	Catch	117	2,364	230	12,274	100,327	3,339
	Percent harvested	70%	91%	100%	96%	101%	100%
2006	Vessel count	12	46	23	49	40	4
	Final allocation*	214	3,242	267	13,880	84,709	3,033
	Catch	88	3,200	245	13,375	85,109	3,149
	Percent harvested	41%	99%	92%	96%	100%	104%
2007	Vessel count	11	50	17	45	37	3
	Final allocation*	126	2,928	240	12,129	68,105	2,668
	Catch	83	2,928	215	12,061	69,018	2,758
	Percent harvested	66%	100%	90%	99%	101%	103%
2008	Vessel count	15	56	24	43	39	5
	Final allocation*	180	5,210	0	11,422	76,074	3,089
	Catch	176	5,091	8	11,357	76,456	3,108
	Percent harvested	98%	98%		99%	101%	101%

Source: NMFS annual catch reports and NMFS Catch Accounting database (vessel counts). Non-CDQ catch.

\* Note that final allocations include any rollover amounts.

**Table E-2. Pot and hook-and-line catcher processors participating in the AI Pacific cod parallel waters fishery in 2008 that do not have an FFP and/or LLP with an Amendment 67 endorsement.**

Vessel	FFP	LLP	LLP endorsements			≤58 ft LOA	Gear used
			BS	AI	Am 67		
1	x	x	x	x		x	HAL
2	x	x	x		x		Pot
3							Pot & HAL
4**							Pot
5	x	x	x	x			HAL

\*\* Vessel 4 sank in October 2008.

**Table E-3. BSAI Pacific cod catch (mt) in 2008 by Amendment 67 endorsed and non-Amendment 67 endorsed Pot and hook-and-line catcher processors.**

	Amendment 67 endorsed		Non-Amendment 67 endorsed		Total BSAI catch (mt)
	Vessel count	Catch (mt)	Vessel count	Catch (mt)	
Hook-and-line CP	36	76,250	3	206	76,456
Pot CP	2	*	3	*	3,108

Source: NMFS Catch Accounting.

## Regulatory Context and Management Issues

### Recent BOF action on BSAI parallel waters fishery

The State manages the parallel waters fishery, and each year, adopts by emergency order Federal groundfish seasons, bycatch limits, and authorized gear types. However, the State does not recognize sector allocations based on processing activity.<sup>1</sup> As a result, the State cannot specifically restrict catcher processors from participating in the parallel waters fisheries. The State can, however, limit participation on the basis of vessel length.

Recently, the Board of Fisheries reviewed a proposal to limit the size of hook-and-line vessels allowed to participate in the BSAI Pacific cod parallel waters fishery. The BOF took final action on the proposal in December 2008. The vessel size restriction will take effect on June 1, 2009, and limits the size of hook-and-line vessels allowed to participate in the BSAI Pacific cod parallel waters fishery to 58 ft LOA. Most catcher processors are larger than 58 ft LOA, and this management measure will prevent an increase in fishing effort in the parallel waters fishery by large catcher processors. In the past, the BSAI parallel waters fishery has mostly been prosecuted by small catcher vessels delivering to shoreside plants. The BOF action does not apply to vessels using pot gear. The proposed regulatory amendment would complement the BOF action by limiting participation in the BSAI Pacific cod parallel waters pot CP fishery.

### Federal Fisheries Permit (FFP) requirements

All vessels fishing for groundfish in Federal waters of the Bering Sea, Aleutian Islands, and Gulf of Alaska are required to hold a Federal fisheries permit (FFP). Also, any vessel that fishes in Federal waters of the BSAI or GOA for any non-groundfish species (e.g., IFQ halibut, crab, salmon, scallops, herring), and that is required to retain any bycatch of groundfish must obtain an FFP (679.4). Vessels that hold a Federal fisheries permit must comply with groundfish observer program regulations and with NMFS recordkeeping and reporting requirements. In addition, vessels that hold Federal fisheries permits must carry a Vessel Monitoring System (VMS) if they participate in the directed Atka mackerel, Pacific cod, or pollock fisheries in Federal waters of the BSAI or GOA.

The catch reporting, observer, and VMS requirements apply to vessels that hold FFPs regardless of whether they are fishing in Federal waters or State of Alaska waters. However, vessels that fish exclusively in the parallel and State waters fisheries do not need an FFP, and vessels that do

<sup>1</sup> State v. Grunert, 139 P.2d 1226 (Alaska 2006); Grunert v. State, 109 P.2d 924 (Alaska 2005). In the 2005 case, the Alaska Supreme Court ruled that the Board of Fisheries could not allocate within a single fishery. 109 P.2d at 931-32. In the 2006 case, the Court held that 'fisheries' could only be distinguished by differences in the gear that is actually used to harvest the fish. 139 P.2d at 1235-39.

not hold FFPs are not subject to NFMS recordkeeping and reporting requirements, or Federal observer or VMS requirements. The FFP is issued on a 3-year cycle and is in effect from the date of issuance through the end of the current NMFS 3-year cycle.

In the proposed action, there are suboptions to place restrictions on the ease with which vessels can surrender and reactivate their FFPs. Currently, vessels are allowed to surrender their Federal fisheries permits during a given year and have the permits reissued at a later date during the same calendar year. For example, a vessel could surrender its FFP and fish in the parallel or State waters fisheries to avoid having to comply with observer or VMS requirements, and later in the same calendar year, have the permit reissued in order to fish in Federal waters.

### License Limitation Program (LLP)

The License Limitation Program (LLP) limits access to the groundfish and crab fisheries in the Bering Sea, Aleutian Islands, and Gulf of Alaska. Fishing under the program began in 2000. A vessel must have a valid LLP license with the appropriate gear designation, operation type, and area endorsement in order to participate in groundfish fisheries in Federal waters. In 2003, Amendment 67 to the BSAI FMP was implemented, and created new gear and operation specific Pacific cod endorsements on groundfish LLPs. Four endorsements were created (pot CP, hook-and-line CP, pot CV, and hook-and-line CV), and licenses qualified for endorsements by meeting specific landings criteria for each gear and operation type. Vessels using fixed gear that participate in the directed Pacific cod fishery in Federal waters of the Bering Sea and Aleutian Islands are now required to hold a license with an Amendment 67 Pacific cod endorsement. The number of Amendment 67 endorsements on CP and CV licenses is shown in Table E-4.

**Table E-4. Number of Amendment 67 endorsements on licenses with BS or AI area endorsements.**

	Catcher Vessel		Catcher Processor	
	Pot	Hook-and-line	Pot	Hook-and-line
Bering Sea	49	2	7	37
Aleutian Islands	2	2	4	35

\* On 51 CV licenses (1 CV license has both CV pot and CV HAL)

\*\* On 48 CP licenses (2 CP licenses have both CP pot and CP HAL, 2 have CP HAL and CV pot, and one has CP pot and CV HAL)

### Federal regulatory authority over vessels with Federal permits and licenses

The Council and NOAA fisheries have broad authority over vessels that hold Federal permits and licenses. This authority may extend into the parallel waters fisheries. Vessels that hold Federal fisheries permits or LLP licenses may be subject to Federal groundfish regulations, even while fishing in State waters adjacent to the GOA or BSAI. For example, vessels that hold FFPs are subject to Federal recordkeeping and reporting, observer, and VMS requirements while fishing in Federal, parallel, or State waters fisheries. In 2006, sideboards were implemented that limit harvests of GOA Pacific cod by vessels that received initial allocations of *Opilio* crab quota. The sideboard regulations were written such that vessels cannot circumvent sideboard closures by fishing in parallel waters fisheries. Vessels that hold *either* an FFP or an LLP are subject to the sideboards while participating in any groundfish fishery in the parallel waters fisheries in the GOA (680.22).

The Council could extend other regulations to Federally permitted vessels participating in the parallel water fisheries, as long as the action has an adequate conservation or management rationale. The proposed action would extend the LLP and Amendment 67 endorsement requirement to pot and hook-and-line CPs fishing in the BSAI Pacific cod parallel waters fishery. The requirement would only apply to vessels with an FFP or LLP.

### **Seasonal sector allocation closures**

Another management issue that has arisen is that vessels are fishing for Pacific cod in the BSAI parallel waters fishery after the TAC for their respective sector has been harvested and the season is closed. Again, the State recognizes sector allocations by gear type, but does not recognize the separate CP and CV allocations. If the directed fishery for one of the hook-and-line sectors is open in Federal waters, any vessel using that gear type and meeting any applicable vessel length restrictions is eligible to participate in the parallel waters fishery.

### **Analysis of the Alternatives**

#### **Alternative 1**

Under Alternative 1, the no action alternative, pot and hook-and-line catcher processors that hold an FFP or LLP could continue to participate in the BSAI Pacific cod parallel waters fishery without holding an LLP license with the appropriate area and Amendment 67 Pacific cod endorsements. In addition, pot and hook-and-line CPs could continue to fish in the BSAI Pacific cod parallel waters fishery after the pot and hook-and-line CP allocations have been fully harvested, as long as the pot and hook-and-line CV seasons are still open. Finally, there would be no restrictions to prevent pot and hook-and-line CPs from surrendering and reapplying for the FFP.

#### **Alternative 2**

Alternative 2 would require pot and hook-and-line catcher processors with an FFP or LLP to have an LLP with the appropriate Amendment 67 and area endorsements to participate in the BSAI Pacific cod parallel waters fishery. Currently, the LLP is only required in Federal waters. Suboption 1 under Alternative 2 would also require pot and hook-and-line catcher processors that hold an FFP or LLP to adhere to the seasonal closures of their respective Amendment 85 sector allocations, even while fishing in parallel waters. Finally, Suboptions 2 and 3 under Alternative 2 would prevent vessel operators from surrendering and later reapplying for the FFP within a specified time period (calendar year, 18 mos, 2 years, or the 3-year term of the permit). While Alternative 2 has the potential to limit entry to the pot and hook-and-line CP sectors in the BSAI Pacific cod parallel waters fishery, it would not preclude a vessel without an FFP or LLP from participating in the BSAI Pacific cod parallel waters fishery.

Table E-5 summarizes the potential effect of Alternative 2 on the non-Amendment 67 and/or AI endorsed pot and hook-and-line catcher processors that participated in the AI Pacific cod parallel waters fishery during 2008. Three of the 5 vessels held an FFP and LLP in 2008, but the licenses did not have both an Amendment 67 endorsement and an AI area endorsement. Alternative 2 would have precluded these vessels from participating in the AI Pacific cod parallel waters fishery. One of the three vessels is less than 60 ft LOA, and under current regulations, <60 ft LOA vessels are exempt from the Amendment 67 endorsement requirement in Federal waters of the BSAI. Under Alternative 2, this vessel would be required to have an Amendment 67 endorsement to fish in BSAI parallel waters, but would not need an Amendment 67 endorsement

to fish in BSAI Federal waters, unless the <60 ft LOA exemption in Federal waters is revised. Two of the 5 vessels did not hold either an FFP or LLP in 2008, and the proposed action would not have precluded these vessels from participating in the parallel waters fishery.

**Table E-5. Impact of Alternative 2 on non-Amendment 67 and/or AI endorsed pot and hook-and-line CPs that participated in the AI parallel waters fishery during 2008.**

Vessel	FFP <sup>1</sup>	LLP <sup>2</sup>	LLP endorsements <sup>3</sup>			<60 ft LOA <sup>4</sup>	Gear used <sup>5</sup>	Alternative 2 applies?
			BS	AI	Am 67			
1	x	X	x	x		X	HAL	Yes
2	x	X	x		x		Pot	Yes
3							Pot & HAL	No
4**							Pot	No
5	x	X	x	x			HAL	Yes

1 Indicates whether the vessel held an FFP in 2008 (may have been surrendered during the year)

2 Indicates whether a groundfish LLP license was assigned to the vessel in 2008

3 Indicates whether the LLP license has BS and AI area endorsements and an Amendment 67 endorsement.

4 Indicates whether the vessel is <60 ft LOA and therefore exempt from the Amendment 67 endorsement requirement in Federal waters of the BSAI

5 Indicates the gear type used during 2008 in the BSAI Pacific cod fishery

\*\* Vessel 4 sank in October 2008

### Suboption 1: Seasonal closures of sector allocations

Under Suboption 1, pot and hook-and-line catcher processors with an FFP or LLP would be required to adhere to NMFS seasonal closures for their respective BSAI Pacific cod sector allocations, even while fishing in parallel waters. The rationale for including this suboption is to prevent these vessels from circumventing the seasonal closures by fishing in the parallel waters fishery. In 2008, 4 of the 5 pot catcher processors that participated in the BSAI Pacific cod fishery during the B season continued to fish in the parallel waters after the pot catcher processor B season closed on September 19. When this occurred in 2008, catch by these pot CPs continued to accrue against the pot CP allocation, and the sector had an overage of 768 mt for the 2008 B season.

In effect, this suboption would partially address the management and allocation issue caused when vessels fish past the end of the seasonal closures. Pot and hook-and-line catcher processors without an FFP or LLP could continue to circumvent the closures. However, the recent BOF action will limit hook-and-line vessels to 58 ft LOA in the BSAI Pacific cod fishery, starting June 1, 2009. As a result, hook-and-line vessels greater than 58 ft LOA will no longer be able to circumvent the seasonal allocation closures by fishing in the parallel waters fishery. Finally, it should be noted that Suboption 1 does not apply to pot and hook-and-line catcher vessels, or to vessels using trawl or jig gear.

### Suboptions 2 and 3: Federal Fisheries Permit restrictions

Currently, a vessel operator can freely surrender and later reapply for the FFP at any time. Vessels that surrender their FFPs do not have to comply with observer, VMS, or NMFS recordkeeping and reporting requirements while fishing in the parallel or State waters fisheries. Under Alternative 2, the management measures that limit entry to the BSAI Pacific cod parallel



waters fishery apply to vessels that hold an FFP or LLP. However, if a vessel operator can surrender the FFP at any time, without any restrictions on when it may reapply for the FFP, any parallel waters management measures the Council adopts could be easily circumvented by vessels that only have FFPs and do not have LLPs. Those vessels could simply surrender the FFP in order to participate in the BSAI Pacific cod parallel waters fishery, and later reapply for the FFP in order to participate in other Federal waters fisheries.

Suboption 2 and Suboption 3 would place restrictions on the ability of vessel operators to surrender and reapply for the FFP within a specified time period. Under Suboption 2, a vessel could only surrender and/or reapply for the FFP once every calendar year (Jan 1- Dec 31), 18 months, or 2 years. Under Suboption 3, a vessel would not be able to surrender the FFP during the 3 year term of the permit. Under all of the time periods in Suboption 2, a vessel could circumvent the intent of the regulation and fish in parallel waters once during the specified time period, after it surrenders its FFP.

### **Effects on harvesters**

Under **Alternative 1**, there would be no additional restrictions limiting access to the BSAI Pacific cod parallel waters fishery. If this alternative is selected, additional non-Amendment 67 endorsed vessels could enter the BSAI Pacific cod parallel waters fishery in the future and dilute revenues, increase costs, or both, for vessels that have participated in the fishery during recent years. Increased participation may result in negative economic impacts to current participants in the fishery. Specifically, increased participation could erode the catch shares of long-term participants. If effort increases substantially in a particular sector, the erosion of catch shares resulting from new entry into the fishery will be exacerbated, because each sector's catch is constrained by its allocation. The number of vessels that might enter the fishery in the absence of this action is unknown, and depends on future market conditions, the size of groundfish TACs, opportunities to participate in other fisheries, the future regulatory environment, and operating costs in the fisheries. Consequently, this analysis does not provide a quantitative estimate of the potential economic impacts of the no action alternative.

**Alternative 2** would provide protection for pot and hook-and-line catcher processors that hold Amendment 67 endorsed licenses by preventing the erosion of catch shares via the entry of new participants into the BSAI Pacific cod parallel waters fishery. The Council established Amendment 67 Pacific cod endorsements in 2003 to limit access to the pot and hook-and-line allocations to those participants who had catch history in the BSAI Pacific cod fishery. Parallel waters participation by pot and hook-and-line catcher processors that do not hold LLP licenses with Amendment 67 endorsements reduces the amount of TAC available to participants who hold endorsed licenses. The proposed action would extend the Amendment 67 endorsement requirement to the parallel waters fishery for pot and hook-and-line catcher processors that hold an FFP or LLP, but would not preclude vessels that do not have an FFP or LLP from entering the parallel waters fishery. The recent action taken by the Board of Fisheries to limit vessels using hook-and-line gear to 58 ft LOA would preclude larger vessels, including those that do not have an LLP or FFP, from entering the hook-and-line fishery in parallel waters.

**Alternative 2** would further limit the number of fisheries available to pot and hook-and-line catcher processors that hold an FFP or LLP, but do not hold an Amendment 67 endorsed license. The vessels that participated in the AI parallel waters fishery in 2008 are relatively recent entrants to this fishery. Prior to 2008, there were fewer than 3 non-Amendment 67 endorsed pot and hook-and-line catcher processors (total) participating in the BSAI Pacific cod parallel waters fishery, and their harvests cannot be reported. In 2008, 5 of these vessels participated in the

fishery. During 2008, several of these vessels also participated in the AI State waters Pacific cod fishery, GOA Pacific cod fishery, and sablefish IFQ fisheries, and under the proposed action, the vessels would continue to have access to these fisheries.

**Suboption 1**, in tandem with the recent Board of Fisheries action, would potentially limit the number of pot and hook-and-line catcher processors and hook-and-line vessels >58 ft LOA that could continue to fish in parallel waters after the respective sector allocations have been fully harvested. This fishing activity could result in overages by the pot and hook-and-line CP sectors. If this occurs, NMFS may have to close other sectors early to accommodate the overages. In effect, the TAC would be reallocated to accommodate the overages. Suboption 1, in tandem with the Board of Fisheries action, would not preclude hook-and-line vessels ≤58 ft LOA, pot catcher vessels, trawl and jig vessels, and any non-Federally permitted vessel from fishing in parallel waters after the respective sector allocations have been fully harvested. This fishing activity could also result in overages and the reallocation of TAC among the sectors. Finally, **Suboption 2 and Suboption 3** would limit the ability of vessels that hold FFPs with a CP endorsement to surrender and later reapply for the FFP within a specified time period. These suboptions make it more difficult for vessels to circumvent Federal regulations, including those proposed in Alternative 2, by temporarily surrendering the FFP.

### **Interactions with Freezer Longliner Capacity Reduction Program**

The owners of the BSAI hook-and-line catcher processor fleet are participating in the Fishing Capacity Reduction Program, a buyback program that will reduce current and future effort in the non-pollock groundfish fisheries in the BSAI by retiring vessels, licenses, and vessel histories. Participants in the buyback include the owners of the 36 vessels that hold Amendment 67 endorsed hook-and-line CP licenses.<sup>2</sup> On January 5, 2007 the Freezer Longliner Coalition Cooperative (FLCC) submitted their Fishing Capacity Reduction Plan to NMFS. The Plan included 4 offers for catcher processor groundfish licenses that would be removed from the fishery, selected by FLCC members. They included 3 active fishing licenses associated with catcher processor vessels and one inactive license not attached to a vessel. The Federal loan requested was \$35 million, to be repaid over a 30 year period based on a percentage of future landings of BSAI Pacific cod.

The reduction program is now complete, and in January 2008 the 36 hook-and-line CPs began repaying the \$35 million Federal loan. The fee amount collected by NMFS is based on the annual principal and interest due, and can be up to 5% of the ex-vessel revenues from the BSAI Pacific cod landings by the buyback participants. If this amount is insufficient to repay the annual principal and interest due, additional fees may be assessed on non-cod landings. In 2008, vessels paid \$0.02 per round pound of BSAI Pacific cod landings. The ability of vessels to repay the loan is based on the average historic catch shares of the vessels in the fleet.

The proposed action would limit entry into the hook-and-line CP sector by vessels that do not hold LLPs with Amendment 67 cod endorsements. These vessels did not participate in the buyback and are not contributing to repayment of the Federal loan<sup>3</sup>. An increase in BSAI Pacific

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<sup>2</sup> There are 37 hook-and-line CP Amendment 67 endorsed licenses. One of the licenses is latent, and 36 of the licenses are assigned to vessels that are active participants in the BSAI Pacific cod fishery.

<sup>3</sup> The fees are paid by vessels that are in the longline catcher processor subsector, which was defined in the Capacity Reduction Program as including vessels that hold an LLP license that is noninterim and transferable, or that is interim and subsequently becomes nontransferable, and that is endorsed for Bering Sea or Aleutian Islands catcher processor fishing activity, C/P, Pcod, and hook-and-line gear.

cod catch by vessels that do not have Amendment 67 endorsed licenses has the potential to erode catch shares of those vessels that participated in the buyback, and could result in buyback participants paying a higher percentage of their annual gross revenues from the BSAI Pacific cod fishery toward the repayment of the buyback loan.

### **Net Benefits to the Nation**

Overall, this action is likely to have a limited effect on net benefits realized by the Nation. Under the status quo (Alternative 1), pot and hook-and-line catcher processors that do not currently hold an LLP license with an Amendment 67 endorsement would continue to have the potential to enter the BSAI Pacific cod parallel waters fishery, increasing overall effort in the fishery. This increase in effort could contribute to losses of production efficiency. Costs could rise slightly if participants perceive a need to increase effort to secure their historic catch shares. The increase in effort could contribute to more aggressive fishing and processing practices, both of which contribute to lower quality and less value added production. The extent of these potential effects is very difficult to predict and depends on several factors, including future TAC levels, market conditions, and operating costs.

Under the proposed action (Alternative 2), pot and hook-and-line catcher processors that hold an FFP or LLP could not enter the BSAI Pacific cod parallel waters fishery unless the license is Amendment 67 endorsed. Vessels that do not hold any Federal permits or licenses could continue to access the fishery. The proposed action may reduce the potential for an influx of pot and hook-and-line CP effort into the parallel waters fishery. This could contribute to production efficiency if a substantial increase in pot and hook-and-line CP effort were to occur in the absence of this action. Limiting the number of participants in the fishery could contribute to slowing down the fishery and less aggressive fishing practices.

Implementation of the action alternative would require NOAA fisheries to track FFPs with catcher processor and possibly other endorsements with a different system than is used presently. These FFPs could no longer be surrendered and reissued without restrictions. These costs would not be incurred under the no action alternative. The main economic benefit from the proposed action is that it will prevent the expansion of effort by vessels that do not hold Amendment 67 endorsed licenses into the BSAI Pacific cod parallel waters fishery, and will benefit license holders who are economically dependent on the BSAI Pacific cod fishery.