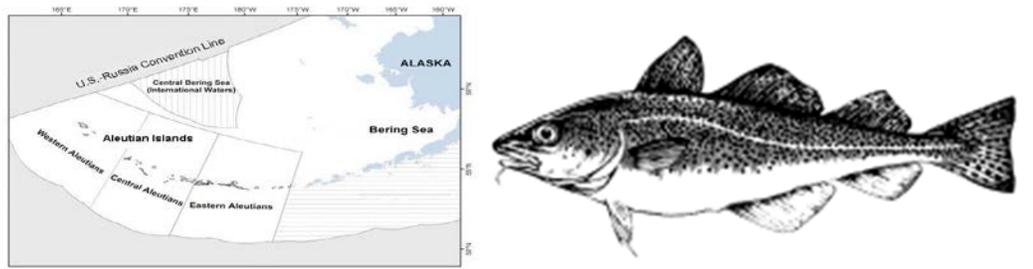


DRAFT FOR FINAL ACTION

Regulatory Impact Review for Proposed Amendment for a Proposed Regulatory Amendment

Limit Access by all Federally Permitted Vessels to the BSAI Pacific Cod Parallel State Waters Fishery

December 2019



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Abstract: The proposed amendment would preclude hook-and-line (HAL), pot, jig, and trawl gear vessels from participating in the Bering Sea (BS) and Aleutian Island (AI) Pacific cod parallel fisheries unless they have a License Limitation Program (LLP) license with the correct LLP endorsements and a designated Federal Fisheries Permit (FFP). The amendment would also require the above Federally permitted or licensed vessels that fish in the parallel fishery to adhere to federal sector and seasonal BSAI Pacific cod closures and would restrict those vessels from surrendering and later reapplying for the FFP within a specified time period. The proposed amendment intends to ensure robust catch accounting while preventing all HAL, pot, jig, and trawl gear vessels from circumventing the intent of previous Council decisions regarding license limitation and sector allocations when participating in the BS and AI Pacific cod parallel fisheries while also recognizing that new entrants who do not hold Federal fishery permits may participate in the parallel fishery.

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List of Acronyms and Abbreviations

Acronym or Abbreviation	Meaning
AAC	Alaska Administrative Code
ABC	acceptable biological catch
ADF&G	Alaska Department of Fish and Game
AFA	American Fisheries Act
AFSC	Alaska Fisheries Science Center
AKFIN	Alaska Fisheries Information Network
BSAI	Bering Sea and Aleutian Islands
CAS	Catch Accounting System
CFR	Code of Federal Regulations
COAR Council	Commercial Operators Annual Report North Pacific Fishery Management Council
CP	catcher/processor
CV	catcher vessel
E.O.	Executive Order
EA	Environmental Assessment
EZ	Exclusive Economic Zone
EFH	essential fish habitat
EIS	Environmental Impact Statement
ESA	Endangered Species Act
ESU	endangered species unit
FFP	Federal fisheries permit
FMA	Fisheries Monitoring and Analysis
FMP	fishery management plan
FONSI	Finding of No Significant Impact
FR	<i>Federal Register</i>
FRFA	Final Regulatory Flexibility Analysis
ft	foot or feet
GOA	Gulf of Alaska
IRFA	Initial Regulatory Flexibility Analysis
IPA	Incentive Plan Agreement
lb(s)	pound(s)
LEI	long-term effect index
LLP	license limitation program
LOA	length overall
m	meter or meters
Magnuson-Stevens Act	Magnuson-Stevens Fishery Conservation and Management Act
MMPA	Marine Mammal Protection Act
t	tonne, or metric ton
NAO	NOAA Administrative Order
NEPA	National Environmental Policy Act
NMFS	National Marine Fishery Service
NOAA	National Oceanic and Atmospheric Administration
NPFMC	North Pacific Fishery Management Council
Observer Program	North Pacific Groundfish and Halibut Observer Program
OMB	Office of Management and Budget
PSC	prohibited species catch
PPA	Preliminary preferred alternative
PRA	Paperwork Reduction Act
RFA	Regulatory Flexibility Act
RIR	Regulatory Impact Review
SAFE	Stock Assessment and Fishery Evaluation
SBA	Small Business Act
Secretary	Secretary of Commerce
TAC	total allowable catch
U.S.	United States
USCG	United States Coast Guard
USFWS	United States Fish and Wildlife Service
VMS	vessel monitoring system

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Executive Summary

The proposed amendment would preclude hook-and-line (HAL), pot, jig, and trawl gear vessels from participating in the Bering Sea (BS) and Aleutian Island (AI) Pacific cod parallel fisheries unless they have a License Limitation Program (LLP) license with the correct LLP endorsements and a designated Federal Fisheries Permit (FFP). The amendment would also require the above Federally permitted or licensed vessels that fish in the parallel fishery to adhere to federal sector and seasonal BSAI Pacific cod closures and would restrict those vessels from surrendering and later reapplying for the FFP within a specified time period. The proposed amendment intends to ensure robust catch accounting while preventing all HAL, pot, jig, and trawl gear vessels from circumventing the intent of previous Council decisions regarding license limitation and sector allocations when participating in the BS and AI Pacific cod parallel fisheries while also recognizing that new entrants who do not hold Federal fishery permits may participate in the parallel fishery.

The parallel fisheries occur in State waters (0 nm to 3 nm) adjacent to the BSAI and the Gulf of Alaska (GOA) management areas. Each year, the Alaska Department of Fish and Game (ADFG) commissioner opens and closes, by emergency order, parallel waters seasons in the BSAI and GOA to coincide with the Federal waters (3 nm to 200 nm) seasons in the BSAI and GOA. The same gear types that may be used in the Federal BSAI and GOA fisheries are permitted in the parallel fisheries, unless specifically prohibited under State regulations. In 2009, the State limited the size of HAL vessels allowed to participate in the BSAI Pacific cod parallel fishery to 58 ft LOA. Groundfish harvests in the parallel waters and Federal waters account to the Federal groundfish TAC. The parallel fisheries are managed separately from the State Guideline Harvest Level (GHL) fisheries. The State GHL fisheries occur during distinct seasons that generally do not overlap the parallel and Federal waters seasons and are managed by ADFG under a GHL and a distinct set of regulations.

There are several NMFS and State regulations that govern parallel fisheries and affect which vessels can participate in this parallel fishery. NMFS has a regulation that states that any Federally permitted HAL and pot C/P participating in the BSAI Pacific cod fisheries must have the corresponding LLP and must stop fishing in both Federal and parallel waters once their sector closes. This prevents any Federally permitted HAL and pot C/Ps from participating in the BSAI Pacific cod parallel fishery once it is closed to those sectors. Similarly, NMFS has regulations that any Federally permitted vessel in the GOA directed fishing for Pacific cod must have the corresponding LLP and stop fishing in parallel waters when their sector closes. In the GOA, this applies to all Pacific cod sectors. This prevents all vessels in the GOA with FFPs and LLP licenses from taking advantage of this parallel fishery opportunity.

Currently, in the BSAI, all sectors except C/P pot and C/P HAL vessels¹ may participate in the parallel fishery without holding a Federal permit, LLP license, and endorsements necessary to participate in the Federal fisheries. In general, the BSAI parallel fishery has mostly been prosecuted by small CVs delivering to shoreside processors. This parallel fishery 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 fishery activity could occur in several fisheries, it has generally occurred in the BSAI Pacific cod fishery with the HAL/pot CV < 60 ft sector. This sector has an annual allocation that opens January 1. This contrasts with all other BSAI Pacific cod sectors which have two or three seasonal allocations spread over the year. In the HAL/pot CV < 60 ft sector, when the allocation is fully harvested, the sector is closed. However, since the State is unable to differentiate between a C/P and a CV during the Federal fisheries and the BSAI Pacific cod fishery remains open year round for the HAL C/P sector, the HAL CV < 60 ft vessels can continue to participate in the parallel fishery even though their Federal sector has already been closed to fishing. The HAL C/P sector has a larger BSAI Pacific cod

¹ Effective January 1, 2012, NMFS issued regulations to limit access of Federally permitted pot and HAL C/Ps to the Pacific cod fishery in State waters in the BS and AI (see 76 FR 73513).

allocation and is managed under a voluntary cooperative, so the sector generally remains open all year. If less than 60 ft HAL CVs have participated in the BSAI parallel fishery after their sector is closed to fishing, then Pacific cod reallocated from other sectors later in the year must first cover any amount of harvest by these vessels before a consideration can be made to re-open the entire Federal BSAI HAL/pot CV < 60 ft sector.

Purpose and Need

During the April 2019 meeting, the Council adopted a purpose and need statement for the proposed action. At the October 2019 meeting, the Council, while conducting initial review of the amendment package adjusted the purpose and need statement to better reflect the proposed action. The revisions to the purpose and need statement were clarifications to better reflect the Council's intent in limiting federally permitted vessels in the parallel waters. The revisions did not change the purpose of the action identified by the Council or affect how the analysis of the alternatives meet the revised statement. Provided below is the revised purpose and need statement:

Currently, there are no limits on entry by federally permitted catcher vessels into the Bering Sea/Aleutian Islands (BSAI) parallel waters groundfish fisheries, and no limits on the proportion of BSAI Pacific cod TAC that may be harvested in parallel waters. Currently management inadvertently allows fishing in BSAI parallel waters off a federal Pacific cod TAC even when a sector's federal Pacific cod allocation has been achieved. There is concern that harvests of Pacific cod in the parallel waters fishery by vessels that do not hold BSAI groundfish LLP licenses or the appropriate Pacific cod endorsement may continue to increase. This complicates conservation and management measures which hold sectors to their allocations and circumvents the intent of previous Council decisions regarding license limitation, sector allocations, and catch reporting. The Council, in consideration of options and recommendations for federal catcher vessels that participate in the parallel fishery, intends to ensure robust catch accounting while considering participation in and reliance on the Pacific cod fisheries while recognizing that new entrants who do not hold Federal fishery permits may participate in the parallel fishery.

Alternatives

The following alternatives were adopted by the Council in April 2019.

Alternative 1: Status quo

Alternative 2: (Preliminary Preferred Alternative) Limit access to the parallel fishery for Federal fishery participants.

Hook and line and pot gear vessels - require any pot or hook-and-line vessel designated on an LLP or FFP to have the appropriate Pacific cod endorsement and area endorsement on the LLP; and the Bering Sea (BS) or Aleutian Islands (AI) area designation and the appropriate gear and operation type designations on the FFP in order to participate in the BS or AI Pacific cod parallel waters fishery.

Trawl gear vessels - require any trawl vessel with an LLP or an FFP to have the appropriate gear and area endorsements on the LLP; and the BS or AI area designation and the appropriate gear and operation type designations on the FFP in order to participate in the BS or AI Pacific cod parallel waters fishery.

In addition, require the above Federally permitted or licensed vessels that fish in the parallel waters to adhere to Federal seasonal closures of the BSAI sector allocations corresponding to the sector in which the vessel operates.

Vessels with a BS or AI area, gear, and operation type designations specified in this alternative cannot remove these designations from the FFP and can only surrender or reactivate the FFP once every three years.

Updates to the Document Since Initial Review (October 2019)

- Updated the purpose and need statement and the Council's selection of Alternative 2 as the Preliminary Preferred Alternative (Section 0)
- Expanded discussion of impacts to harvesters to include likely impacts to vessels that would be out of compliance under Alternative 2, other alternative fishing opportunities, and the shift in additional Pacific cod for sector vessels active in the Pacific cod fishery that would be in compliance under Alternative 2 (Section 2.8)
- Update Figure ES-1 and Figure 2-3
- Updated Table ES-1 and Table 2-11 to reflect additional discussion concerning impacts to harvesters
- Updated the impacts to communities and processors to reflect revised estimates on the number of vessels that would be out of compliance under Alternative 2 (Section 2.8.5)
- Added a new section highlighting management effects (Section 2.8.6)
- Updated the Affected Small Entities to reflect those vessels out of compliance under Alternative that are considered small entities (Section 2.9)

Regulatory Impact Review²

Alternative 1: No Action

Under Alternative 1, the no action alternative, all vessels, except pot and HAL C/Ps that hold an FFP or LLP, could continue to participate in the BSAI Pacific cod parallel state waters fishery without holding an FFP or LLP. In addition, these vessels could continue to fish in the BSAI Pacific cod parallel state waters fishery after their sector's allocation has been fully harvested, as long as another sector that matches their vessel's gear is still open. Finally, there would be no restrictions to prevent surrendering and reapplying for the FFP in the same year.

In total, there were 40 Federal vessels that had either no LLP license, an incorrect LLP license endorsement, no designated FFP, or they continued to fish in the parallel fishery after their sector closed to fishing in Federal waters. It is likely some of these 40 vessels with an FFP or LLP would continue to fish in the parallel fishery under Alternative 1. Amongst these 40 vessels are 20 HAL CVs < 60 ft that participated in the parallel fishery after their sector closed to fishing in the Federal waters since 2010. If these vessels continue to fish in the parallel fishery after the sector closes in the Federal waters, Pacific cod reallocations will continue to first cover any overages harvested in the parallel fishery by these HAL CVs < 60 ft before a consideration can be made to re-open the entire Federal waters BSAI HAL/pot CVs < 60 ft sector to fishing.

² Analysts have consulted with NMFS Alaska Region and preliminarily determined that none of the alternatives have the potential to have an effect individually or cumulatively on the human environment. This determination is subject to further review and public comment. If this determination is confirmed when a proposed rule is prepared, the proposed action will be categorically excluded from the need to prepare an Environmental Assessment.

In addition, under Alternative 1, the trawl CV sector could fish in the parallel fishery after their sector closes to fishing in Federal waters since the Amendment 80 sector remains open year-round. All vessels in the Amendment 80 sector currently are managed in a cooperative, so NMFS does not issue directed fishing closures specific to the Amendment 80 allocated species, which includes BSAI Pacific cod. Since 2010, no trawl CVs have fished in the parallel fishery after the sector closed to fishing in Federal waters. If under Alternative 1, trawl CVs utilize the opportunity to continue fishing in the parallel fishery after the sector closes to fishing, depending upon the level of effort, there is the potential that the trawl CV B and C season allocations could be utilized to cover any overages in the parallel fishery. This could further negatively impact reallocations from the trawl CV sector to the HAL/pot CVs < 60 ft sector in the fall fishery.

Alternative 2: (Preliminary Preferred Alternative) BSAI Pacific cod Parallel Fishery Limitation

Alternative 2 requires vessels with an FFP or LLP license to have the appropriate Pacific cod and area endorsements on the LLP license and the appropriate designations on the FFP to participate in the BSAI Pacific cod parallel fishery. Figure ES-1 depicts the different combinations of an LLP license and FFP designated on all the vessels that participated in the BSAI Pacific cod parallel fishery from 2010 through 2019 and whether they will be directly impacted under Alternative 2. Vessel numbers included in Figure ES-1 are not additive since a vessel can have an LLP license and/or an FFP at any one point in time from 2010 through 2019, so a vessel can be included in more than one group.

Overall, there were 138 vessels that participated in the parallel fishery from 2010 through 2018 (Figure ES-1). Of those 138 vessels, at one point during 2010 through 2018, 121 had an LLP license assigned to the vessel and 17 vessels did not have an LLP license assigned to the vessel. Of those 138 vessels, 111 had both an LLP license and FFP designated on the vessel. Of these vessels, 24 were HAL or pot CPs that already require an LLP license with the correct endorsements and an FFP to participate in the parallel fishery. The remaining 91 vessels that have both an LLP license with the correct endorsements and FFP designated on the vessel would be directly affected by this action and could continue to participate in the parallel fishery under Alternative 2 if they maintain an LLP license with the correct endorsements and an FFP on the vessel. In addition to those 91 vessels, there are 30 Federal vessels in four different groups, based on the different combination of required LLP licenses and designated FFP, that participated in the parallel fishery from 2010 through 2018.

Alternative 2 would provide protection for Federal vessels that do not circumvent the seasonal sector closure from the Federal vessels that do circumvent the seasonal sector closure which would likely improve management of the BSAI Pacific cod fishery. For example, except for one vessel in 2015 and 2016, all the vessels that continued to fish in the parallel fishery after their sector closed to fishing in Federal waters had an FFP designated on the vessel. If these vessels continue to have designated FFP under Alternative 2, these vessels would no longer be allowed to circumvent the seasonal sector closure. At present, when harvests occur in the parallel fishery after that sector's seasonal allocation has been taken in federal waters, NMFS in-season managers must account for the overage by either deducting the harvest from the sector's allocations assigned to seasons later in the year (i.e. the B or C season allocations), or by reallocating Pacific cod from other sectors, or by a combination of the two. Alternative 2 would.

Alternative 2 also would provide protection for vessels that hold a non-trawl Pacific cod endorsement on their LLP license by preventing the erosion of catch via the entry of participants into the BSAI Pacific cod parallel fishery. The Council established Pacific cod endorsements to limit access to the pot and HAL allocations to those participants who had catch history in the BSAI Pacific cod fishery. Parallel waters participants by pot and HAL CVs that do not hold LLP licenses with Pacific cod endorsements reduces the amount of TAC available to participants who hold endorsed licenses. The proposed action would extend the Pacific cod endorsement on the LLP license requirement to the parallel fishery for pot and

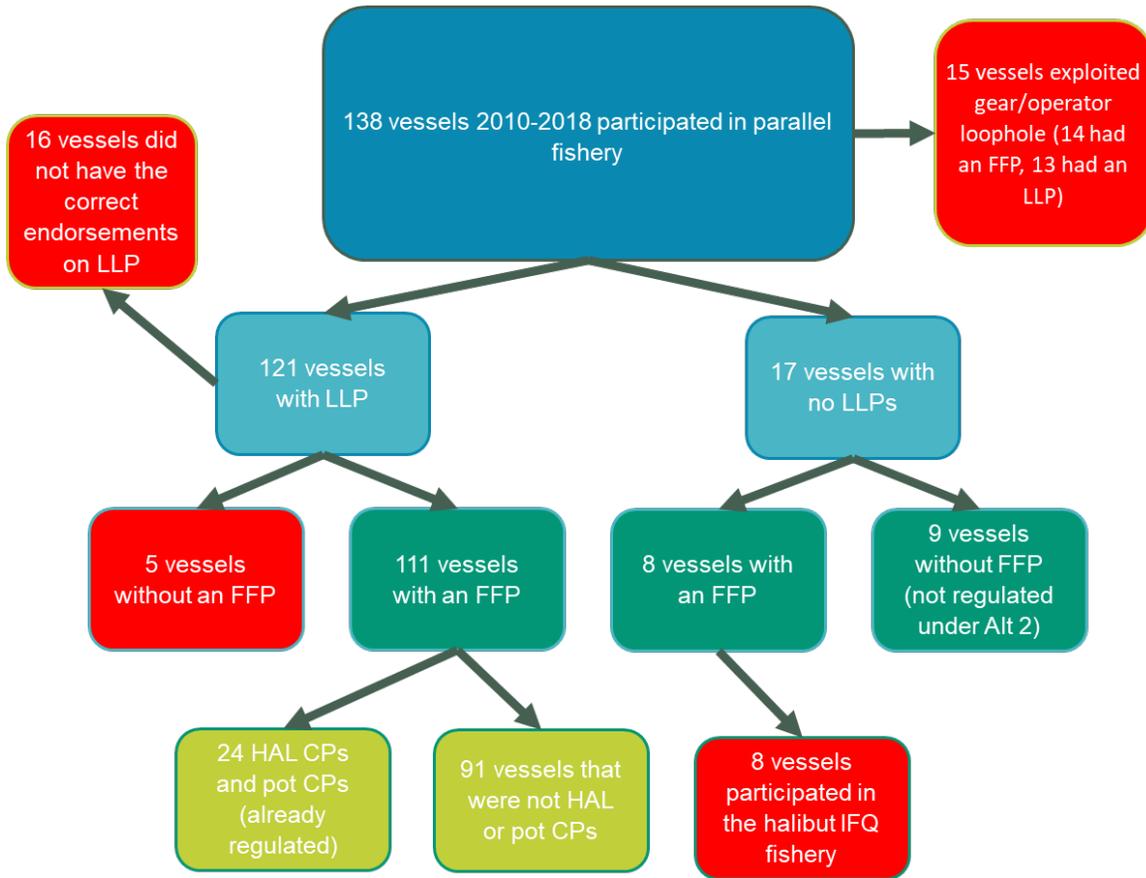
HAL CVs that hold an FFP or LLP but would not preclude vessels that do not hold an FFP or LLP from entering the parallel fishery.

Alternative 2 would negatively impact those Federal vessels (vessels that had either an LLP license or an FFP) that needed an LLP license with the correct endorsements and a designated FFP with the correct endorsements. Table ES-1 summarizes the impacts to the different groups of Federal permitted and licensed vessels that would have been out of compliance during 2010 through 2018 under Alternative 2. Since 2010, there has been 30 Federal vessels in four different groups, based on the different combination of required LLP licenses and designated FFP, that participated in the parallel fishery that would have been out of compliance under Alternative 2. Overall, the average annual gross exvessel revenue at risk for these vessels is \$863,000, which is 12.9 percent of the group's average annual total exvessel gross revenue. Given that three of the four groups of vessels that would be out of compliance under Alternative 2 would likely exit the parallel fishery or stop circumventing seasonal sector closures, there would likely be additional Pacific cod available for harvest, most of which would occur in the HAL/pot CV < 60 ft sector. The estimated average annual exvessel gross value of the Pacific cod shifting from exiting vessels as a result of Alternative 2 for harvest by the sectors would be \$791,000 annually.

Alternative 2 would also limit the ability of vessels that hold an FFP to surrender and later reapply for the FFP within a specified time period. The alternative makes it more difficult for vessels to circumvent Federal regulations proposed in Alternative 2 by temporarily surrendering the FFP. However, it would also mean these vessels must comply with groundfish observer program regulations and NMFS recordkeeping and reporting requirements. In addition, these vessels that hold an FFP must carry a VMS if they participate in the Atka mackerel, Pacific cod, or pollock directed fisheries in Federal waters of the BSAI or GOA.

From the community and processor perspective, CV landings from the BSAI Pacific cod parallel fishery are primarily delivered to shoreside processors in Unalaska/Dutch Harbor and other Alaska communities. The proposed action is not expected to directly impact the distribution of CV landings from the parallel fishery among shoreside processing communities. It is possible that fewer Federal vessels will participate in the parallel fishery, but that would likely not necessarily result in fewer onshore fleet support services being needed in the Alaska communities since these vessels could continue to fish in the parallel fishery as a state water vessel or continue to fish in other fisheries as a Federal vessel. Those vessels that remain eligible to participate in the parallel fishery could experience a slight increase in fishing opportunities.

Figure ES-1 Diagram showing the total number of vessels participating in the BSAI Pacific cod parallel fishery from 2010 through 2019 and the different groups of vessels by LLP and FFP status



Note: Vessel numbers included in the figure are not additive since a vessel can have an LLP license and/or FFP at any one point in time from 2010-2018, so a vessel can be included in more than one group.

Table ES-1 Summary of impacts from Alternative 2 at the vessel group level

Vessel group	Number of vessels	Sectors	Revenue at risk (2010-2018) ³	Likely Impact
Vessels with an LLP license but no FFP	5	3 – HAL/pot CVs < 60' 1 – trawl CV 1 – pot CV ≥ 60'	Average annual gross exvessel revenue is \$93,000; 6% of this group's average annual total exvessel gross revenue	Some or all of these vessels will likely apply for an FFP since the observer requirements and recordkeeping and reporting requirements associated with an FFP are likely less than the exvessel revenue received from the parallel fishery.
Vessels with an LLP but incorrect endorsement	16	13 – HAL/pot CVs < 60'	Average annual gross exvessel revenue is \$498,000; 14% of this group's average annual total exvessel gross revenue	Likely these vessels will not participate in the parallel fishery since the cost of an LLP license with the correct endorsements is likely greater than the revenue received from participating in the parallel fishery therefore the Pacific cod harvested by these vessels will be harvested by other sector vessels for equivalent average annual exvessel gross revenue of \$498,000.
Vessels without an LLP license but had a designated FFP for participate in the halibut IFQ fishery	8	6 – HAL/pot CVs < 60' 2 – pot CV ≥ 60'	Average annual gross exvessel revenue is \$200,000; 17% of this group's average annual total exvessel gross revenue	Likely these vessels will not participate in the parallel fishery since the cost of an LLP license with the correct endorsements is likely greater than the revenue received from participating in the parallel fishery therefore the Pacific cod harvested by these vessels will be harvested by other sector vessels for equivalent average annual exvessel gross revenue of \$200,000.
Vessels circumventing the seasonal sector closure	15	15 - HAL/pot CVs < 60'	Average annual gross exvessel revenue is \$663,000; 16% of this group's average annual total exvessel gross revenue	These vessels will likely no longer circumvent the seasonal closure for the sector since the benefits of continuing to participate in the parallel fishery as Federal vessel is greater than circumventing the seasonal sector closure as State vessel.
Total of all vessels that would have been out of compliance under Alternative 2 from 2010 through 2019	30	26- HAL/pot CVs < 60' 1 - trawl CV 3 – pot CV ≥ 60'	Average annual gross exvessel revenue is \$863,000; 12% of this group's average annual total exvessel gross revenue	In aggregate, would likely result in a shift in harvested Pacific cod with an average annual gross exvessel revenue of \$791,000 from vessels exiting the parallel fishery under Alternative 2 to greater sector participants that would benefit from Alternative 2.

³ Revenue data is available only through 2018.

1. Introduction

The proposed amendment would preclude hook-and-line (HAL), pot, jig, and trawl gear vessels from participating in the Bering Sea (BS) and Aleutian Island (AI) Pacific cod parallel fisheries unless they have a License Limitation Program (LLP) license with the correct LLP endorsements and a designated Federal Fisheries Permit (FFP). The amendment would also require the above Federally permitted or licensed vessels that fish in the parallel fishery to adhere to federal sector and seasonal BSAI Pacific cod closures and would restrict those vessels from surrendering and later reapplying for the FFP within a specified time period. The proposed amendment intends to ensure robust catch accounting while preventing all HAL, pot, jig, and trawl gear vessels from circumventing the intent of previous Council decisions regarding license limitation and sector allocations when participating in the BS and AI Pacific cod parallel fisheries while also recognizing that new entrants who do not hold Federal fishery permits may participate in the parallel fishery.

This document is a Regulatory Impact Review (RIR). An RIR provides assessments of the benefits and costs of the alternatives, the distribution of impacts, and identification of the small entities that may be affected by the alternatives. This RIR addresses the statutory requirements of the Magnuson Stevens Fishery Conservation and Management Act and Presidential Executive Order 12866, and some of the requirements of the Regulatory Flexibility Act. An RIR is a standard document produced by the North Pacific Fishery Management Council (Council) and the National Marine Fisheries Service (NMFS) Alaska Region to provide the analytical background for decision-making.

2. Regulatory Impact Review

This Regulatory Impact Review (RIR)⁴ examines the benefits and costs of a proposed regulatory amendment to preclude fixed and trawl gear vessels from participating in the Bering Sea and Aleutian Island (BSAI) Pacific cod parallel state waters fishery if they do not have a License Limitation Program (LLP) with the correct LLP endorsements.

The preparation of an RIR is required under Presidential Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993). The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following Statement from the E.O.:

In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

E.O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be “significant.” A “significant regulatory action” is one that is likely to:

- Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in E.O. 12866.

2.1. Statutory Authority

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801, *et seq.*), the United States has exclusive fishery management authority over all marine fishery resources found within the exclusive economic zone (EEZ). The management of these marine resources is vested in the Secretary of Commerce (Secretary) and in the regional fishery management councils. In the Alaska Region, the Council has the responsibility for preparing fishery management plans (FMPs) and FMP amendments for the marine fisheries that require conservation and management, and for submitting its recommendations to the Secretary. Upon approval by the Secretary, NMFS is charged with carrying out the Federal mandates of the Department of Commerce with regard to marine and anadromous fish.

⁴ Analysts have consulted with NMFS Alaska Region and preliminarily determined that none of the alternatives have the potential to have an effect individually or cumulatively on the human environment. This determination is subject to further review and public comment. If this determination is confirmed when a proposed rule is prepared, the proposed action will be categorically excluded from the need to prepare an Environmental Assessment.

The groundfish fisheries in the EEZ off Alaska is managed under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP).

The proposed action under consideration would amend the Federal regulations at 50 CFR 679. Actions taken to amend FMPs or implement regulations governing these fisheries must meet the requirements of applicable Federal laws, regulations, and Executive Orders.

2.2. History of this Action

In the BS and AI, vessels can fish inside State waters under the federal total allowable catch (TAC). This is called a parallel fishery. Currently, in the BS and AI, with the exception of the hook-and-line (HAL) and pot C/Ps, vessels can participate in a parallel fishery with or without an FFP or LLP license with their harvest deducted from TACs (which for Pacific cod are allocated between vessel length, gear type, and C/Ps vs CVs). When allowing these vessels to harvest TAC in parallel waters, the State does not differentiate between CVs and C/Ps, so vessels can participate in the parallel fishery if either the C/P or CV sector is open for the gear type and vessel length.

Because the State is unable to differentiate between a C/P and a CV in State waters during the Federal fisheries, there is currently a fishing opportunity that allows some Federally permitted vessels to continue to participate in the parallel fishery even though their sector has already been closed. The State will allow, for example, a CV to continue to fish for Pacific cod in the parallel fishery if a C/P sector of the same gear type and vessel size allowance is open. All catch (both from Federally permitted and non-Federally permitted vessels) in the BS and AI parallel fishery is deducted from the TAC. Although this fishing opportunity applies to all vessel and gear types, it is mostly the BSAI less than 60 ft HAL CVs harvesting Pacific cod that have participated. This is due to the BSAI Pacific cod fishery remaining open all year for the HAL C/P sector. The HAL C/P sector has a larger allocation and is managed under a voluntary cooperative so generally the sector remains open all year. However, when a less than 60 ft HAL CV participates in the parallel fishery after their sector (BSAI less than 60 ft HAL/pot CVs) is closed, all harvest is still accruing towards the less than 60 ft HAL/pot CV sector and not the HAL C/P sector allocation.

Each year, NMFS in-season managers cannot predict the number of vessels that will continue to fish in state waters during the parallel fishery when that sector is closed to fishing in federal waters. Nevertheless, the harvests from those vessels must still be accounted for under the federal TAC. Managers thus far have covered the harvests by either deducting the parallel fishery harvest from that sector's seasonal allocations scheduled to be taken later in the year (i.e., the B or C seasons), or by reallocating Pacific cod TAC from other sectors. In some years, managers have used a combination of both methods. Reallocations from other sectors are particularly problematic early in the fishing season when future activity of fishing fleets is unknown. As the year progresses, managers have a better sense of which sectors might not fully achieve their allocations, and how much Pacific cod might be available for reallocation to cover for the parallel season deficits. Nevertheless, there is no certainty from year to year how the parallel fishery harvests will be funded from the overall TAC.

There are several NMFS regulations that govern parallel fisheries and affect which vessels can participate in this parallel fishery. NMFS has a regulation that states that any Federally permitted HAL and pot C/P participating in the BSAI Pacific cod fisheries must have the corresponding LLP and must stop fishing in both Federal and parallel waters once their sector closes. This prevents any Federally permitted HAL and pot C/Ps from participating in the BSAI Pacific cod parallel fishery once it is closed to those sectors. Similarly, NMFS has regulations that any Federally permitted vessel in the GOA directed fishing for Pacific cod must have the corresponding LLP and stop fishing in parallel waters when their sector closes.

In the GOA, this applies to all Pacific cod sectors. This prevents all vessels in the GOA with FFPs and LLP licenses from taking advantage of this parallel fishery opportunity.

In addition to the Federal regulations limiting BSAI and GOA parallel fishing activity, the State of Alaska has a regulation restricting HAL vessels over 58 feet from participating in the BSAI Pacific cod parallel fishery. In the GOA, the State limits all vessels participating in the Pacific cod fishery to 58 feet and under in parallel fishery in the South Peninsula and Chignik management areas (which include all the Western GOA and a small portion in the west of the Central GOA). These State regulations prevent some larger vessels from continuing to fish in the parallel fishery after their sector closes to fishing in Federal waters.

The only BSAI Pacific cod sector that has no seasonal allocations is the less than 60 ft HAL/pot CVs. This sector has an annual allocation that opens January 1. This contrasts with all other sectors, which have two or three seasonal allocations spread over the year. When this annual allocation is fully harvested, their sector is closed to directed fishing for Pacific cod. The less than 60 ft HAL/pot CV sector only has a reopening if there is TAC available to reallocate from other sectors. Normally this reallocation happens in February/April and September and comes from one of four other sectors: the jig sector; the greater than or equal to 60 ft HAL CV sector; the greater than or equal to 60 ft pot CV sector; and the CV trawl sector. If less than 60 ft HAL/pot CVs have participated in the current BSAI parallel fishery, then Pacific cod reallocations must first cover any overages harvested by these vessels before a consideration can be made to re-open the BSAI Pacific cod fishery for the less than 60 ft HAL/pot CV sector.

To address the concerns of impacts that increased participation might have on BSAI Pacific cod TAC that could be harvested in parallel waters, the Council in April 2019 developed a purpose and need statement and requested that staff develop an analysis that would limit access to the parallel fishery for Federal fishery participants by requiring operators to have appropriate LLP license endorsements and an FFP in order to participate in the BS or AI Pacific cod parallel fishery.

In October 2019, the Council adopted a revised purpose and need statement and selected a preliminary preferred alternative. The Council's preliminary preferred alternative would preclude hook-and-line, pot, and trawl gear vessels from participating in the Bering Sea and Aleutian Islands Pacific cod parallel fisheries unless they have a License Limitation Program license with the correct license endorsements and a designated Federal Fisheries Permit. The preliminary preferred alternative would also require the above Federal permitted or licensed vessels that fish in the parallel fishery to adhere to federal sector and seasonal BSAI Pacific cod closures and would restrict those vessels from surrendering and later reapplying for the FFP within a three-year time period.

2.3. Purpose and Need for Action

The purpose of this action is to address inadvertent fishing in BSAI parallel waters off a federal Pacific cod TAC even when a sector's federal Pacific cod allocation has been achieved. State of Alaska attorneys have advised that regulations in State waters cannot differentiate allocations between CVs and C/Ps that fish the same gear type in the same administrative area⁵; therefore, in State waters, there is currently a fishing opportunity that allows some Federally permitted vessels to continue to participate in the parallel

⁵ 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. As a result, the Alaska Department of Law has advised the Alaska Board of Fisheries that the statutory allocation criteria applies to allocations among use categories (e.g., personal use, sport, guided sport, commercial) as well among subgroups of those categories (e.g. drift and set gillnet commercial fisheries). However, the Board may not allocate "within" a particular fishery (same gear and same administrative area). Alaska Dept. of Law to Jim Marcotte, Alaska Board of Fisheries; November 30, 2009.

fishery even though their sector has already been closed to fishing. The State will allow, for example, a CV to continue to fish for Pacific cod in the parallel fishery if a C/P sector of the same gear type and vessel size allowance is open. In addition, the proposed action would address concerns that increased participation in the parallel fishery by vessels without an FFP or LLP license may have on long-term participants in the BSAI Pacific cod fishery. Increased parallel fishery participation has the potential to erode historical harvests of those participants who contribute 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 fixed-gear CVs that hold LLP licenses with Pacific cod endorsements and BSAI area endorsements and trawl gear CVs and C/Ps that hold LLP licenses with BSAI area endorsements from vessels entering the parallel fishery that do not hold LLP license endorsements for BSAI area or Pacific cod.

The scope of this amendment is limited to subset of trawl CVs and C/Ps, pot and HAL CVs, and jig vessels. If these vessels do not hold an FFP and an LLP license with the correct endorsements for the BSAI Pacific cod fishery, they would be precluded from participating in the parallel fishery. This amendment would not affect any of the current pot and HAL C/Ps. To participate in the parallel fishery, these vessels are already to operate with an LLP license that has the correct area and Pacific cod endorsements. These vessels, all of which are currently permitted with an FFP, area already required by regulation to stop fishing in both Federal and parallel fisheries once their sector closes. Note that if a vessel does not hold an FFP or an LLP license, the amendment would not preclude the vessel from participating in the parallel fishery.

During the April 2019 meeting, the Council adopted a purpose and need statement for the proposed action. At the October 2019 meeting, the Council, while conducting initial review of the amendment package adjusted the purpose and need statement to better reflect the proposed action. The revisions to the purpose and need statement were clarifications to better reflect the Council's intent in limiting federally permitted vessels in the parallel waters. The revisions did not change the purpose of the action identified by the Council or affect how the analysis of the alternatives meet the revised statement. Provided below is the revised purpose and need statement:

Currently, there are no limits on entry by federally permitted catcher vessels into the Bering Sea/Aleutian Islands (BSAI) parallel waters groundfish fisheries, and no limits on the proportion of BSAI Pacific cod TAC that may be harvested in parallel waters. Currently management inadvertently allows fishing in BSAI parallel waters off a federal Pacific cod TAC even when a sector's federal Pacific cod allocation has been achieved. There is concern that harvests of Pacific cod in the parallel waters fishery by vessels that do not hold BSAI groundfish LLP licenses or the appropriate Pacific cod endorsement may continue to increase. This complicates conservation and management measures which hold sectors to their allocations and circumvents the intent of previous Council decisions regarding license limitation, sector allocations, and catch reporting. The Council, in consideration of options and recommendations for federal catcher vessels that participate in the parallel fishery, intends to ensure robust catch accounting while considering participation in and reliance on the Pacific cod fisheries while recognizing that new entrants who do not hold Federal fishery permits may participate in the parallel fishery.

2.4. Alternatives

The following alternatives were adopted by the Council in April 2019.

Alternative 1: Status quo

Alternative 2: (Preliminary Preferred Alternative) Limit access to the parallel fishery for Federal fishery participants.

Hook and line and pot vessels - require any pot or hook and line vessel designated on an LLP or FFP to have the appropriate Pacific cod endorsement and area endorsement on the LLP; and the Bering Sea (BS) or Aleutian Islands (AI) area designation and the appropriate gear and operation type designations on the FFP in order to participate in the BS or AI Pacific cod parallel waters fishery.

Trawl gear vessels - require any trawl vessel with an LLP or an FFP to have the appropriate gear and area endorsements on the LLP; and the BS or AI area designation and the appropriate gear and operation type designations on the FFP in order to participate in the BS or AI Pacific cod parallel waters fishery.

In addition, require the above Federally permitted or licensed vessels that fish in the parallel waters to adhere to Federal and seasonal closures of the BSAI sector allocations corresponding to the sector in which the vessel operates.

Vessels with a BS or AI area, gear, and operation type designations specified in this alternative cannot remove these designations from the FFP and can only surrender or reactivate the FFP once every three years.

2.5. Methods Used for the Impact Analysis

The impact analysis in this document is designed to meet the requirements of Executive Order 12866, which dictates that an RIR evaluate the costs and benefits of the alternatives, including both quantifiable and qualitative considerations. Additionally, the analysis should provide information for decision makers “to maximize net benefits (including potential economic, environment, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.” The costs and benefits of this action with respect to these attributes are described in the sections that follow, comparing the No Action Alternative 1 with the action alternatives. A qualitative assessment of the net benefit to the Nation of each alternative, compared to no action then follows.

This analysis was prepared using data from the NMFS catch accounting system, which are the best available data to estimate total catch in the groundfish fisheries off Alaska. Total catch estimates are generated from information provided through a variety of required industry reports of harvest and offshore discard, and data collected through an extensive fishery observer program. In 2003, NMFS changed the methodologies used to determine catch estimates from the NMFS blend database (1995 through 2002) to the catch accounting system (2003 through present). The catch accounting system was implemented to better meet the increasing information needs of fisheries scientists and managers. Currently, the catch accounting system relies on data derived from a mixture of production and observer reports as the basis of the total catch estimates. The 2003 modifications in catch estimation included providing more frequent data summaries at finer spatial and fleet resolution, and the increased use of observer data. Redesigned observer program data collections were implemented in 2008 and include recording sample-specific information in lieu of pooled information, increased use of systematic sampling over simple random and opportunistic sampling, and decreased reliance on observer computations. As a result of these modifications, NMFS is unable to recreate blend database estimates for total catch and

retained catch after 2002. Therefore, NMFS is not able to reliably compare historical data from the blend database to the current catch accounting system.

2.6. Description of Fisheries

The parallel fisheries occur in State waters (0 nm to 3 nm) adjacent to the BSAI and the Gulf of Alaska (GOA) management areas. Each year, the Alaska Department of Fish and Game (ADFG) commissioner opens and closes, by emergency order, parallel waters seasons in the BSAI and GOA to coincide with the Federal waters (3 nm to 200 nm) seasons in the BSAI and GOA. The same gear types that may be used in the Federal BSAI and GOA fisheries are permitted in the parallel fisheries, unless specifically prohibited under State regulations. Groundfish harvests in the parallel waters and Federal waters account to the Federal groundfish TAC. The parallel fisheries are managed separately from the State Guideline Harvest Level (GHL) fisheries. The State GHL fisheries occur during distinct seasons that generally do not overlap the parallel and Federal waters seasons and are managed by ADFG under a GHL and a distinct set of regulations. For example, the AI State GHL Pacific cod fishery and the BS State GHL Pacific cod fishery regulations are described in Section 2.6.5.3. The remainder of this document addresses management of the parallel fisheries.

Currently, all sectors except C/P pot and C/P HAL vessels⁶ may participate in the BSAI parallel fisheries without holding a Federal permit, LLP license, and endorsements necessary to participate in the Federal fisheries. This parallel fishery 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 fishery activity could occur in several fisheries, it has generally occurred in the BSAI Pacific cod fishery with the HAL/pot CV < 60 ft sector. This sector has an annual allocation that opens January 1. This contrasts with all other BSAI Pacific cod sectors which have two or three seasonal allocations spread over the year. In the HAL/pot CV < 60 ft sector, when the allocation is fully harvested, the sector is closed. However, since the State is unable to differentiate between a C/P and a CV during the Federal fisheries and the BSAI Pacific cod fishery remains open year round for the HAL C/P sector, the HAL CV < 60 ft vessels can continue to participate in the parallel fishery even though their Federal sector has already been closed to fishing. The HAL C/P sector has a larger BSAI Pacific cod allocation and is managed under a voluntary cooperative, so the sector generally remains open all year. If less than 60 ft HAL CVs have participated in the BSAI parallel fishery after their sector is closed to fishing, then Pacific cod reallocated from other sectors later in the year must first cover any amount of harvest by these vessels in that fishery before a consideration can be made to re-open the entire Federal BSAI HAL/pot CV < 60 ft sector.

2.6.1. Description of management of the BS and AI Pacific cod fishery

The process for establishing Pacific cod catch limits and sector allocations is illustrated in Figure 2-1. Each year, the Council's BSAI groundfish Plan Team and Scientific and Statistical Committee (SSC) establish an overfishing level (OFL) and acceptable biological catch (ABC) for Pacific cod for the BS subarea of the BSAI, and a separate OFL and ABC for the AI subarea of the BSAI. Before the AI and BS Pacific cod TACs are established at a lower level, the Council and NMFS consider social and economic factors, and management uncertainty, as well as two factors that are particularly relevant to BSAI Pacific cod: 1) Pacific cod guideline harvest level (GHL) fisheries that occur in the state waters of the BSAI, and 2) an overall 2 million mt limit on the maximum amount of TAC that can be specified for all BSAI groundfish.

⁶ Effective January 1, 2012, NMFS issued regulations to limit access of Federally permitted pot and HAL C/Ps to the Pacific cod fishery in State waters in the BS and AI (see 76 FR 73513).

Pacific cod TACs are specified at reduced levels that take into account the State GHL fisheries so that the combined harvest limits from State GHL fisheries and the TACs do not exceed the ABCs specified for the BS or AI. In the BSAI, the State manages three GHL fisheries for Pacific cod in the BSAI, two that occur within state waters in the BS and one that occurs within state waters in the AI. Under current state regulations in the BS, the Dutch Harbor Subarea (DHS) GHL fishery for pot gear in the BS is set at 8 percent of the BS ABC with an annual 1 percent increase in that allocation, if 90 percent of the allocation is harvested, until it reaches 15 percent of the BS ABC. A second BS GHL fishery started in 2019 allocating approximately 45 mt (10,000 lbs.) to jig vessels. In the AI, the GHL fishery was set at 27 percent of the 2018 ABC specified for AI Pacific cod, with annual “step-up” provisions that would increase the amount of the GHL fishery if it was harvested up to at least 90 percent in the previous year. The 2019 AI GHL was increased to 31 percent of the AI Pacific cod ABC. If the GHL fishery continues to be nearly fully harvested it can continue to increase annually by 4 percent up to a maximum of 39 percent of the AI ABC or to a maximum of 6,804 mt (15 million lbs.), whichever is less.

Once the individual AI and BS TACs are established, regulations at § 679.20(a)(7)(i) allocate 10.7 percent of the BS and AI Pacific cod TAC to the CDQ Program. The remaining portion of TAC after deducting the 10.7 percent allocation for CDQ Program is the initial total allowable catch (ITAC).

Table 2-1 provides ABCs, TACs, and ITACs of BSAI Pacific cod from 2003 through 2013, and ABCs, TACs, and ITACs for BS Pacific cod and AI Pacific cod from 2014 through 2019. Since the BS and AI were split in 2014, the BS ABC and TAC have declined, and the AI ABC and TAC increased initially and have remained constant the last three years.

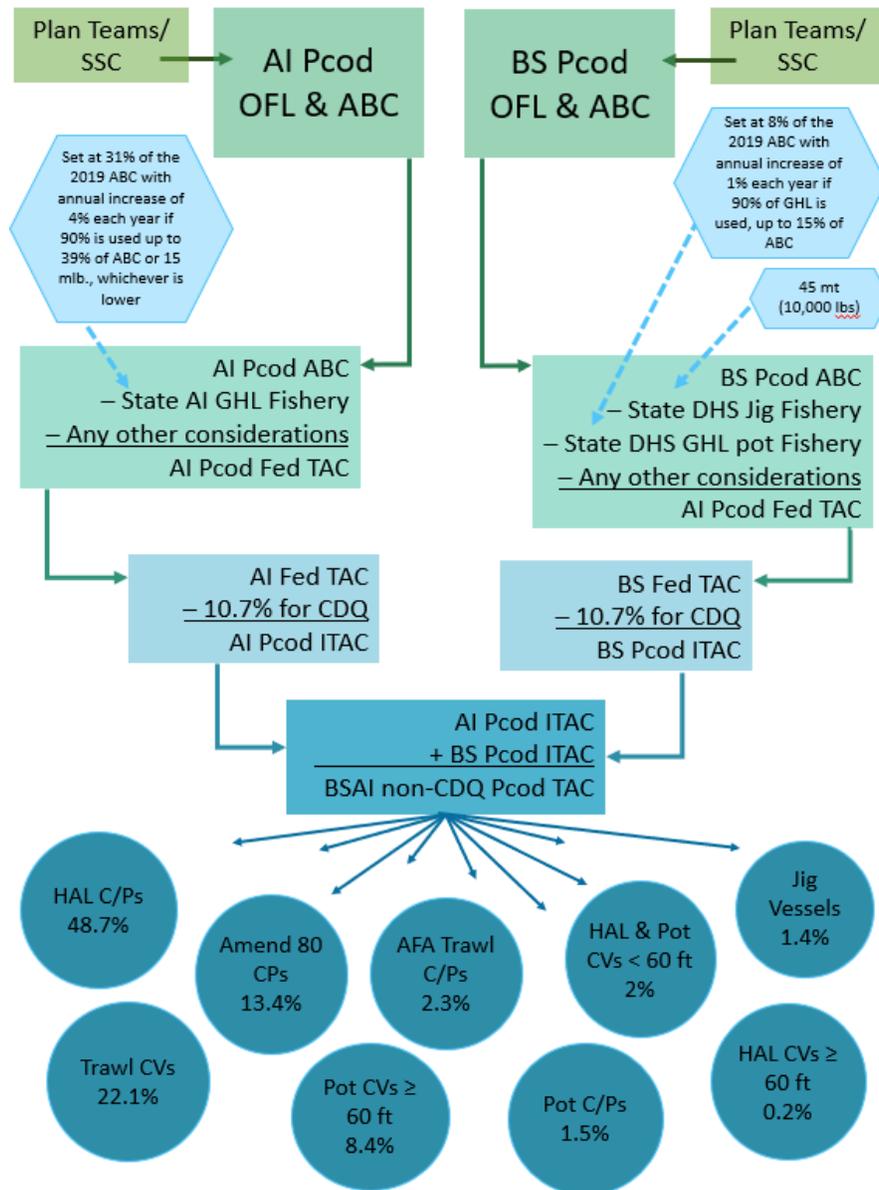
Table 2-1 BSAI Pacific cod ABC, TAC, and ITAC 2003 to 2013 and BS and AI Pacific cod ABC, TAC, and ITAC 2014 and 2019 (amounts in metric tons)

Year	BSAI			BS			AI		
	ABC	TAC	ITAC	ABC	TAC	ITAC	ABC	TAC	ITAC
2003	223,000	207,500	191,938						
2004	223,000	215,500	199,338						
2005	206,000	206,000	190,550						
2006	194,000	194,000	174,067						
2007	176,000	170,720	157,916						
2008	176,000	170,720	152,453						
2009	182,000	176,540	157,650						
2010	174,000	168,780	150,721						
2011	235,000	227,950	203,559						
2012	314,000	261,000	233,073						
2013	307,000	260,000	232,180						
2014		N/A		255,000	246,897	220,479	15,100	6,997	6,248
2015				255,000	240,000	214,320	17,600	9,422	8,414
2016				255,000	238,680	213,141	17,600	12,839	11,465
2017				239,000	223,704	199,768	21,500	15,695	14,016
2018				201,000	188,136	168,005	21,500	15,695	14,016
2019				181,000	166,475	148,662	20,600	14,214	12,693

After subtraction of the CDQ allocation from each TAC, NMFS combines the remaining BS and AI ITACs into one BSAI non-CDQ TAC, which is available for harvest by nine non-CDQ fishery sectors. Regulations implemented under BSAI Amendment 85 at § 679.20(a)(7)(ii)(A) define the nine Pacific cod

non-CDQ fishery sectors in the BSAI and specify the percentage allocated to each. The non-CDQ fishery sectors are defined by a combination of gear type (e.g., trawl, hook-and-line), operation type (i.e., catcher vessel or catcher/processor), and vessel size categories (e.g., vessels \geq to 60 ft in length overall). Through the annual harvest specifications process, NMFS allocates an amount of the combined BSAI non-CDQ TAC to each of these nine non-CDQ fishery sectors. The nine non-CDQ fishery sectors and the percentage of the combined BSAI non-CDQ TAC allocated to each sector are shown in **Figure 2-1** below.

Figure 2-1 BSAI Pacific cod specifications and sector allocations



Notes: SSC= Scientific and Statistical Committee, AI= Aleutian Islands, BS= Bering Sea, Pcod= Pacific cod, OFL= overfishing limit, ABC= acceptable biological catch, GHL= guideline harvest limit, DHS = Dutch Harbor Subarea, TAC= total allowable catch, ITAC= initial total allowable catch, CDQ= community development quota, HAL= hook-and-line, CV= catcher vessel, C/P= catcher processor, AFA= American Fisheries Act, Amend 80= Amendment 80

NMFS manages each of the non-CDQ fishery sectors to ensure harvest of Pacific cod does not exceed the overall annual allocation made to each of the non-CDQ fishery sectors. NMFS monitors harvests that

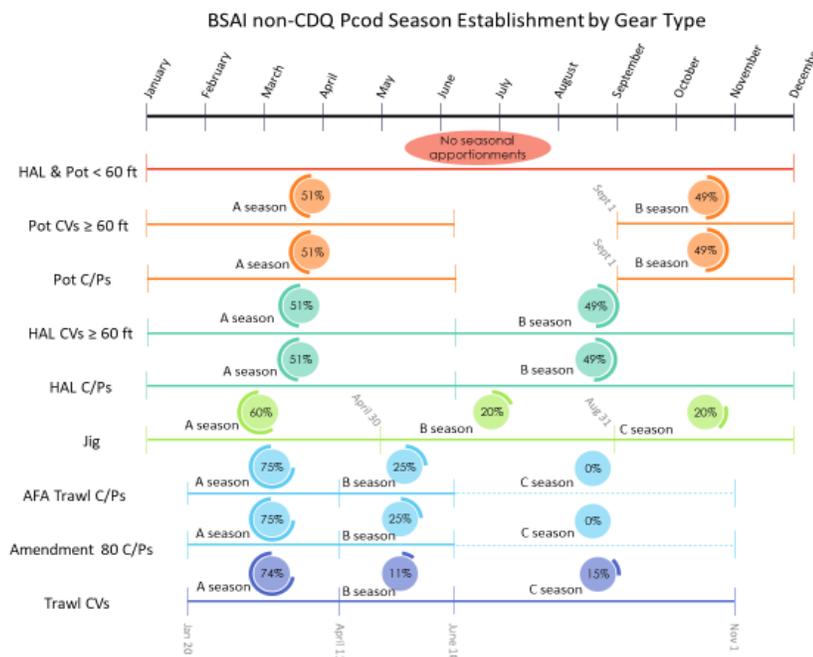
occur while vessels are directed fishing for Pacific cod (specifically targeting and retaining Pacific cod above specific threshold levels) and harvests that occur while vessels are directed fishing in other fisheries and incidentally catching Pacific cod (e.g., the incidental catch of Pacific cod in the directed pollock fishery). NMFS allocates exclusive harvest privileges to the non-AFA trawl catcher/processor sector, or the Amendment 80 sector, that cannot be exceeded. For the other eight non-CDQ fishery sectors, NMFS carefully tracks both directed fishing and incidental catch of Pacific cod. NMFS takes appropriate management measures, such as closing directed fishing for a non-CDQ fishery sector, to ensure that total directed fishing and incidental fishing harvests do not exceed that sector's allocation.

An allocation to a non-CDQ fishery sector may be harvested in either the BS or the AI, subject to the non-CDQ Pacific cod TAC specified for the BS or the AI. If the non-CDQ Pacific cod TAC is or will be reached in either the BS or AI, NMFS will prohibit directed fishing for Pacific cod in that subarea for all non-CDQ fishery sectors.

Allocations of Pacific cod to the CDQ Program and to the non-CDQ fishery sectors are further apportioned by seasons. BSAI non-CDQ Pacific cod allocations are managed at the BSAI level. Because there are no non-CDQ sector allocations specific to each area, there are no gear specific seasonal allowances by area. While the overall seasonal allocation for the BSAI Pacific cod fishery continues to be a 70:30 percent seasonal split, the seasonal allowances vary by gear taking into account changes to the season dates from the 2014 Steller sea lion protection measures. Figure 2-2 demonstrates how those seasons vary by non-CDQ sector.

The allocation of Pacific cod among the CDQ Program and the nine non-CDQ fishery sectors, as well as the seasonal apportionment of those allocations, create a large number of separate sectoral-seasonal allocations. To help ensure the efficient allocation management, NMFS may reallocate any unused portion of a seasonal apportionment from any non-CDQ fishery sector to that sector's next season during the current fishing year, unless the Regional Administrator determines a non-CDQ fishery sector will not be able to harvest its allocation.

Figure 2-2 BSAI non-CDQ Pacific cod seasonal apportionments by gear type



Note: HAL= hook-and-line, CV= catcher vessel, C/P= catcher/processor, AFA= American Fisheries Act

2.6.2. License Limitation Program (LLP) management

As of January 1, 2000, a Federal LLP license has been required for vessels engaged in directed fishing for LLP groundfish species in the BSAI or Gulf of Alaska (GOA) in Federal fisheries.⁷ LLP licenses come with a combination of endorsements that specify the type of participation that can occur. In order to harvest Pacific cod in a BS or AI Federal fishery (including CDQ and non-CDQ) a vessel must hold a valid groundfish LLP license which includes the appropriate maximum length overall (MLOA) for the vessel using the license and the appropriate endorsements. More specifically, the LLP license specifies:

- An endorsement(s) for the sub-area(s) that vessel is authorized to fish (e.g., BS or AI or both)
- An endorsement for mode of operation (i.e. catcher vessel or catcher/processor). Vessels with a CV license may harvest, but not process fish onboard. Vessels with a C/P endorsed license may harvest and process fish onboard. A vessel with a C/P LLP license may deliver their catch shoreside as well.
- An endorsement for trawl, non-trawl, or both gear types.
 - If the vessel's LLP license has a trawl endorsement that vessel is also automatically authorized for directed fishing for Pacific cod.
 - If the LLP license is non-trawl, the license will also specify whether the vessel has a Pacific cod endorsement (authorizing directed fishing for Pacific cod) and with hook-and-line or pot gear. CVs less than 60 ft are exempt from the required Pacific cod endorsement on their LLP.
- The LLP groundfish licenses also identify whether the LLP license is associated with the Amendment 80, AFA, and GOA Rockfish Program.
- LLP groundfish licenses also specify whether use of the license is sideboarded in other fisheries

These different types of endorsements create 14 unique combinations of LLP licenses that authorize Pacific cod fishing in the BS or AI (Table 2-2). Among those 14 combinations of licenses, some include multiple endorsements. For example, one LLP license is endorsed for both AI trawl CV fishing (which includes the ability for directed fishing for Pacific cod), as well as being authorized as a HAL CV in the AI fishing for Pacific cod. Table 2-2 demonstrates the number of LLP licenses for each category as well as this overlap for licenses that hold multiple endorsements. This table shows that in 2018, there were a total of 114 LLP licenses with CV trawl endorsements for the BS. Of the 43 LLP licenses with CV trawl endorsement for the AI, 42 of them were also authorized to fish in the BS; demonstrating significant overlap. In addition to overlap in the AI, there is also significant overlap in the LLP licenses with CV trawl endorsement for the BS and those that are AFA derived (98 of the 114 licenses). An Amendment 80 flag is attached to some of the C/P endorsements, such as the AI and BS trawl C/P fisheries. Most of the LLP licenses that are endorsed for CV pot fishing for Pacific cod do not have other endorsements.

⁷ There are a few exceptions for LLP requirements in the BSAI. This includes vessels that do not exceed 32 ft LOA; vessels that are at least 32 ft LOA but that do not exceed 46 ft LOA that are registered with their CDQ group to harvest CDQ groundfish; vessels that do not exceed 60 ft LOA and are using jig gear (but no more than 5 jig machines, one line per machine, and 15 hooks per line); and certain vessels constructed for and used exclusively in the CDQ fisheries.

Table 2-2 Number of LLP licenses issued in the BSAI by endorsement, 2018

Sector	Sum of AI_C/P_PCOD_HAL2	Sum of BS_C/P_PCOD_HAL2	Sum of AI_C/P_PCOD_POT2	Sum of BS_C/P_PCOD_POT2	Sum of AI_CV_PCOD_HAL2	Sum of BS_CV_PCOD_HAL2	Sum of AI_CV_PCOD_POT2	Sum of BS_CV_PCOD_POT2	Sum of AI_TRAWL_C/P2	Sum of BS_TRAWL_C/P2	Sum of AI_TRAWL_CV2	Sum of BS_TRAWL_CV2	Sum of A802	Sum of AFA
AI_C/P_PCOD_HAL	34													
BS_C/P_PCOD_HAL	34	36												
AI_C/P_PCOD_POT	3	3	5											
BS_C/P_PCOD_POT	3	3	5	8										
AI_CV_PCOD_HAL	0	0	1	1	8									
BS_CV_PCOD_HAL	0	0	1	1	7	8								
AI_CV_PCOD_POT	0	0	0	0	0	0	3							
BS_CV_PCOD_POT	0	0	0	0	0	1	2	49						
AI_TRAWL_C/P	0	0	0	0	0	0	0	0	50					
BS_TRAWL_C/P	0	0	0	0	0	0	0	0	49	58				
AI_TRAWL_CV	0	0	0	0	1	0	0	0	0	0	43			
BS_TRAWL_CV	0	0	0	0	0	0	0	0	0	0	42	114		
A80	0	0	0	0	0	0	0	0	19	26	0	0	26	
AFA	0	0	0	0	0	0	0	0	25	27	42	98	0	128

Source: BSAI Pacific Cod Allocation Review (6-22-2019)

2.6.3. Federal fisheries permit requirements

All vessels fishing for groundfish in Federal waters of the Bering Sea, Aleutian Islands, and Gulf of Alaska are required to hold an 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 an FFP must comply with groundfish observer program regulations and with NMFS recordkeeping and reporting requirements. In addition, vessels that hold FFPs must carry a Vessel Monitoring System (VMS) if they participate in directed fishing for Atka mackerel, Pacific cod, or pollock in Federal waters of the BSAI or GOA. Vessels that participate in these directed fisheries must also have an endorsement on their FFP that indicates the use of pot, trawl, or hook-and-line gear in these fisheries. Vessels using jig gear are not required to obtain this endorsement on their FFPs, and as a result, are exempt from the VMS requirement except in the Aleutian Islands. Starting July 28th, 2006, all vessels fishing under FFPs in the Aleutian Islands, including jig gear and in state waters must have an operational VMS.

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 state and state waters fisheries do not need an FFP, and vessels that do not hold FFPs are not subject to NMFS recordkeeping and reporting requirements, Federal observer coverage, or VMS requirements. However, the State of Alaska does require the use of VMS in all parallel groundfish fisheries west of 144 degrees West Longitude unless the vessel is using jig gear. 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.

2.6.4. 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. Vessels that hold an FFP or LLP licenses are subject to Federal groundfish regulations, even while fishing in state waters adjacent to the BSAI or GOA. For example, vessels that hold FFPs are subject to Federal recordkeeping and reporting, observer ⁸, and VMS requirements while fishing in Federal, parallel, or State GHF fisheries. NMFS has regulations in the BSAI that state that any Federal permitted HAL and pot C/P participating in Pacific cod fisheries must have the corresponding LLP and must stop fishing in both Federal and parallel fisheries once their sector closes. This prevents any Federally permitted HAL and pot C/P from participating in the parallel fishery once closed to the sector.

A vessel (other than HAL and pot C/Ps) could easily surrender the FFP to circumvent the Federal recordkeeping and reporting, observer, and VMS requirements, and later have the FFP reissued to the same vessels. There is currently no restriction on the number of times a holder of an FFP can surrender a BSAI permit and have it reissued. However, the HAL and pot C/P regulations limited access to the parallel Pacific cod fishery are written such that they apply to vessels with either an FFP or LLP, and HAL and pot C/Ps that hold LLP licenses would also have to surrender these licenses or transfer them to another vessel in order to circumvent the parallel fishery limitation.

The Council could extend other regulations to Federally permitted vessels participating in the parallel fisheries, as long as the action has an adequate conservation or management rationale. The proposed action would extend the FFP, LLP, and their associated endorsement requirements to trawl CV and C/Ps, jig vessels, and pot and HAL CVs fishing in the BSAI Pacific cod parallel state waters fishery. The requirement would only apply to vessels with an FFP or an LLP.

2.6.5. Interactions with State management measures

2.6.5.1. Board of Fish action on BSAI parallel state waters fishery

The State of Alaska manages the parallel 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.⁹ As a result, the State cannot specifically restrict C/Ps from participating in the parallel fisheries. The State can, however, limit participation on the basis of vessel length. In 2009, the State limited the size of HAL vessels allowed to participate in the BSAI Pacific cod parallel fishery to 58 ft LOA. Most C/Ps are larger than 58 ft LOA, and this management measure has prevented an increase in fishing effort in the parallel fishery by large C/Ps. The BSAI parallel fishery has mostly been prosecuted by small CVs delivering to shoreside processors. Although the State limit restricting HAL vessels over 58 ft LOA in the parallel fishery does not apply to vessels using pot gear, the limitation by Federally permitted pot C/Ps in the parallel fishery prevents pot C/Ps from taking advantage of the parallel fishery opportunity once their sector is closed to fishing. The proposed regulatory action would expand the group of Federally permitted vessels that would be restricted from taking advantage of the parallel fishery opportunity once their sector is closed to fishing.

⁸ There are some exceptions for CPs in State GHF fisheries.

⁹ *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. As a result, the Alaska Department of Law has advised the Alaska Board of Fisheries that the statutory allocation criteria applies to allocations among use categories (e.g., personal use, sport, guided sport, commercial) as well among subgroups of those categories (e.g. drift and set gillnet commercial fisheries). However, the Board may not allocate "within" a particular fishery (same gear and same administrative area). Alaska Dept. of Law to Jim Marcotte, Alaska Board of Fisheries; November 30, 2009.

2.6.5.2. Seasonal sector allocation closures

A management issue that has arisen is that vessels are fishing for Pacific cod in the BSAI parallel state waters fishery after the TAC for their respective sector has been harvested and directed fishing for Pacific cod is closed. Again, the State recognizes sector allocations by gear type, but does not recognize the separate CP and CV allocations. If Pacific cod directed fishing for one of the gear 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 state waters fishery.

For example, the HAL/pot CVs < 60 ft may participate in the parallel state waters fishery when adjacent Federal waters Pacific cod directed fishing is closed for their sector, but Pacific cod directed fishing is open to the HAL C/P and pot C/P sectors. In practice, NMFS inseason management accounts for the parallel state waters catch by gear and operation type. In the BSAI Pacific cod fishery, parallel state waters catch is deducted from the appropriate sector allocation based on the gear and operation type of the harvesting vessel. However, if one sector's season closes and vessels in that sector continue to fish in the parallel state waters fishery, this would interfere with the Federal allocations. If the catch is counted against another sector's allocation, this would effectively result in a reallocation of the TAC.

2.6.5.3. Overview of State water GHL fisheries

The State of Alaska has managed a GHL fishery for Pacific cod in state waters in the AI subarea since 2006 and in the DHS of the BS since 2014. In the AI the GHL fishery opens on January 1 in the Adak section (175 degrees to 178 degrees west longitude) for jig, pot, and trawl vessels 60 feet and under and HAL vessels 58 feet and under. The entire AI GHL fishery (west of 170 degrees west longitude) opens four days after the federal BSAI CV trawl Pacific cod fishery closes, or four days after the federal AI subdistrict closes to non-CDQ Pacific cod fishing, or May 15, whichever comes first. At that time trawl vessels that are 100 feet or less, pot vessels that are 125 feet or less and HAL and jig vessels who are 58 feet or less may participate. The GHL was 3 percent of the Federal BSAI Pacific cod ABC from 2006 through the 2015 fishing season. Over that same period, the GHL was divided between A and B seasons. Starting in 2016, the Board of Fisheries decided to prosecute the fishery as a single season, and changed the AI GHL to 27 percent of the AI ABC, with annual step-up provisions if the AI GHL is fully harvested to a maximum of 39 percent of the AI ABC. The annual step-up provision remains in place if the GHL is fully harvested. The GHL is considered fully harvested at 90 percent harvested. For 2019, the AI GHL was 31 percent of the AI ABC since the 2018 AI GHL was fully harvested. In addition, the Alaska Board of Fisheries (BOF) capped the AI GHL at a maximum of 15 million pounds (6,804 mt). At the BOF October 2018 meeting, the BOF included a four percent step-down provision if the AI GHL is not fully harvested (90 percent is considered fully harvested) during two consecutive calendar years. The GHL may not be reduced below 15 percent of the Federal AI Pacific cod ABC.

While trawl, hook-and-line, pot, and jig gear are allowed at various times during the AI Pacific cod GHL fishery, overall, the majority of the fishery has been harvested by vessels using trawl and pot gear. Harvest information from the AI Pacific cod GHL fishery is confidential in recent years due to the number of participants in the processing sector. Table 2-3 summarize the state AI GHL participation, catch, and value for the years 2006 through 2018.

Table 2-3 Aleutian Islands state-waters Pacific cod fishery guideline harvest level and harvest from 2006-2018

Year	Season	Initial GHL ^a		Harvest ^a	Vessels	Landings	Average price per pound ^b	Fishery value ^c
2006	A season	4,074		3,857	26	68	\$0.23	\$1.30
	B-season	1,746	d	160	5	19	\$0.38	\$1.40
	TOTAL	5,820		4,017	30	e	\$0.31	\$2.70
2007	A season	3,696		3,733	27	97	\$0.45	\$3.60
	B-season	1,584	f	1,546	12	106	\$0.52	\$1.70
	TOTAL	5,280		5,279	39	203	\$0.49	\$5.30
2008	A season	3,696		3,392	30	116	\$0.63	\$4.50
	B-season	1,584	g	1,924	18	77	\$0.57	\$1.80
	TOTAL	5,280		5,316	45	e	\$0.61	\$6.30
2009	A season	3,822		2,512	22	50	NA	NA
	B-season	1,638	g	CF	5	47	CF	CF
	TOTAL	5,460		CF	27	97	CF	CF
2010	A season	3,654		3,610	16	84	\$0.25	\$1.60
	B-season	1,566	g	375	3	4	\$0.32	\$1.10
	TOTAL	5,220		3,985	16	e	\$0.29	\$2.70
2011	A season	4,935		CF	3	4	CF	CF
	B-season	2,115	g	CF	4	16	CF	CF
	TOTAL	7,050		270	6	e	CF	CF
2012	A season	6,594		5,199	21	201	\$0.31	\$3.60
	B-season	2,826	g	432	7	25	CF	CF
	TOTAL	9,420		5,598	26	e	CF	CF
2013	A season	6,447		CF	12	CF	CF	CF
	B-season	2,763	g	CF	1	CF	CF	CF
	TOTAL	9,210		4,792	13	151	CF	CF
2014	A season	5,672		CF	8	133	CF	CF
	B-season	2,431	g	0	0	0	\$0.00	\$0.00
	TOTAL	8,103		CF	8	133	CF	CF
2015	A season	5,725		CF	2	CF	CF	CF
	B-season	2,453	g	0	0	0	\$0.00	\$0.00
	TOTAL	8,178		CF	2	CF	CF	CF
2016		4,752	h	CF	6	39	CF	CF
2017		5,805	h	CF	3	84	CF	CF
2018		5,805	h	CF	13	132	CF	CF

Note: CF = Confidential

^a In metric tons

^b Price per pound of landed weight.

^c Fishery value based on landed weight, in millions of dollars.

^d ADF&G made 3.5 million pounds of the GHL available to National Marine Fisheries Service effective on September 1.

^e Some vessels participated in both seasons.

^f Overage from the A-season was deducted from the B-season GHL. Initial GHL shown.

^g A-season GHL was not fully harvested, remaining A-season GHL rolled over into B-season GHL; initial GHL shown.

^h Regulation changed to only one season for Aleutian Island Subdistrict state-waters Pacific cod.

During October 2013, the BOF created a state-waters Pacific cod fishery management plan for the Bering Sea near Unalaska/Dutch Harbor. 10 A summary of the regulations is provided in (Table 2-4). The DHS GHL fishery for Pacific cod occurred in state waters between 164 degrees and 167 degrees west longitude

¹⁰ https://www.psmfc.org/tsc-drafts/2017/ADFG_2017_AK_TSC_Alaska_FINAL.pdf

from 2014-2015. The boundaries expanded to state waters between 164 degrees to 170 degrees west longitude in 2016. At its October 2018 meeting, the BOF expanded the area again to include waters between 162.30 and 170 west longitude. The fishery is open to vessels 58 feet or less overall length using pot gear, with a limit of 60 pots per vessel. The season opens seven days after the Federal BSAI < 60 ft pot/HAL sector's closure and may close and re-open as needed to coordinate with Federal fishery openings.¹¹

The DHS area did not have a fishery for jig gear initially because the Federal jig season typically occurs year-round, so there has historically been no benefit to having a separate GHJ state-waters fishery. However, at the October 2018 BOF meeting a DHS Pacific cod jig fishery was created. The jig fishery boundaries mirror the DHS pot fishery boundaries of 162.30 degrees and 170 degrees west longitude. This GHJ fishery allowed opportunity for jig vessels to fish for Pacific cod in the Bogoslof foraging area. The Bogoslof foraging area is closed to Pacific cod fishing during the federal fishery except for 113 mt which is available to > 60 HAL and jig vessels in the Bogoslof exemption area. The DHS GHJ jig fishery opened for the first time on May 1, 2019.

The DHS state-waters Pacific cod fishery is in an exclusive registration area for pot gear but not for jig gear. Vessels that register for the DHS state-waters Pacific cod pot gear fishery may not register for any other exclusive or super exclusive state-waters Pacific cod fishery that year but may participate in nonexclusive state-waters Pacific cod fisheries. Vessels that have registered for any other exclusive or super exclusive state-waters Pacific cod season outside of the DHS that year may not participate in the DHS state-waters Pacific cod pot fishery. Exclusive registration does not apply to Federal or parallel Pacific cod fisheries. Jig gear vessels may register and fish in other exclusive and non-exclusive areas for Pacific cod if they are registered to take Pacific cod with a mechanical jigging machine in the DHS.

¹¹ The 2018 season opened on January 30 and was closed on March 1 because the GHJ was projected to be taken.

Table 2-4 Dutch Harbor Subarea state-waters Pacific cod (GHL) fishery

Area	DHS state-waters opens	DHS state-waters closes	Gear	Vessel length
Dutch Harbor Subarea pot gear GHL	<ul style="list-style-type: none"> The DHS state-waters Pacific cod season will open by emergency order 7 days after closure of the initial Federal BSAI Pacific cod season for the < 60' HAL and pot gear CV sector. If the GHL Pacific cod fishery closes when the Federal BSAI Pacific cod <60' HAL/pot gear CV sector opens, then the GHL fishery may re-open when the federal sector closes if sufficient GHL is available The DHS is defined as waters between 162.30 and 170 west longitude 	<ul style="list-style-type: none"> When the GHL is taken or at the regulatory season closure date (December 31) whichever occurs first. If the Federal BSAI Pacific cod < 60' HAL/pot gear CV sector receives a TAC reallocation and is reopened, the DHS state-waters Pacific cod season may close. 	<ul style="list-style-type: none"> Pot gear vessels using 60 or fewer pots unless the Commissioner modifies regulations after October 1. DHS is an exclusive registration area for Pacific cod and participants must purchase buoy tags and attach a tag to each pot prior to fishing. 	58' or less overall length, unless modified by ADF&G news release after October 1.
Dutch Harbor Subarea jig gear GHL	<ul style="list-style-type: none"> May 1 opens a 100,000 lb. fishery The DHS is defined as waters between 162.30 and 170 west longitude 	<ul style="list-style-type: none"> When the GHL is taken or at the regulatory season closure date (December 31) whichever occurs first. 	<ul style="list-style-type: none"> Jig gear with a limit of 5 jigging machines. The limit on the number of jigging machines may be lifted by the commissioner any time after October 1, to allow the fleet to harvest the GHL. 	58' or less overall length

Source: <http://www.adfg.alaska.gov/FedAidPDFs/FMR18-05.pdf>

The DHS pot fishery was first opened to fishing in 2014. In 2014 and 2015 state regulations provided for a GHL of 3 percent of the BSAI Pacific cod ABC, which was subtracted from the BS ABC before calculating the BS TAC. Starting in 2016, the Alaska Board of Fisheries changed the DHS GHL calculations to align with the split of the Federal BSAI Pacific cod stock into separate BS and AI stocks. As part of those modifications, the DHS GHL was changed to 6.4 percent of the BS ABC from 2016 to 2018. The DHS GHL was changed again at the October 2018 BOF meeting. The DHS GHL was increased to 8 percent of the BS ABC starting in the 2019 fishery. If the GHL is fully harvested (90 percent is considered fully harvested), the limit is then increased by 1 percent of the BS ABC each year until it reaches 15 percent which could occur by 2026. The 15 percent GHL would continue unless changed by the BOF. There are currently no provisions for a step-down in GHL for this fishery.

The GHL amount and reported harvest from that fishery are reported in Table 2-5. All of the catch is delivered to shoreside plants and floating processors since it is harvested by pot vessels that are less than or equal to 58 ft. A total of 32 pot gear vessels participated in the fishery in 2018.

Table 2-5 Pacific cod harvest (lbs.) with pot gear in the State of Alaska DHS Guideline Harvest Level Pacific cod fishery, 2014 through 2018

Year	GHL		Harvest		% Harvested
	Pounds	mt	Pounds	mt	
2014	17,863,874	8,103	17,666,510	8,013	98.9%
2015	18,029,404	8,178	17,636,103	8,000	97.8%
2016	35,979,072	16,320	35,519,920	16,112	98.7%
2017	33,721,562	15,296	33,247,414	15,081	98.6%
2018	28,360,000	12,864	29,055,603	13,180	102.5%

Source: Personal communication with ADF&G, September 5, 2017 and ADF&G website.

The BOF also created a 100,000 lb. (45 mt) GHL jig fishery for Pacific cod in the DHS. That fishery started May 1, 2019. The DHS jig gear fishery is not a non-exclusive fishery, so persons may register and fish that fishery and other non-exclusive or exclusive state fisheries for Pacific cod. Because the fishery opened for the first time in 2019, no information is available on past participation or harvest.

Pacific cod may only be harvested with pot gear in one DHS GHL fishery and jig gear in the other. Because they are pot or jig gear fisheries, the primary direct impact to the BS trawl CV Pacific cod fishery is through the percent of the ABC used for the GHL prior to setting trawl CV TAC.¹² Once the DHS GHL for pot gear reaches 15% of the BS ABC it equates to a 134% increase in the GHL allocation, in GHL percent allocation, relative to 2018. In poundage terms, the 2018 (6.4 percent) GHL was 28.36 million lbs. (12,864 mt).

2.6.6. Affected sectors

The following sections identify and describe the processing and harvesting sectors that would potentially be directly affected by the proposed action. A brief description of each of the processing sectors and harvesting sectors are provided below. For further description on the sectors, “BSAI Pacific Cod Allocation Review”, provides descriptions of the different sectors noted in this section that participate in the BSAI Pacific cod fisheries (NPFMC 2019).

2.6.6.1. Trawl CV¹³

The trawl CV sector includes all trawl CVs that are issued an AFA permit for eligibility to participate in the directed BSAI pollock fishery and those trawl CVs that are not issued an AFA permit. These trawl CVs share 22.1 percent allocation of BSAI Pacific cod.

For the AFA CVs, most vessels rely almost exclusively on pollock harvested in the BS, while Pacific cod is the second most important species in terms of volume for these vessels. While nearly all the groundfish harvested by the larger vessels is delivered to shoreside processors, many of the smaller vessels deliver their catch to motherships or C/Ps operating as motherships. The AFA trawl CVs have a sideboard limit of 86.09 percent of the seasonal allocations of BSAI Trawl CV Pacific cod. The Pacific cod harvest limits, like other groundfish and PSC bycatch limits for AFA CVs, are managed using directed fishing closures according to the procedures set out at §679.20(d)(1)(iv), §679.21(d)(8), and §679.21(e)(3)(v). There are nine AFA trawl CVs that are exempt from the AFA CV Pacific cod sideboard limits. Nineteen additional CVs have a mothership endorsement and are exempt from the Pacific cod sideboard limits after

¹² After October 1, if a substantial portion of the state-waters GHL remains unharvested and the GHL is unlikely to be achieved by December 31, gear limits, vessel size restrictions, and exclusive registration requirements may be removed. All inseason management actions will be announced by ADF&G news release.

¹³ For more details on the trawl CV sector, see pages 33 – 36 and pages 64 - 65 of the BSAI Pacific Cod Allocation Review, June 22, 2019.

March 1. The harvest of BSAI Pacific cod for this sector is managed through an inter-cooperative agreement.

The non-AFA trawl CVs are not eligible to participate in the directed BSAI pollock fishery. Vessels in this group are typically between 60 ft and 125 ft but occasionally vessels < 60 ft participate in the sector. The non-AFA trawl CVs rely on BSAI Pacific cod, the GOA groundfish fishery, and halibut IFQ using longline gear and State of Alaska commercial seine fisheries for salmon.

In 2019, there were a total of 114 LLP licenses with a trawl CV endorsement for the BS. Of those 114 LLP licenses, 42 licenses also had an AI endorsement, one license was endorsed only for the AI and that license had an AI HAL endorsement. The 12 of the AI trawl area endorsements that were created under Amendment 92 (74 FR 41080, August 14, 2009) were also included in these LLP license totals.

In the Federal BSAI Pacific cod target fishery, the number of participating trawl CV vessels ranged from a low of 48 in 2010, 2014, and 2015 to a high of 65 in 2008 and 2018. Factoring in incidental catch of Pacific cod, the total number of vessels in the sector that harvested any BSAI Pacific cod has ranged from a low 98 in 2014 to high of 112 in 2007. The difference in vessel count between those targeting BSAI Pacific cod and those only harvesting incidental amounts of BSAI Pacific cod is due mostly to those AFA trawl CVs that only target BSAI pollock. Activity in other BSAI Pacific cod fisheries (i.e., GHL and CDQ) for the sector were minimal, with only an average one of percent of their BSAI total Pacific cod harvest originating from these BSAI Pacific cod sources.

The trawl CV sector is one of the sectors that participate in the AI Pacific cod fishery on a regular basis. As a percent of total non-CDQ BSAI Pacific cod catch for the sector, the AI fishery has declined from its peak in 2009. The number of trawl CVs during 2005 through 2018 that participate in the AI Pacific cod fishery has also declined. The largest number of trawl CVs harvesting AI Pacific cod was 34 in 2007, while the lowest number of trawl CVs was in 2015 and 2017 at seven. Total catch of AI Pacific cod is down from its 2009 peak. The highest amount of Pacific cod harvested in the AI was nearly 15,000 mt in 2009, while the lowest amount of AI Pacific cod was 2,735 mt in 2015.

The exvessel value of the BSAI Pacific cod fishery has ranged from a low of \$14 million in 2009 and 2010 to a high of \$36 million in 2008. Gross first wholesale value has ranged from a low of \$34 million in 2009 to a high of \$75 million in 2012 and 2017. Looking at the value of the BSAI Pacific cod fishery for the trawl CV sector relative to the total gross revenue, the fishery on average contributed approximately 8 percent of the total revenue from 2005 to 2017. The largest contributor to the total gross revenue for the sector was the BS pollock fishery. The Pacific cod fishery as a percent of the total gross revenue has been as low as 6 percent in 2015 and as high as 11 percent in 2007 and 2008.

The total number of delivery ports has ranged from a six to eight ports. The total number of deliveries has fluctuated between 487 deliveries in 2009 to 667 deliveries in 2012. Floating processors had the most deliveries by annual basis by the trawl CV sector followed by Akutan, motherships, Unalaska/Dutch Harbor, and Adak. Looking at ownership residency data, there has been a gradual concentration of reported trawl CV ownership by community. In 2005, there were 109 reported trawl CV owners in eight different communities, while in 2018 there were 105 owners in five different communities. The shift in residency could be in part due to some consolidation in the AFA trawl CV fleet and the non-AFA trawl CV fleet. Communities with no reported trawl CV residency since 2011 include Girdwood, Unalaska/Dutch Harbor, Sand Point, Anchorage, and Petersburg. Another community that has also seen a sharp decline in the number of trawl CV owners is Oregon. In 2005, 21 trawl CV owners reported Oregon as their residence, while in 2018, 12 trawl CV owners reported Oregon as their residence.

2.6.6.2. HAL CV \geq 60 ft¹⁴

The HAL CV \geq 60 ft sector includes all vessels \geq 60 ft LOA operating as CVs using HAL gear. Most of these vessels fish almost exclusively for sablefish in the individual fishing quota (IFQ) fishery, but also retain rockfish and Pacific cod as required for IFQ sablefish participants. Beginning in 2003, HAL CVs \geq 60 ft must have a Pacific cod HAL CV endorsement on their LLP license to conduct directed fishing for Pacific cod in the BS or AI with HAL gear.

In 2019, there were a total of eight LLP licenses with a Pacific cod HAL cod CV endorsement for the BS. Of those eight LLP licenses, seven licenses also had an AI endorsement, while one license has a BS pot endorsement and one license has an AI pot endorsement.

The HAL CV \geq 60 ft sector is currently allocated 0.2 percent of the BSAI Pacific cod TAC. In the Federal BSAI Pacific cod target fishery, the number of participating HAL CVs \geq 60 ft ranged from no CVs in many years to a high of three CVs in 2005. Since 2012, no HAL CVs \geq 60 ft has targeted BSAI Pacific cod.

The HAL CV \geq 60 ft sector is one of several sectors that harvests AI Pacific cod on a regular basis. However, as noted above, very little of the BSAI Pacific cod harvested by the sector is from directed fishing for Pacific cod. Of the BSAI Pacific cod harvested since 2005, approximately 52 percent is from the AI, of which most is incidental to their IFQ sablefish fishery. Under current state regulation HAL CV \geq 60 ft vessels are prohibited from participating in the parallel Pacific cod fisheries in the BSAI. The State has a prohibition on all HAL vessels over 58 ft from participating in parallel Pacific cod fisheries.

The exvessel value of the BSAI Pacific cod fishery has ranged from a low of slightly less than \$4 thousand in 2014 to a high of \$79 thousand in 2006. Gross first wholesale value has ranged from a low of \$9 thousand in 2014 to a high of \$135 thousand in 2006. Looking at that value of the BSAI Pacific cod fishery for the HAL CV sector relative to the total gross revenue, the fishery accounted for less than zero percent of the total revenue on average from 2005 to 2017. The largest contributor to the sector's total gross revenue was the IFQ sablefish fishery.

Given the limited participation by the HAL CV \geq 60 ft sector in the BSAI Pacific cod fishery, the sector has not experienced a compressed fishing season like some sectors have. The fishery opens on January 1 for directed fishing and is usually open until the fall when any remaining unharvested Pacific cod is reallocated to other sectors.

All data on port deliveries for the HAL CV \geq 60 ft sector is confidential. In general, the limited participation by the sector in the target BSAI Pacific cod fishery, the sector made very few deliveries over allocation review period. Ports of delivery were Unalaska/Dutch Harbor, Adak St. Paul, Akutan, and Ninilchik. Looking at vessel owner residency data, there has been a gradual decline in the number of reported HAL CV \geq 60 ft vessel owners and a modest concentration of reported residency all since Amendment 85 implementation in 2008. In 2005, there were 23 reported HAL CV \geq 60 ft owners, while in 2018 there were 15 reported owners. In 2018, six HAL CV \geq 60 ft owners reported Seattle as their residency, which is a gain of one when compared to 2005. Washington, other than Seattle, and Kodiak each reported lower HAL CV \geq 60 ft residency counts for 2018 at two compared to 2005 data which reported three and four owners, respectively. Other communities that had a lower residency count since 2005 were Oregon at four and Homer at two, while Yakutat and Seward each reported a gain of one compared to 2005.

¹⁴ For more details on the HAL CV \geq 60 ft sector, see pages 37 – 39 and pages 66 - 67 of the BSAI Pacific Cod Allocation Review, June 22, 2019.

2.6.6.3. Pot CV ≥ 60 ft¹⁵

The pot CV ≥ 60 ft sector includes all vessels ≥ 60 ft operating as CVs using pot gear. As of January 1, 2003, pot CVs ≥ 60 ft must have a Pacific cod pot CV endorsement on their LLP license to target BS and AI Pacific cod with pot gear.

In 2019, there were a total of 49 LLP licenses with a Pacific cod pot CV endorsement for the BS. Of those 49 LLP licenses, two licenses also had an AI endorsement and one license has BS CV HAL endorsement.

The pot CV ≥ 60 ft sector is allocated 8.4 percent of the BSAI Pacific cod TAC. In the Federal BSAI Pacific cod target fishery, the number of participating pot CVs ≥ 60 ft has declined since implementation of Amendment 85. Overall, vessel numbers in the Federal BSAI Pacific cod target fishery has ranged from a low of 23 CVs in 2015 to a high of 48 CVs in 2006. Nearly all its sector allocation is harvested in the BS. Since the sector only targets Pacific cod and some sablefish IFQ, they do not typically catch Pacific cod as incidental catch in other groundfish fisheries. Fishing activity in other BSAI Pacific cod fisheries (i.e., GHL and CDQ) for the sector is very limited. There were between two to seven CVs participating in the AI GHL fishery from 2006 through 2008 and between one to two CVs participating in the CDQ fishery from 2005 through 2009. Other fisheries the sector participates in are sablefish IFQ and crab fisheries. In addition, some of these vessels act as tenders in salmon fisheries.

The exvessel value of the BSAI Pacific cod fishery has ranged from a low of slightly less than \$4 million in 2009 to a high of \$15 million in 2008. Gross first wholesale value has ranged from a low of \$7 million in 2009 to a high of \$28 million in 2011. Looking at the BSAI Pacific cod exvessel value for the sector relative to the total gross revenue, the fishery accounted for less than 12 percent of the total revenue on average from 2005 to 2017.

There are two BSAI Pacific cod seasons for the pot CV ≥ 60 ft sector: A-season which is January 1 to June 10 and B-season which is September 1 to December 31. Typically, the sector has a short A-season closing at the end of January or beginning of February, while the B-season, tends to remain open throughout the season, but on a few occasions has closed in October or November.

The total number of delivery ports for the sector has remained relatively consistent since 2009 at 5. The total number of deliveries has fluctuated between 118 deliveries in 2009 to 308 deliveries in 2005. Of the delivery ports, Unalaska/Dutch Harbor has routinely had the most deliveries throughout the 2005-2018 period. Looking at owner residency data, there has been a modest decline in the total number of reported pot CV ≥ 60 ft owners and a modest concentration of reported residency all since Amendment 85 implementation. In 2005, there were 47 reported pot CV ≥ 60 ft owners, while in 2018 there were 34 reported owners. The biggest change in residency for the sector was Seattle, which in 2018 had 13 reported pot CV ≥ 60 ft owners, while in 2007 there were 26 sector owners reporting Seattle as their residency. Other communities that had reported residency greater than one on an annual basis for the pot CV ≥ 60 ft sector were Washington (other than Seattle), Oregon, Homer, and Kodiak.

2.6.6.4. HAL/pot CV < 60 ft¹⁶

The HAL/Pot CV < 60 ft sector includes all CVs that are < 60 ft LOA using pot or HAL gear. Vessels in this sector need a non-trawl LLP to participate in the Federal fisheries, but do not need a Pacific cod endorsement on the LLP. As of April 2019, 129 non-trawl licenses were issued to < 60 ft CVs with BS and/or AI area endorsements.

These vessels focus on salmon, halibut, and higher priced groundfish using a mix of gear types. The length of these vessels means they can participate in all Alaskan salmon fisheries (to participate in the

¹⁵ For more details on the pot CV ≥ 60 ft sector, see pages 40 – 42 and pages 68 - 69 of the BSAI Pacific Cod Allocation Review, June 22, 2019.

¹⁶ For more details on the HAL/pot CV < 60 ft sector, see pages 43 – 45 and pages 70 - 71 of the BSAI Pacific Cod Allocation Review, June 22, 2019.

Bristol Bay salmon drift gillnet fishery vessels must be 32 ft. or less). In recent years, Pacific cod has been the primary revenue source.

This sector has a 2 percent BSAI Pacific cod allocation since Amendment 85 in 2008. In the Federal BSAI Pacific cod target fishery, the number of participating HAL/Pot CVs < 60 ft has varied only by 11 CVs in the last 14 years, ranging from a low of 20 CVs in 2014 to high of 31 CVs in 2007 and 2008. Some sector vessels participate in the AI Pacific cod fishery, but as a percent of their total BSAI Pacific cod activity, this active is relatively small.

Vessel length for the HAL/Pot CVs < 60 ft has in general ranged from between 28 ft to 58 ft. Based on vessel size data in the BSAI Pacific cod fishery for the HAL/Pot CV < 60 ft sector, the number of participating 58 ft vessels has remained fairly consistent during the 2004 through 2018 period. The number of 58 ft. CVs participating in the target BSAI Pacific cod allocation has ranged from a low 15 CVs in 2005 and 2013 to a high of 25 CVs in 2007 and 2018.

Fishing activity for the sector in other BSAI Pacific cod fisheries (i.e., GHL and CDQ) has increased significantly. In the CDQ fishery, the number of participating sector vessels has increased from a low of three CVs in 2006 to a high of 24 CVs in 2018. The amount of harvested BSAI Pacific cod CDQ has ranged from a low of one mt in 2006 to a high of 2,531 mt in 2013. In the GHL fisheries, there has also been significant increase in the number of active CVs and the amount harvested, most of which is in the DHS GHL fishery for pot CVs which started in 2014. Prior to 2014, the number of participating sector CVs ranged from two to 10 harvesting between 111 mt and 562 mt, all of which was in the AI GHL fishery since that was the only GHL fishery in the BSAI. Starting in 2014 with the implementation of a DHS GHL fishery, the number of sector CVs increased to 18 which harvested 11,401 mt of Pacific cod. In 2018, 37 sector CVs harvested over 17,000 mt of DHS GHL.

The exvessel value of the BSAI Pacific cod fishery has ranged from a low of \$2 million in 2005 to a high of \$8 million in 2014. Gross first wholesale value has ranged from a low of \$6 million in 2005 and 2006 to a high of \$18 million in 2014. Looking at the BSAI Pacific cod exvessel value for the sector relative to the total gross revenue, the fishery accounted for less than 16 percent of the total revenue on average from 2005 to 2017.

The HAL/Pot CV < 60 ft sector does not have seasonal allowances. Nevertheless, there appears to be a gradual shortening of the initial fishing period when the sector harvests its initial allocation. In 2005 and 2006, the sector did not have its first closer before April. Between 2007 and 2011, the sector's first fishery closure occurred in March. Since 2014, the sectors first closure now occurs in early February. Once the sector has harvested its initial allocation, reallocations from other sectors can open the fishery as early as late April or early May. Another typically period of reallocations that can allow the sector to target Pacific cod is mid-August to early September. Typically, the fall reallocation is sufficient to allow the fishery to remain open for the sector during the remainder of the year.

The number of ports the sector has delivered BSAI Pacific cod has ranged from between four and six. The total number of deliveries has fluctuated between 199 deliveries in 2010 to 707 deliveries in 2016. Of the delivery ports, Unalaska/Dutch Harbor has routinely had the most deliveries throughout the 2005-2018 period. Looking at owner residency data, the sector is a highly diversified fleet, but there has been some concentration of reported residency since implementation of Amendment 85. Kodiak has the largest number of HAL/Pot CV < 60 ft vessel owners nine out of 14 years. Other communities include Homer, Washington (other than Seattle), Unalaska, Unalaska/Dutch Harbor, and Seattle.

2.6.6.5. Jig¹⁷

The jig sector includes all vessels (CVs and C/Ps) using jig gear. Vessels in this sector do not need an LLP license in the BSAI if they are < 60 ft LOA and are using no more than five jig machines, one line per machine, and 15 hooks per line. Note that all vessels, ≤ 32 ft LOA operating in the BS and AI are not subject to the LLP requirements.

Vessels using jig gear typically target Pacific cod and rockfish but also catch IFQ halibut and sablefish. Groundfish catches can be important to the financial health of jig vessels, but non-groundfish species such as salmon account for the majority of the total earnings for a large portion of the fleet.

The number of jig vessels participating in the BSAI Pacific cod directed fishery ranged from a low of one in the 2017 and 2018 to a high of 18 vessels in 2005. The jig sector has three season allowances; Jan 1 – Apr 30 (60%); Apr 30 – Aug 31 (20%), and Aug 31 –Dec 31 (20%). The sector has generally remained open throughout the entire year during the 2005 through 2018 period. The sector, in most years, harvested less than five percent of its initial BSAI Pacific cod allocation, and therefore, as required by Amendment 85 regulations, a significant portion of its initial allocation is reallocated to the < 60 ft HAL/pot sector throughout the year.

The exvessel value of the BSAI Pacific cod fishery has ranged from a low of \$9 thousand in 2013 to a high of \$375 thousand in 2011. Gross first wholesale value has ranged from a low of \$14 thousand in 2009 to a high of \$849 thousand in 2011. Looking at the BSAI Pacific cod exvessel value for the sector relative to the total gross revenue, the fishery accounted for between 2 percent and 40 percent of the total revenue on average from 2005 to 2017.

Since 2012, the number of delivery ports and total deliveries has declined. The number of ports the sector has delivered BSAI Pacific cod to has ranged from between one in 2017 and 2018 and five in 2005. The total number of deliveries has fluctuated between 4 deliveries in 2017 to 127 deliveries in 2011. Of the delivery ports, Unalaska/Dutch Harbor has routinely had the most deliveries by the sector throughout the 2005 – 2018 period. Looking at owner residency data, there has been a decline in jig ownership in recent years. In 2005, the number of jig owners reporting their residence was 19, while in 2017 and 2018 the number of jig owners reporting their residence was one. Residency of jig ownership is diverse. Some of the communities that consistently had jig ownership residency included Unalaska/Dutch Harbor, Akutan, Homer, Washington (other than Seattle), Kodiak, Homer, and Port Lions.

2.6.6.6. AFA trawl C/P¹⁸

The AFA trawl C/P sector includes 20 vessels listed by name in the AFA as eligible to harvest BSAI pollock in the directed fishery.¹⁹The Consolidated Appropriations Act of 2005 (Section 219(a)(1)) defines eligibility in the AFA trawl C/P sector as the owners of each C/P listed in paragraphs (1) through (20) of Section 208(e) of the AFA. On January 21, 1999, the formed the Pollock Conservation Cooperative (PCC) to coordinate pollock harvest under the AFA.

These large factory trawlers have the processing equipment to produce surimi and/or fillets from pollock, Pacific cod, and other groundfish. Some of these vessels also have room for equipment to produce fishmeal, minced product, and other product forms. This sector operates in a pollock cooperative under

¹⁷ For more details on the jig sector, see pages 46 – 47 and pages 73 - 74 of the BSAI Pacific Cod Allocation Review, June 22, 2019.

¹⁸ For more details on the AFA C/P sector, see pages 48 – 50 and pages 75 - 76 of the BSAI Pacific Cod Allocation Review, June 22, 2019.

¹⁹ One additional trawl C/P qualifies under 208(e)(21) of the AFA and is limited to a small percentage of the AFA C/P allocation of pollock and is not sideboarded in other fisheries. However, only the 20 listed AFA C/Ps are considered part of this sector for purposes of this review. The additional trawl C/P that qualifies under 208(e)(21) would be considered part of the Amendment 80 sector for purposes of this review.

AFA, which allows them to modify operations in terms of when they fish and what they process to account for changing weather, markets, and management restrictions. Pollock is the primary species harvested by this sector, but only one vessel specifically targets Pacific cod on a regular basis, while several vessels have targeted yellowfin sole. The Amendment 85 final rule removed the sideboard limit for BSAI Pacific cod for the AFA trawl C/Ps. The establishment of a separate BSAI Pacific cod allocation to this sector negates the need for the BSAI Pacific cod sideboard which protects the historical share of the non-AFA trawl C/P sector from being eroded by the AFA trawl C/P vessels.

In 2019, there were a total of 27 AFA derived LLP licenses with a trawl C/P endorsement for the BS. Of those 27 AFA derived LLP licenses, 25 licenses had an AI endorsement. Prior to the implementation of Amendment 85 in 2008, the AFA C/P sector shared a 23.5 percent BSAI Pacific cod allocation with the Amendment 80 sector, so initial and final allocations and the associated percent of harvested allocation for the AFA C/P sector is not available. Upon implementation of Amendment 85, the PCC coordinate its 2.3 percent allocation of BSAI Pacific cod.

In the Federal BSAI Pacific cod target fishery, the number of AFA C/Ps ranged from a low of two to a high of four. However, from the annual cooperative report, it is generally understood that only one AFA C/Ps routinely target BSAI Pacific cod. Factoring in incidental catch of Pacific cod, the total number of vessels in the sector that harvested any BSAI Pacific cod has ranged from a low 16 to high of 18. Most of the incidental catch of Pacific cod was from AFA C/Ps targeting mostly yellowfin sole. Activity in other BSAI Pacific cod fisheries (i.e., GHF and CDQ) for the sector were minimal in the GHF, while in the CDQ fishery the sector has increased their vessel count and harvest relative to the 2005-2010 period.

The AFA C/P sector is one of the sectors that participates in the AI Pacific cod fishery on an annual basis. As a percent of total non-CDQ BSAI Pacific cod catch for the sector, the AI fishery has declined since its highs in 2004. The number of AFA C/Ps during 2005 through 2018 that participate in the AI Pacific cod fishery has remained relatively constant with one AFA C/P actively targeting AI Pacific cod. Given there is only one AFA C/P actively targeting AI Pacific cod, catch data for that one vessel is confidential and therefore cannot be reported.

Gross first wholesale value for the sector has ranged from a low of \$7 million in 2009 and 2015 to a high of \$14 million in 2006 and 2007. Looking at the value of the BSAI Pacific cod fishery for the AFA C/P sector relative to the total gross revenue, the fishery on average contributed approximately one percent of the total revenue from 2005 to 2017. The largest contributor to the total gross revenue for the sector was the BS pollock fishery.

There are three BSAI Pacific cod seasons for the AFA C/P sector: A-season, which is January 20 to April 1, B-season which is April 1 to June 10, and C-season June 10 – November 1. Since the implementation of Amendment 85 in 2008, the AFA C/P sector allocation of Pacific cod is apportioned only to the A and B seasons and not to the C season. With regards to directed fishing closures for the sector, in general, directed fishing has closed prior to the sector's regulated closure date. For example, during the A-season, the BSAI Pacific cod fishery tended to close between mid-February to mid-March, while the B-season for most the years was only open for one day. Starting in 2014, the fishery for the sector was generally open for the entire regulated period in the BS, while the AI tended closed in February and March for all non-CDQ Pacific cod sectors due to reaching the directed fishing allowance.

AFA C/Ps during a port call conduct crew transfers, purchase provisions and fuel, offload product, and purchase other local goods and services. Most of the port calls over the 2008 through 2018 period were to Unalaska/Dutch Harbor. Looking at ownership residency data, nearly all of the AFA C/P owners report Seattle as their residence. One AFA C/P owner reported Anchorage as their residence between 2011 and 2018, while from 2005 through 2008, an AFA C/P owner reported Washington (other than Seattle) as their residence.

2.6.6.7. Amendment 80²⁰

The Amendment 80 Program, implemented in 2008, initially qualified 28 C/Ps. The Amendment 80 Program allocates a portion of the TAC for Pacific ocean perch in the AI, Atka mackerel, yellowfin sole, rock sole, and flathead sole in the BSAI, along with an allowance of PSC quota for halibut and crab to the sector. In addition, Amendment 85 allocated the sector a 13.4 percent allocation of the BSAI Pacific cod.

In 2019, there were a total of 26 LLP licenses with an attached Amendment 80 endorsement. Of those 26 LLP licenses, 19 LLP licenses had an AI endorsement, leaving 7 LLP licenses with a BS only endorsement. From 2008 to 2010, eight of the Amendment 80 endorsed LLP licenses were in the Amendment 80 limited access sector. From 2011 and 2017, the Amendment 80 endorsed LLP licenses were in two cooperatives until, in 2018, when all the Amendment 80 endorsed LLP licenses were in one cooperative.

In the Federal BSAI Pacific cod target fishery, the number of Amendment 80 vessels ranged from a low of 10 in 2017 to a high of 22 in 2007. Factoring in incidental catch of Pacific cod, the total number of vessels in the sector that harvested any BSAI Pacific cod has ranged from a low of 18 to high of 22. Most of the incidental catch of Pacific cod was from Amendment 80 vessels targeting mostly their flatfish allocations. Activity in other BSAI Pacific cod fisheries (i.e., GHL and CDQ) for the sector were limited to mostly the CDQ fishery. On average, six Amendment 80 vessels participated in the CDQ fishery with catch ranging from between 400 mt to 600 mt prior to Amendment 85 to generally over 3,600 mt after 2013.

The Amendment 80 sector also harvests AI Pacific cod on an annual basis. The number of Amendment 80 vessels during 2005 through 2018 that have harvested AI Pacific cod has fluctuated between a low of seven vessels in 2016 to a high of 15 vessels in 2007. As a percent of total non-CDQ BSAI Pacific cod catch for the sector, the AI fishery has declined since 2008. From 2004 through 2007, on average the AI accounted for 29 percent of the total non-CDQ BSAI Pacific cod catch. Since 2008, the AI on average has accounted for 12 percent of total non-CDQ BSAI Pacific cod catch.

The estimated gross first wholesale value for the sector has declined since implementation of Amendment 85 in 2008. Overall, gross first wholesale value has ranged from a low of \$26 million in 2009 to a high of \$67 million in 2007. Looking at the value of the BSAI Pacific cod fishery for the Amendment 80 sector relative to the total gross revenue, the fishery on average contributed approximately 11 percent of the total revenue from 2008 to 2017, whereas in the three years prior to the implementation of Amendment 85, Pacific cod contributed 21 percent of the total gross revenue for the sector.

There are three BSAI Pacific cod seasons for the Amendment 80 sector: A-season which is January 20 to April 1, B-season which is April 1 to June 10, and C-season June 10 – December 31 (changed from November 1 in 2015). By regulation, the Amendment 80 sector allocation of Pacific cod is apportioned only to the A and B seasons and not to the C season. NMFS does not issue directed fishing closures specific to the Amendment 80 cooperative's allocated species. NMFS directed fishing closures for the overall AI non-CDQ Pacific cod does apply to an Amendment 80 cooperative.

Amendment 80 vessels during a port call conduct crew transfers, purchase provisions and fuel, offload product, and purchase other local goods and services. Most of the port calls over the 2008 through 2018 period were to Unalaska/Dutch Harbor, but other communities for port calls were Adak, St. Paul, Togiak, Sand Point and other unknown communities. Looking at owner residency data, nearly all the Amendment 80 vessel owners report Seattle as their residence. In 2018, two Amendment 80 vessel owners reported their residency as Washington other than Seattle and five owners report other unknown communities as their residence.

²⁰ For more details on the Amendment 80 sector, see pages 51 – 54 and pages 77 - 78 of the BSAI Pacific Cod Allocation Review, June 22, 2019.

2.6.7. Product composition and flow of Pacific cod

The following information on production composition and flow of Pacific cod originates from the 2013 Economic Status of the Groundfish Fisheries of Alaska (NMFS 2014c).

Product flows for Pacific cod have changed following the decline of Atlantic cod (*G. morhua*) harvests. Buyers from Norway and Portugal began purchasing Pacific cod from Alaska for the first time in the late 2000's. Historically, Pacific cod was considered an inferior product compared to Atlantic cod, but the decline of Atlantic cod has made Pacific cod more acceptable.

Pacific cod are processed as either headed and gutted (H&G), fillet blocks, or individually frozen fillets, which are either individually quick-frozen or processed into shatterpack (layered frozen fillets that separate individually when struck upon a hard surface) or layer pack. The final markets include fine or "white tablecloth" restaurants, institutional food service, quick-service restaurants, retail fish markets, grocery stores, and overseas markets.

Wholesale prices are highest for fillet products, but H&G accounts for the largest share of Alaska Pacific cod production. The H&G production was significant in the mid-90's at roughly 50 percent. Since then H&G's share of production increased, reaching 66 percent in 2003 and climbed further to upwards of 70 percent in recent years. Fillet production since 2009 has ranged between 12 percent and 13 percent.

Production shares of other minimally processed goods have decreased substantially since the mid-90's with salted-and-split (29 percent to less than 1 percent) and whole fish (47 percent to 3 percent). Increased exports of H&G product to China where it is filleted and re-exported have surely contributed to the shift.

H&G Pacific cod is frozen after the first processing, and then proceeds to another processor within the U.S., or is exported for secondary processing. Some domestic H&G Pacific cod is sent to the East Coast refresh market, where it is thawed and filleted before being processed further or sold as refreshed. Other U.S. processors may purchase H&G Pacific cod and further process it by cutting it into sticks and portions or breading it for sale in grocery stores or food services. Foreign consumers, especially China, Japan, and Europe, also purchase H&G Pacific cod for further processing, including the production of salt cod. According to industry representatives, large H&G Pacific cod command the highest price, and it is these fish that are processed into salt cod.

The wholesale prices for H&G Pacific cod caught and processed by hook-and-line gear (freezer longline) vessels have been consistently higher than the prices received by trawl vessels. According to an industry representative, this price difference occurs because fish caught by longline gear can be bled while still alive, which results in a better color fish, and there is less skin damage and scale loss than if they are caught in nets. In contrast, shoreplant processors obtain fish from vessels using hook-and-line, pot, jig, and trawl gear, and the fish have been dead for many hours before they are processed (although they are generally kept in refrigerated saltwater holds).

2.7. Analysis of Impacts: Alternative 1, No Action

Under Alternative 1, the no action alternative, all vessels, except pot and HAL C/Ps that hold an FFP or LLP, could continue to participate in the BSAI Pacific cod parallel state waters fishery without holding an FFP or LLP. In addition, these vessels could continue to fish in the BSAI Pacific cod parallel state waters fishery after their sector's allocation has been fully harvested, as long as another sector that matches their vessel's gear is still open. Finally, there would be no restrictions to prevent surrendering and reapplying for the FFP in the same year.

Table 2-6 and Table 2-7 provide the vessel count and Pacific cod target catch in the parallel fishery along with total BSAI Pacific cod target catch and the percent of total from parallel catch for sectors active in the parallel fishery (not included HAL and pot CP sectors) from 2010 through 2019. Overall, there were 160 vessels that participated in the parallel fishery from 2010 through 2019. On an annual basis, parallel fishery activity ranged from a low 13 vessels in 2014 to high of 39 vessels in 2010 with a range of harvest between 1,438 mt in 2013 and 4,438 mt in 2014. As an average percent of total BSAI target Pacific cod catch, the parallel fishery was 4 percent from 2010 through 2019. Of the sectors that participated in the parallel fishery, the HAL/pot < 60 ft sector routinely had the largest number of vessels and largest amount of catch from the parallel fishery followed by the trawl CV sector. On average, 27 percent of the total BSAI target Pacific cod catch for the HAL/pot < 60 ft sector was harvested from the parallel fishery.

In total, there were 30 Federal vessels that had either no LLP license, an incorrect LLP license endorsement, no designated FFP, or they continued to fish in the parallel fishery after their sector closed to fishing in Federal waters. It is likely some of these 30 vessels with an FFP or LLP would continue to fish in the parallel fishery under Alternative 1.

Amongst these 30 vessels are 15 HAL/pot CVs < 60 ft that participated in the parallel fishery after their sector closed to fishing in the Federal waters since 2010. If these vessels continue to fish in the parallel fishery after the sector closes in the Federal waters, Pacific cod reallocations will continue to first cover any overages harvested in the parallel fishery by these HAL CVs < 60 ft before a consideration can be made to re-open the entire Federal waters BSAI HAL/pot CVs < 60 ft sector to fishing.

In addition to the HAL CVs < 60 ft that would likely continue to fish in the parallel fishery after their sector closes in the Federal waters, under Alternative 1, the trawl CV sector could also fish in the parallel fishery after their sector closes in Federal waters since the Amendment 80 sector remains open year-round. Currently, the Amendment 80 sector is managed as a cooperative, so NMFS does not issue directed fishing closures specific to the Amendment 80 allocated species, which includes BSAI Pacific cod. Since 2010, no trawl CVs have fish in the parallel fishery after the sector closed to fishing in Federal waters. If under Alternative 1, trawl CVs utilize the opportunity to continue fishing in the parallel fishery after the sector closes to fishing, depending the level of effort, there is the potential that the trawl CV B and C seasons allocation could be utilized to cover any overages in the parallel fishery. This could further negatively impact reallocations from the trawl CV sector to the HAL/pot CVs < 60 ft and other sectors in the fall fishery.

Table 2-6 Vessel count and catch of BSAI targeted Pacific cod in the parallel fishery in addition to the sector's total catch of BSAI targeted Pacific cod and the percent of total catch from parallel catch for sectors active in the parallel fishery (not including HAL and pot CP sectors) from 2010 through 2018

Year	Trawl CV				Pot CV ≥ 60 ft				HAL/pot < 60 ft			
	Parallel fishery vessel count	Parallel fishery catch (mt)	Total cod catch for the sector (mt)	Parallel catch as a % of total cod catch for the sector	Parallel fishery vessel count	Parallel fishery catch (mt)	Total cod catch for the sector (mt)	Parallel catch as a % of total cod catch for the sector	Parallel fishery vessel count	Parallel fishery catch (mt)	Total cod catch for the sector (mt)	Parallel catch as a % of total cod catch for the sector
2010	15	1,009	25,178	4%	3	*	11,572	*	13	1,145	5,511	21%
2011	7	153	34,545	0%	2	*	16,378	*	12	2,820	8,014	35%
2012	0	0	39,870	0%	2	*	12,709	*	14	1,634	8,871	18%
2013	2	*	38,792	*	2	*	12,411	*	10	1,264	9,432	13%
2014	1	*	38,727	*	2	*	11,123	*	9	4,288	12,411	35%
2015	11	970	31,561	3%	2	*	10,385	*	12	2,632	10,016	26%
2016	10	900	40,807	2%	0	0	11,018	0%	13	2,482	10,296	24%
2017	2	*	37,449	*	4	765	13,720	6%	10	1,985	9,945	20%
2018	2	*	33,675	*	4	426	15,223	3%	17	2,916	8,552	34%
2019**	3	*	25,911	*	3	253	6,360	4%	18	1,528	3,565	43%

Source: AKFIN, Aug 2019; parallel_fshy_participation(8-1-19) and totals are from Sector_Landings (8-21-19)

* Denotes confidential data

**Current through August 1, 2019 for parallel fishery data and August 21, 2019 for total catch data

Table 2-7 Vessel count and catch of BSAI targeted Pacific cod in the parallel fishery in addition to the sector's total catch of BSAI targeted Pacific cod and the percent of total catch from parallel catch for sectors active in the parallel fishery (not including HAL and pot CP sectors) from 2010 through 2018 – continued

Year	A80				HAL CV ≥ 60 ft				Jig				Total			
	Parallel fishery vessel count	Parallel fishery catch (mt)	Total cod catch for the sector (mt)	Parallel catch as a % of total cod catch for the sector	Parallel fishery vessel count	Parallel fishery catch (mt)	Total cod catch for the sector (mt)	Parallel catch as a % of total cod catch for the sector	Parallel fishery vessel count	Parallel fishery catch (mt)	Total cod catch for the sector (mt)	Parallel catch as a % of total cod catch for the sector	Parallel fishery vessel count	Parallel fishery catch (mt)	Total cod catch for these sectors (mt)	Parallel catch as a % of total cod catch for these sector
2010	1	*	3,459	*	0	0	31	0%	7	334	344	97%	39	3,001	67,326	4%
2011	0	0	1,433	0%	1	*	31	*	11	429	505	85%	33	3,457	87,686	4%
2012	1	*	2,607	*	0	0	22	0%	5	85	85	99%	22	2,020	94,501	2%
2013	0	0	3,317	0%	0	0	13	0%	2	*	15	*	16	1,438	94,789	2%
2014	0	0	2,193	0%	0	0	7	0%	1	*	2	*	13	4,438	91,339	5%
2015	0	0	2,453	0%	0	0	11	0%	4	*	28	*	29	3,690	83,679	4%
2016	1	*	3,644	*	0	0	12	0%	2	*	47	*	26	3,413	93,244	4%
2017	0	0	544	0%	0	0	11	0%	1	*	13	*	17	2,874	88,827	3%
2018	0	0	3,458	0%	0	0	8	0%	1	*	56	*	24	3,609	82,768	4%
2019	0	0	1,321	0%	0	0	0	0%	1	*	135	*	26	1,863	37,292	5%

Source: AKFIN, Aug 2019; parallel_fshy_participation(8-1-19) and totals are from Sector_Landings (4-16-19)-1

* Denotes confidential data

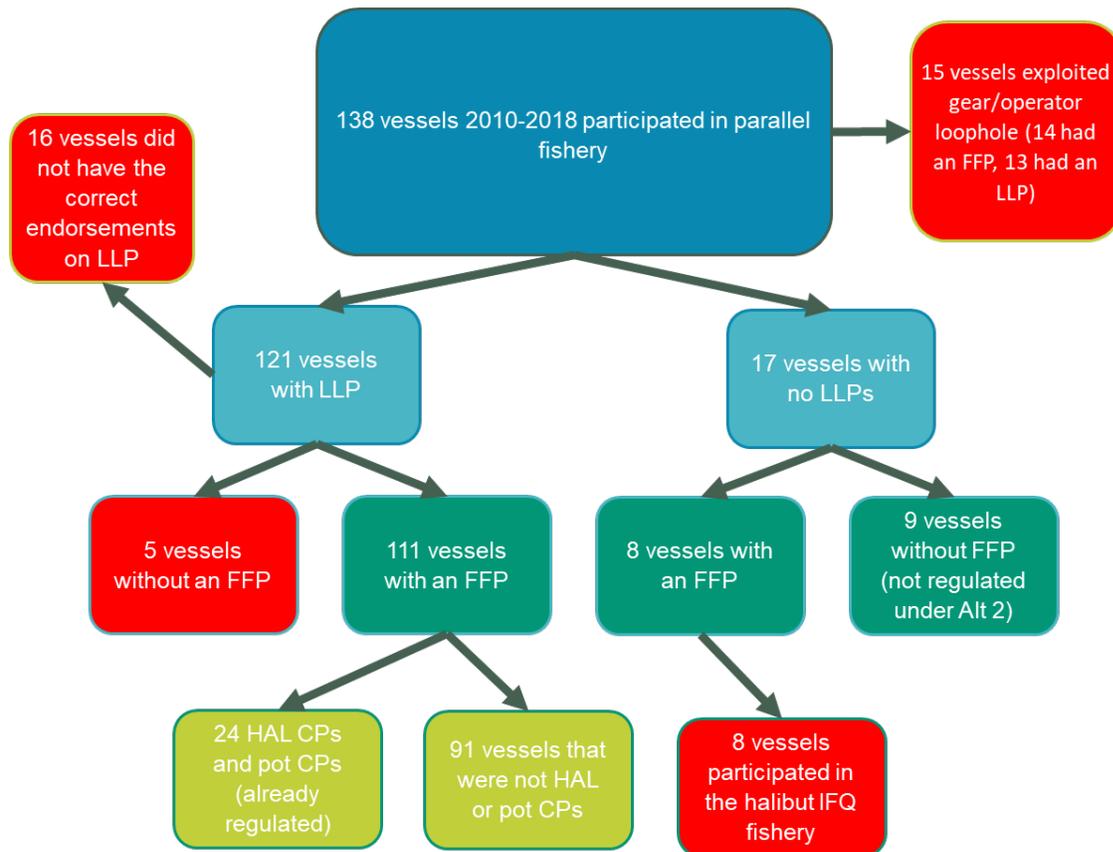
**Current through August 1, 2019 for parallel fishery data and August 21, 2019 for total catch data

2.8. Analysis of Impacts: Alternative 2 – (Preliminary Preferred Alternative) BSAI Pacific cod Parallel Fishery Limitation

Alternative 2 requires vessels with an FFP or LLP license to have the appropriate Pacific cod and area endorsements on the LLP license and the appropriate designations on the FFP to participate in the BSAI Pacific cod parallel fishery. Figure 2-3 depicts the different combinations of an LLP license and FFP designated on all of the vessels that participated in the BSAI Pacific cod parallel fishery from 2010 through 2018 and whether they will be directly impacted under Alternative 2. Vessel numbers included in Figure 2-3 are not additive since a vessel can have an LLP license and/or an FFP at any one point in time from 2010 through 2018, so a vessel can be included in more than one group.

Overall, there were 138 vessels that participated in the parallel fishery from 2010 through 2018. Of those 138 vessels, 121 had an LLP license assigned to the vessel and 17 vessels did not have an LLP license. Of those 121 vessels with an LLP license, 111 had an FFP designated on the vessel, while five vessels did not have an FFP designated on the vessel. Of these vessels 111 vessels with both an LLP license and FFP designated on the vessel, 24 were HAL and pot CPs that already require an LLP license with the correct endorsements and an FFP to participate in the parallel fishery. The remaining 91 vessels that were not HAL or pot CPs with an LLP license and FFP would be required to maintain an LLP license and FFP on the vessel to continue to participate in the parallel fishery under Alternative 2. In addition to these 91 vessels, there are an additional 30 vessels in four different groups that participated in the parallel fishery from 2010 through 2018 that either did not have an LLP license or lacked the correct endorsement or did not have an FFP or were fishing in the parallel fishery after their sector closed in Federal waters. Under Alternative 2, these 30 vessels would have been out of compliance. The following sections provide a description of these four different groups of vessels that participate in the parallel fishery, their revenue at risk under Alternative 2, and the likely outcome of this action on these vessels, the broader sector as a result of Alternative 2, and finally the community and processor impacts from Alternative 2.

Figure 2-3 Diagram showing the total number of vessels participating in the BSAI Pacific cod parallel fishery from 2010 through 2019 and the different groups of vessels by LLP and FFP status



Note: Vessel numbers included in the figure are not additive since a vessel can have an LLP license and/or FFP at any one point in time from 2010-2018, so a vessel can be included in more than one group.

2.8.1. Vessels with an LLP license

Table 2-8 shows the number of vessels with an assigned LLP license that fished in the parallel fishery from 2010 through 2018 by sector. Of the 138 vessels that participated in the parallel fishery from 2010 through 2018, 121 vessels had an LLP license. Of those 121 vessels, 111 vessels also had a designated FFP on the vessel. Of those 111 vessels, 24 were HAL and pot CP vessels, which already require both an LLP license with the correct endorsements and a designated FFP to participate in the parallel fishery. The remaining 91 vessels had both an LLP license and designated FFP and will have to continue to have an LLP license with the correct endorsements and a designated FFP to continue fishing in the parallel fishery under Alternative 2. It is likely these vessels, like in the GOA when a similar restriction was implemented in 2012, will continue to participate in the parallel fishery. In the GOA Pacific cod parallel fishery, the additional restrictions in the parallel fishery for Federal vessels does not appear to have had a dramatic effect on the number of participating vessels or their associated effort in the parallel fishery.

As noted in Table 2-8, most of the LLP licensed vessels participating in the parallel fishery were pot/HAL CVs < 60 ft, but other vessels were trawl CVs, pot CVs ≥ 60 ft, jig, and Amendment 80 vessels. Fishing activity by the LLP licensed vessels in the parallel fishery ranged from a low of nine vessels 2014 harvesting 3,769 mt of Pacific cod to a high of 35 in 2010 harvesting 2,717 mt of Pacific cod. The pot/HAL CV < 60 ft sector had the largest number of vessels participating in the parallel fishery, which ranged from 7 to 14 vessels. The range of harvest by these vessels was slightly less than 1,000 mt in 2013

to slightly over 3,700 mt in 2014. As noted in Table 2-9, the parallel fishery catch by pot/HAL CV < 60 ft vessels amounted between 10 percent and 32 percent of the final BSAI Pacific cod allocated to the sector.

Table 2-8 Number of vessels with an assigned LLP license and catch (mt) that fished in the BSAI Pacific cod parallel fishery from 2010 through 2018

Year	AM80		Jig		Pot CV≥60		Pot/HAL CV<60		Trawl CV		Total	
	Count	Catch (mt)	Count	Catch (mt)	Count	Catch (mt)	Count	Catch (mt)	Count	Catch (mt)	Count	Catch (mt)
2010	1	*	3	*	3	304	13	1,145	15	1,009	35	2,717
2011			5	145	2	*	12	2,820	7	153	26	3,167
2012	1	*	2	*	2	*	12	1,517			17	1,862
2013					1	*	8	962	2	*	11	1,089
2014					1	*	7	3,723	1	*	9	3,769
2015					2	*	8	2,248	11	*	21	3,278
2016	1	*					12	2,343	10	*	23	3,245
2017					4	765	8	1,828	2	*	14	2,712
2018					4	426	14	2,799	2	*	20	3,448

Source: AKFIN, Aug 2019; parallel_fshy_participation(8-1-19)

* Denotes confidential data

Table 2-9 Catch, initial and final allocation, and parallel fishery catch as a percent of final allocation for the pot/HAL CVs < 60 ft with had an assigned LLP license from 2010 through 2018

Year	Initial allocation (mt)	Final allocation (mt)	Parallel fishery catch (mt)	% of final allocation
2010	2,998	5,509	1,145	21%
2011	4,055	9,005	2,820	31%
2012	4,645	8,880	1,517	17%
2013	4,627	9,177	962	10%
2014	4,518	12,018	3,723	31%
2015	4,438	10,630	2,248	21%
2016	4,476	10,674	2,343	22%
2017	4,259	9,271	1,828	20%
2018	3,627	8,748	2,799	32%

Source: AKFIN, Aug 2019; parallel_fshy_participation(8-1-19)

2.8.1.1. Vessels with an LLP license but no FFP

Under Alternative 2, those vessels with LLP licenses that are fishing in the parallel fishery will be required to also have a designated FFP. Of the 138 total vessels participating the parallel fishery from 2010 through 2018 that had an LLP license, five vessels did not have a designated FFP. Of those five vessels, three were HAL/pot CVs < 60 ft, one was a trawl CV, and one was a pot CV ≥ 60 ft. Since vessels that hold an FFP must comply with groundfish observer program regulations and NMFS recordkeeping and reporting requirements, these five vessels will be required to comply with these Federal regulations. All vessels that participate in federally managed or parallel groundfish and halibut fisheries off Alaska (except catcher vessels delivering unsorted codends to a mothership) are assigned to one of two observer categories: 1) the full coverage category, or 2) the partial coverage category. CVs are typically in the partial coverage category observer or electronic monitoring (EM) trip selection pools. In 2019, the observer and EM selection rates were set at 30 percent for vessels using HAL or pot gear in the EM selection pool, and 18 percent and 15 percent for HAL and pot vessels in the observer trip selection pool, and 24 percent for vessels using trawl gear. Since all five vessels will be in the partial coverage category, each vessel would be required to pay an observer fee of 1.25 percent of their exvessel revenue split between the harvester and processor. In addition, vessels that hold an FFP must carry a Vessel Monitoring System (VMS) if they participate in the Atka mackerel, Pacific cod, or pollock directed

fisheries in Federal waters of the BSAI or GOA. Vessels that participate in these directed fisheries must also have an endorsement on their FFP that indicates the use of pot, trawl, or HAL gear in these fisheries. Vessels using jig gear are not required to obtain this endorsement on their FFPs, and as a result, are exempt from the VMS requirement except in the AI.

Overall, the average annual exvessel gross revenue (2010 through 2018) from the BSAI Pacific cod parallel fishery that is at risk for all five vessels without an FFP was estimated at \$93,000, which is 6 percent of total average annual exvessel gross revenue for this group of vessels. Other fisheries for these vessels include BS and AI Pacific cod GHL, halibut and sablefish IFQ, and Pacific cod fisheries once the vessel has a designated FFP. Under this alternative, there is some likelihood that some or all the vessel owners for these five vessels will apply for an FFP to continue to participate in the parallel fishery since the annual cost associated with an FFP, which include observer fees and recordkeeping and reporting requirements, is likely less than annual exvessel net revenue. In general, vessel owners will apply for an FFP if they perceive the benefits of continuing to participate in the parallel fishery as a Federal vessel is greater than the cost associated with an FFP, which includes costs associated with meeting the observer requirements and meeting the recordkeeping and reporting requirements. If any of the vessel owners do not apply for an FFP, there is a strong likelihood that any LLP licenses assigned to these vessels will be removed and the vessel will participate in the parallel fishery as State vessel. This shift from a Federal vessel participating in the parallel fishery to a State vessel participating in the parallel fishery will reduce any beneficial shift in available Pacific cod for sector vessels participating in Federal waters. These vessels could also mitigate some of their economic loss from the parallel fishery by continuing to participate in the BS and the AI GHL Pacific cod fisheries.

2.8.1.2. Vessels with an LLP license but incorrect endorsements

Amongst the vessels with LLP licenses participating in the parallel fishery from 2010 through 2018, there are 16 vessels that do not have the correct LLP license endorsements to continue participating in the parallel fishery under Alternative 2. Of the 16 vessels with incorrect endorsements from 2010 through 2018, all were HAL/pot < 60 ft vessels.

Overall, the average annual exvessel gross revenue (2010 through 2018) of the parallel fishery at risk for all 16 vessels with incorrect LLP endorsements was estimated at \$498,000, which is 14 percent of total average annual exvessel gross revenue for this group of vessels. Other fisheries for these vessels include Pacific cod GHL fishery, Pacific cod fisheries that align with area endorsement on the LLP license, and halibut and sablefish IFQ fisheries. In general, vessel owners will purchase an LLP license with the appropriate area endorsement to continue fishing in the parallel fishery if the owner perceives the benefits from the parallel fishery are greater than the cost of the LLP license. Based on the limited number of LLP licenses that have sold over the last 19 years, which averages nine LLP licenses per year, and the cost of an LLP license over same time period, which has ranged from \$20,000 to over \$60,000, relative to the average annual exvessel gross revenue earned in the parallel fishery, it is likely many of the 16 vessels currently fishing in the parallel fishery without the correct LLP license endorsements will likely exit the fishery. Since these vessels will likely continue to participate in the Pacific cod fishery that applies to the area endorsement on their LLP license, vessel owners would likely not remove the LLP license from the vessel and forfeit their FFP to participate in the parallel fishery as a State vessel. As a result, Pacific cod normally harvested by these vessels in the parallel fishery would instead be harvested by other vessels in the applicable sector, which in terms of average annual gross exvessel revenue is equivalent to the at-risk estimate of \$498,000.

2.8.2. Vessels without an LLP license

Amongst the 138 vessels participating in the parallel fishery, there were 17 vessels that participated in the parallel fishery from 2010 through 2018 without an LLP license. Of those 17 vessels, eight vessels had a

designated FFP and would be affected by Alternative 2. The remaining nine vessels would not be affected by Alternative 2 since they did not have a designated FFP or were jig vessels which do not require an LLP license. Of the eight vessels without an LLP license but with a designated FFP, six were pot/HAL CVs < 60 ft that participated in the halibut IFQ fishery and two vessels were pot CVs ≥ 60 ft. The six pot/HAL CVs < 60 ft would need to retain their FFP to continue participating in the IFQ halibut fishery. As noted in Section 2.6.3, all vessels fishing for groundfish in Federal waters of the BS, AI, or GOA are required to hold an FFP. In addition, any vessel fishing in Federal waters of the BSAI or GOA for any non-groundfish species (e.g. IFQ halibut) and retains incidental groundfish are required to have an FFP.

To comply with Alternative 2, the eight vessels would be required to designate an LLP license with the appropriate endorsements on the vessel to continue fishing in the parallel fishery. Other options for the eight vessels include surrendering their FFP to continue fishing in the parallel fishery as a State vessel, or no longer participate in the parallel fishery if they retain their FFP. The average annual exvessel gross revenue (2010 – 2018) of the parallel fishery for these eight vessels was estimated at \$200,000, which is 17 percent of total average annual exvessel gross revenue for this group of vessels. In either case, these eight vessels will continue to participate in those other fisheries, which in the case of the BS Pacific cod GHL and the AI Pacific cod GHL, which are open access fisheries, could generate exvessel revenue

In general, vessel owners of the eight vessels would likely purchase an LLP license with the appropriate endorsements to continue fishing in the parallel fishery if the owner perceives the benefits from the parallel fishery are greater than the cost of the LLP license. Based on the limited number of LLP licenses that have sold over the last 19 years, which averages nine LLP licenses per year, and the cost of an LLP license over same time period, which has ranged from \$6,200 to over \$60,000, relative to the average annual exvessel gross revenue earned in the parallel fishery, it is likely many of the eight vessels currently fishing in the parallel fishery without an LLP license will exit the parallel fishery. Since these vessels will likely continue to participate in the halibut IFQ fishery, vessel owners would likely continue to maintain their FFP on the vessel rather than forfeit their FFP to fish in the parallel fishery as a State vessel. As a result, Pacific cod normally harvested by these vessels in the parallel fishery would instead be harvested by other vessels in the applicable sector, which in terms of average annual gross exvessel revenue is equivalent to the at-risk estimate of \$200,000.

2.8.3. Vessels circumventing the seasonal sector closure

Under this alternative, vessels with an FFP or LLP would be required to adhere to seasonal closures of the respective BSAI Pacific cod sectors, even while fishing in the parallel waters. The rationale for including this alternative is to prevent vessels from circumventing the seasonal sector closures by fishing in the parallel fishery. Table 2-10 shows the number of vessels with and without an FFP license that continued to fish in the parallel fishery after their sector is closed to directed fishing in Federal waters from 2010 through 2018. Overall, there are a total of 15 vessels that circumvented the seasonal sector closures from 2010 through 2018. Except for one vessel in 2015 and 2016, all the vessels that continued to fish in the parallel fishery after their sector closed to fishing in Federal waters had an FFP designated on the vessel. Of these 15 vessels, 13 had an LLP license. Looking at annual activity, in 2018, four vessels continued to fish in the parallel fishery after their sector closed to fishing in Federal waters had an FFP designated on the vessel. These vessels harvest 759 mt of BSAI Pacific cod in the parallel waters after their sector closed to directed fishing in the Federal waters, which was deducted from the 5,121 mt of BSAI Pacific cod that was reallocated from other sectors later in the fishing year. Since all these vessels have an FFP, they would be directly affected by the proposed Alternative 2 since they could no longer continue to fish in the parallel fishery once their sector closed to fishing in Federal waters.

Overall, the average annual exvessel gross revenue (2010 through 2018) of the parallel fishery at risk for those vessels circumventing the seasonal sector closures was estimated at \$663,000, which is 16 percent

of total gross exvessel revenue for this group of vessels. Under this alternative, there is some likelihood that some or all the vessel owners for these 15 vessels will continue to maintain their FFP and LLP license to participate in the parallel fishery. In general, these vessel owners will continue to maintain their FFP and their LLP license on the vessel if they perceive the benefits of continuing to participate in the parallel fishery as a Federal vessel is greater than the perceived loss of revenue from continuing to circumvent the seasonal sector closure as a State vessel. For vessels that maintain their FFP and LLP license, the Pacific cod harvested while circumventing the sector seasonal closure would likely be harvested by sector as reallocations in the fall. The value of the reallocated Pacific cod that would be harvested by the greater sector is likely equivalent to the average annual gross exvessel revenue at risk, which was \$663,000 from 2010 through 2018. Note that if any vessel owners forfeit their FFP and remove their LLP license from their vessel, there is some likelihood these vessels will continue to circumvent the seasonal sector closure as a State vessel, which reduces any beneficial shift in available Pacific cod for the greater sector during the fall reallocation fishery.

Table 2-10 Number of vessels and their catch (mt) that fished in the BSAI Pacific cod parallel fishery after the HAL/pot < 60 ft CV sector closed to fishing from 2010 through 2018

Vessel count and mt harvested in BSAI parallel Pacific cod fishery after HAL/pot < 60 ft CV sector closed	2018	2017	2016	2015	2014	2013	2012	2011	2010
Number of vessels with an FFP	4	2	0	4	3	5	5	1	0
Pacific cod harvested (mt)	759	*	0	362	1,114	678	*	*	0
Number of vessels without an FFP	0	0	0	1	1	0	0	0	0
Pacific cod harvested (mt)	0	0	0	*	*	0	0	0	0

Source: NMFS, August 2019; Source HAL_loophole vessels_FFPs

* denotes confidential information

2.8.4. Summary of Impacts to Harvesters

Currently management allows fishing in the BSAI parallel waters off a federal Pacific cod TAC even when a sector's federal Pacific cod allocation has been achieved. Alternative 2 would provide protection for those Federal vessels that do not circumvent the seasonal sector closure from Federal vessels that do circumvent the seasonal sector closure. For example, except for one vessel in 2015 and 2016, all the vessels that continued to fish in the parallel fishery after their sector closed to fishing in Federal waters had an FFP designated on the vessel. If these vessels continue to have a designated FFP under Alternative 2, these vessels would no longer be allowed to circumvent the seasonal sector closure, which would reduce management impacts from Alternative 1 and would likely reduce overages harvested in the parallel fishery which are accounted for during reallocations of Pacific cod.

Alternative 2 would also provide protection for vessels that hold a non-trawl Pacific cod endorsement on their LLP license by preventing the erosion of catch via the entry of Federal vessels into the BSAI Pacific cod parallel fishery. The Council established Pacific cod endorsements to limit access to the pot and HAL allocations to those participants who had catch history in the BSAI Pacific cod fishery. Parallel waters participants by pot and HAL CVs that do not hold LLP licenses with Pacific cod endorsements reduces the amount of TAC available to participants who hold endorsed licenses. The proposed action would extend the Pacific cod endorsement on the LLP license requirement to the parallel fishery for pot and HAL CVs that hold an FFP or LLP but would not preclude vessels that do not hold an FFP or LLP from entering the parallel fishery.

Alternative 2 would negatively impact Federal vessels (vessels that had either an LLP license or an FFP) that need an LLP license with the correct endorsements and/or a designated FFP with the correct endorsements. Since 2010, there has been 30 Federal vessels in four different groups, based on the different combination of required LLP licenses and designated FFP, that participated in the parallel

fishery that would be out of compliance under Alternative 2 (Table 2-11). Overall, the average annual gross exvessel revenue at risk for these vessels is \$863,000, which is 12 percent of the group's average annual total exvessel gross revenue. Given that three of the four groups of vessels that would be out of compliance under Alternative 2 would likely exit the parallel fishery or stop circumventing seasonal sector closures, there would likely be additional Pacific cod available for harvest, most of which would occur in the HAL/pot CV < 60 ft sector. The estimated average annual exvessel gross value of the Pacific cod shifting from exiting vessels as a result of Alternative 2 for harvest by the sectors would be \$791,000 thousand annually.

Table 2-11 Summary of harvester impacts from Alternative 2 at the vessel group level

Vessel group	Number of vessels	Sectors	Revenue at risk (2010-2018) ²¹	Likely Impact
Vessels with an LLP license but no FFP	5	3 – HAL/pot CVs < 60' 1 – trawl CV 1 – pot CV ≥ 60'	Average annual gross exvessel revenue is \$93,000; 6% of this group's average annual total exvessel gross revenue	Some or all of these vessels will likely apply for an FFP since the observer requirements and recordkeeping and reporting requirements associated with an FFP are likely less than the exvessel revenue received from the parallel fishery.
Vessels with an LLP but incorrect endorsement	16	13 – HAL/pot CVs < 60'	Average annual gross exvessel revenue is \$498,000; 14% of this group's average annual total exvessel gross revenue	Likely these vessels will not participate in the parallel fishery since the cost of an LLP license with the correct endorsements is likely greater than the revenue received from participating in the parallel fishery therefore the Pacific cod harvested by these vessels will be harvested by other sector vessels for equivalent average annual exvessel gross revenue of \$498,000.
Vessels without an LLP license but had a designated FFP for participate in the halibut IFQ fishery	8	6 – HAL/pot CVs < 60' 2 – pot CV ≥ 60'	Average annual gross exvessel revenue is \$200,000; 17% of this group's average annual total exvessel gross revenue	Likely these vessels will not participate in the parallel fishery since the cost of an LLP license with the correct endorsements is likely greater than the revenue received from participating in the parallel fishery therefore the Pacific cod harvested by these vessels will be harvested by other sector vessels for equivalent average annual exvessel gross revenue of \$200,000.
Vessels circumventing the seasonal sector closure	15	15 - HAL/pot CVs < 60'	Average annual gross exvessel revenue is \$663,000; 16% of this group's average annual total exvessel gross revenue	These vessels will likely no longer circumvent the seasonal closure for the sector since the benefits of continuing to participate in the parallel fishery as Federal vessel is greater than circumventing the seasonal sector closure as State vessel.
Total of all vessels that would have been out of compliance under Alternative 2 from 2010 through 2019	30	26- HAL/pot CVs < 60' 1 - trawl CV 3 – pot CV ≥ 60'	Average annual gross exvessel revenue is \$863,000; 12% of this group's average annual total exvessel gross revenue	In aggregate, would likely result in a shift in harvested Pacific cod with an average annual gross exvessel revenue of \$791,000 from vessels exiting the parallel fishery under Alternative 2 to greater sector participants that would benefit from Alternative 2.

²¹ Revenue data is available only through 2018.

2.8.5. Community and Processor Impacts

To provide an assessment of the impacts of the proposed action on communities and processors, the following section presents information showing parallel fishery vessel activity and vessel dependence, broken out by vessel owner residence for those Federal vessels (had an LLP license and/or a designated FFP) from 2010 through 2018 that would be negatively impacted under Alternative 2. In total, there were 30 Federal vessels that had either no LLP license, an incorrect LLP license endorsement, no designated FFP, or they continued to fish in the parallel fishery after their sector closed to fishing in Federal waters. Under Alternative 2, to continue fishing in the parallel fishery as a Federal vessel, these 30 vessel owners will have to designate an LLP license with the appropriate endorsements on their vessel and will have to designate an FFP on their vessel. In addition, these vessels will have to stop directed fishing in the parallel fishery once their sector closes to fishing in Federal waters.

Of the 30 vessels historically from 2010 through 2018 that would be out of compliance in the parallel fishery under Alternative 2, Table 2-12 shows that Unalaska/Dutch Harbor had the largest number of reported vessel owners at eight, followed by Homer at three reported vessel owners. In general, the largest component of the 30 vessels directly impacted by Alternative 2 during any given year is typically Alaska, followed by Washington, Oregon, and finally all other states combined. The average annual exvessel gross revenue from the BSAI Pacific cod parallel fishery for 2010 through 2018 by owner residence was \$0.54 million for Alaska communities and \$0.46 million for all other States combined (Table 2-13).

Table 2-14 provides information on the exvessel gross revenue diversification by community of the vessel's historical ownership address from 2010 through 2018 for the 30 vessels that would be out of compliance in the parallel fishery under Alternative 2. This information shows the relative dependency of these 30 vessels on the BSAI Pacific cod parallel fishery compared to all other areas, gear types, and fisheries pursued by those same vessels, as measured in the proportion of total exvessel gross revenues on an annual average basis. As shown in the table, exvessel gross revenues from the parallel fishery is roughly 18 percent of all exvessel gross revenues for vessels owners that report Unalaska/Dutch Harbor as their address. As also shown in the table, relative dependency is nearly identical for vessels with Alaska ownership addresses as those vessels with Washington and Oregon ownership addresses combined.

Table 2-15 provides information on the exvessel gross revenue diversification by community of the vessel's historical ownership address from 2010 through 2018 for the 30 vessels that would be out of compliance in the parallel fishery under Alternative 2 relative to total exvessel gross revenue from all areas, gears, and fisheries for those same communities. As shown in the table, the parallel fishery for reported vessel owner residency in Unalaska/Dutch Harbor accounted for about eight percent of total exvessel gross revenues for all vessel owner residency in Unalaska/Dutch Harbor. At the state level, the parallel fishery accounted for 0.26 percent of the total exvessel gross revenues for all vessel owner residency in Alaska and 0.10 percent of the total exvessel gross revenues for all owner residency in Washington and Oregon combined.

Table 2-12 Annual number of Federal vessels participating in the BSAI parallel fishery by reported vessel owner residence from 2010 through 2018 that would be out of compliance under Alternative 2

Geography	2010	2011	2012	2013	2014	2015	2016	2017	2018	Annual Average 2010-2018 (number)	Annual Average 2010-2018 (percent)	Total Unique CVs 2010-2018 (number)
Adak	0	1	0	0	0	0	0	0	0	0.1	1.30%	1
Homer	0	0	0	0	0	0	1	1	1	0.3	3.90%	3
Juneau/Douglas	1	0	0	0	0	1	0	0	1	0.3	3.90%	2
Klawock	0	0	0	0	0	1	0	0	0	0.1	1.30%	1
Kodiak	1	1	0	0	1	0	0	0	2	0.6	6.49%	2
Sitka	0	0	0	1	0	0	0	0	0	0.1	1.30%	1
Unalaska/Dutch Harbor	5	5	5	4	4	3	3	1	2	3.6	41.56%	8
Alaska Total	7	7	5	5	5	5	4	2	6	5.1	59.74%	18
Beaverton	0	0	0	0	1	0	0	0	0	0.1	1.30%	1
Reedsport	0	0	0	1	1	0	0	1	1	0.4	5.19%	1
Oregon Total	0	0	0	1	2	0	0	1	1	0.6	6.49%	2
Dear Park	0	0	0	0	0	0	0	0	1	0.1	1.30%	1
Mount Vernon	0	0	1	0	0	0	0	0	0	0.1	1.30%	1
Seattle	2	2	2	1	2	2	2	3	2	2.0	23.38%	11
Washington Total	2	2	3	1	2	2	2	3	3	2.2	25.97%	11
Other States	0	0	1	1	1	2	0	0	1	0.7	7.79%	4
Grand Total	9	9	9	8	10	9	6	6	11	8.6	100.00%	30

*Seattle MSA includes all communities in King, Pierce, and Snohomish counties.

Note: Due to ownership movement between communities over the years shown, total unique vessels per community may not sum to state or grand totals.

Source: ADFG/CFEC Fish Tickets, data compiled by AKFIN in Comprehensive_FT

Table 2-13 Annual gross exvessel revenue of Federal vessels participating in the BSAI parallel fishery by reported vessel owner residence from 2010 through 2018 that would be out of compliance under Alternative 2

Geography	2010	2011	2012	2013	2014	2015	2016	2017	2018	Annual Average 2010-2018 (\$ millions)	Annual Average 2010-2018 (percent)
Alaska Total	*	*	\$0.39	\$0.56	\$1.07	\$0.46	*	\$0.12	\$0.68	\$0.54	63.09%
WA, OR, and Other States	*	*	\$0.30	\$0.20	\$0.67	\$0.42	*	\$0.52	\$0.64	\$0.46	52.97%
Grand Total	\$0.23	\$0.91	\$0.69	\$0.75	\$1.73	\$0.88	\$0.62	\$0.64	\$1.32	\$0.86	100.00%

Source: ADFG/CFEC Fish Tickets, data compiled by AKFIN in Comprehensive_FT

Table 2-14 Federal vessels participating in the BSAI parallel fishery that would be out of compliance under Alternative 2 exvessel gross revenue diversification by community of vessel historic ownership address, all communities, 2010-2018 (millions of dollars)

Geography	Annual Average Number of Vessels	Annual Average Ex-Vessel Gross Revenues	Annual Average Total Ex-Vessel Gross Revenues	Ex-Vessel Value as a Percentage of Total Ex-Vessel Gross Revenue
Unalaska/Dutch Harbor	3.6	\$0.39	\$2.19	17.87%
Other Alaska	1.6	\$0.11	\$1.29	8.58%
Alaska Total	5.1	\$0.50	\$3.48	14.43%
WA, OR, and Other States Total	3.5	\$0.36	\$3.80	9.48%
Grand Total	8.6	\$0.86	\$7.28	11.85%

Source: ADFG/CFEC Fish Tickets, data compiled by AKFIN in Comprehensive_FT

Table 2-15 Federal vessels participating in the BSAI parallel fishery that would be out of compliance under Alternative 2 and all commercial fishing CVs exvessel gross revenue diversification by community of vessel historical ownership address, all communities, 2010-2018 (millions of dollars)

Geography	Annual Average Number of Vessels	Annual Average Number of Commercial Fishing CVs in those Same Communities	Annual Average Ex-Vessel Gross Revenues from Parallel Fishery without LLP/FFP	Annual Average Total Ex-Vessel Gross Revenues from All Areas, Gears, and Species Fisheries by Community	Annual Average Parallel Fishery without LLP/FFP Ex-Vessel Gross Revenue as a Percentage of Total Ex-Vessel Gross Revenue
Unalaska/Dutch Harbor	3.6	15.2	\$0.39	\$4.88	8.04%
Other Alaska	1.6	1,060.1	\$0.11	\$191.85	0.06%
Alaska Total	5.1	1,075.3	\$0.50	\$196.73	0.26%
WA, OR, and Other States Total	3.5	289.1	\$0.36	\$665.58	0.05%
Grand Total	8.6	1,364.4	\$0.86	\$862.31	0.10%

Source: ADFG/CFEC Fish Tickets, data compiled by AKFIN in Comprehensive_FT

The next series of tables provide information on the shorebased and floating processors impacts from Alternative 2 at the community level. Table 2-16 shows that Unalaska/Dutch Harbor had an annual average of 2.6 shorebased processors that received 68 percent of the parallel fishery deliveries from Federal vessels during 2010 through 2018 that would be out of compliance under Alternative 2. Other Alaska communities with shorebased processors that accepted parallel fishery deliveries from these Federal vessels were Adak, Akutan, and King Cove. Table 2-17 shows there approximately 76 percent of all the parallel fishery delivered to floating processors were to floaters with an owner address of Seattle, while the remaining 24 percent of the deliveries were to floaters with an owner address of Anchorage. Finally, Table 2-18 shows that the floating and shorebased processors average annual exvessel value paid to Federal vessels that would be out of compliance under Alternative 2 during the 2010 through 2018 for parallel fishery catch was \$0.86 million dollars which was 0.32 percent of the total exvessel value paid by those same processors. From the perspective of community dependence of all shorebased and floating processors located in communities with processors that received parallel deliveries from the Federal vessels that would be out of compliance under Alternative 2, the parallel fishery contributed 0.10 percent processing dependence in those communities from 2010 through 2018.

Table 2-16 Shorebased processors by Alaska community accepting BSAI parallel fishery deliveries by vessels that would be out of compliance under Alternative 2, 2010-2018 (number of processors)

Geography	2010	2011	2012	2013	2014	2015	2016	2017	2018	Annual Average 2010-2018 (number)	Annual Average 2010-2018 (percent)	Total Unique SBPRs 2010-2018 (number)
Adak	0	1	0	0	0	0	0	0	1	0.2	5.88%	2
Akutan	1	1	1	0	1	1	1	1	1	0.9	23.53%	1
King Cove	0	0	0	0	0	0	0	1	0	0.1	2.94%	1
Unalaska/Dutch Harbor	1	1	3	3	3	4	3	2	3	2.6	67.65%	4
Total	2	3	4	3	4	5	4	4	5	3.8	100.00%	8

Source: ADFG/CFEC Fish Tickets, data compiled by AKFIN in Comprehensive_FT

Table 2-17 Floating processors by community accepting BSAI parallel fishery deliveries by vessels that would be out of compliance under Alternative 2, 2010-2018 (number of processors)

Geography	2010	2011	2012	2013	2014	2015	2016	2017	2018	Annual Average 2010-2018 (number)	Annual Average 2010-2018 (percent)	Total Unique SBPRs 2010-2018 (number)
Anchorage	0	1	1	1	1	0	0	1	0	0.6	23.81%	1
Seattle	1	3	2	1	1	2	3	2	1	1.8	76.19%	5
Total	1	4	3	2	2	2	3	3	1	2.3	100.00%	6

Note: For this table "groundfish deliveries" are defined as catcher vessel (or catcher/processor) class vessel deliveries, excluding halibut and sablefish, to floating processors (as identified by F_ID and FLPR codes in AKFIN data)

Source: ADFG/CFEC Fish Tickets, data compiled by AKFIN in Comprehensive_FT

Table 2-18 Exvessel value paid by processors to vessels participating in the BSAI parallel fishery that would be out of compliance under Alternative 2, 2010-2018 (millions of 2018 real dollars)

	2010	2011	2012	2013	2014	2015	2016	2017	2018	Annual Average 2010-2018 (\$ millions)	Processor Dependence 2010-2018 (percent)	Community Processing Dependence 2010-2018 (percent)
Floating and Shore-Based Processors	\$0.23	\$0.91	\$0.69	\$0.75	\$1.73	\$0.88	\$0.62	\$0.64	\$1.32	\$0.86	0.32%	0.10%

Note: Does not include Catcher Sellers, Catcher Processors and Direct Marketers

Source: ADFG/CFEC Fish Tickets, data compiled by AKFIN in Comprehensive_FT

In summary, CV landings from the BSAI Pacific cod parallel fishery are primarily delivered to shoreside processors in Unalaska/Dutch Harbor and other Alaska communities. The proposed action is not expected to directly impact the distribution of CV landings from the parallel fishery among shoreside processing communities. It is possible that fewer Federal vessels will participate in the parallel fishery, but that would likely not necessarily result in fewer onshore fleet support services being needed in the Alaska communities since these vessels could continue to fish in the parallel fishery as a state water only vessel or continue to fish in other fisheries as a Federal vessel. Those vessels that remain eligible to participate in the parallel fishery could experience a slight increase in fishing opportunities.

2.8.6. Effects on Management

Alternative 2 would provide stability in the fisheries by reducing the uncertainty for how a sector's allocation is accounted for under the TAC. That accounting would more closely align with the Council's intent when sector allocations were developed under Amendment 85. Moreover, Alternative 2 would reduce the opportunities for some classes of vessels to exploit slight differences between state and federal rules. Reallocations from one sector to another will still occur, but the recipients of the reallocations will hold equivalent LLPs and FFPs with the proper endorsements, and vessels will be able to fish seamlessly across state and federal waters.

Overall, this action would not affect the status of Pacific cod stocks in the BSAI or GOA. The acceptable biological catch and TAC for managed species would continue to be established through the annual harvest specifications process. The processes by which NMFS manages the catch to stay within its TAC would not change under the alternatives considered for this action.

2.8.7. Federal Fisheries Permit restrictions

It is important to note that Alternative 2 only applies to vessels with an FFP or LLP. Vessels without an FFP or LLP could continue to fish in the parallel fishery after directed fishing for the respective sector allocations close, as long as the season is still open in Federal waters for a sector with the same gear and any other State regulations that apply like vessel length. In 2015 and 2016, one vessel that did not have an FFP or LLP license continued to fish in the parallel fishery after their sector closed to fishing. In effect, the proposed alternative would partially address the management and allocation issue caused when vessels fish past the end of the sector's closures. Vessels without an FFP or LLP license could continue to circumvent the closures.

Currently, apart from the pot or HAL C/Ps, a vessel operator designation on the FFP may be amended at any time and the vessel operator may surrender the FFP and later reapply for the FFP at any time. Vessels that surrender their FFPs do not have to comply with Federal observer coverage rules, VMS requirements, or NMFS recordkeeping and reporting requirements while fishing in the parallel fisheries. Under Alternative 2, the management measures that limit entry to the parallel fishery apply to vessels that hold an FFP or LLP. However, if a vessel operator may surrender the FFP at any time, without any restrictions on when they may reapply for the FFP, any parallel fishery 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 to participate in the BSAI Pacific cod parallel fishery, then later reapply for the FFP to participate in other Federal waters fisheries.

Alternative 2 would preclude vessel operators from removing BS or AI area, gear, and operation type designations from the FFP and would only allow operators to surrender and reactive their FFP once every three years. Since 2012, three vessel operators have surrendered and reinstated their FFP in a three-year time period. Under Alternative 2, these vessels would no longer be able to surrender and later reinstate their FFP shorter than a 3-year time period, these vessels must comply with groundfish observer program regulations and NMFS recordkeeping and reporting requirements. In addition, these vessels that hold an FFP must carry a VMS if they participate in the Atka mackerel, Pacific cod, or pollock directed fisheries in Federal waters of the BSAI or GOA.

2.8.8. Safety at Sea

The proposed action could promote safety at sea by increasing the number of vessels that have USCG safety inspections. All commercial fishing vessels must comply with USCG safety regulations and carry specific safety equipment, but the safety inspections ensure that vessels are in compliance. Currently, the USCG safety inspections are voluntary. However, vessels that participate in the Federal Observer program is required to have a biennial safety inspection and carry a USCG decal. The proposed action would preclude Federally permitted C/Ps from surrendering and reactivating the FFP on an unlimited basis, making it more likely that these vessels will continually hold FFPs, participate in the Observer program and have a biennial safety inspection. Vessels that hold an FFP are also required to carry a VMS, and this geographic location data is available to USCG search and rescue personnel. The VMS data provides search and rescue personnel with real-time vessel location data, and may be used in addition to data from emergency locator devices to conduct searches for vessels in distress.

2.9. Affected Small Entities (Regulatory Flexibility Act Considerations)

The Regulatory Flexibility Act (RFA), first enacted in 1980 and amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601-612), is designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business,

unit of government, or nonprofit organization frequently has a bearing on its ability to comply with a Federal regulation. Major goals of the RFA are 1) to increase agency awareness and understanding of the impact of their regulations on small business, 2) to require that agencies communicate and explain their findings to the public, and 3) to encourage agencies to use flexibility and to provide regulatory relief to small entities.

The RFA emphasizes predicting significant adverse economic impacts on small entities as a group distinct from other entities, and on the consideration of alternatives that may minimize adverse economic impacts, while still achieving the stated objective of the action. When an agency publishes a proposed rule, it must either ‘certify’ that the action will not have a significant adverse economic impact on a substantial number of small entities, and support that certification with the ‘factual basis’ upon which the decision is based; or it must prepare and make available for public review an Initial Regulatory Flexibility Analysis (IRFA). Under section 603 of the RFA, an IRFA “shall describe the impact of the proposed rule on small entities.”

Under 5 U.S.C., section 603(b) of the RFA, each IRFA is required to contain:

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and the legal basis for, the proposed rule;
- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply (including a profile of the industry divided into industry segments, if appropriate);
- A description of the projected reporting, record keeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule;
- A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the proposed action, consistent with applicable statutes, and that would minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives, such as:
 1. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
 2. The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
 3. The use of performance rather than design standards;
 4. An exemption from coverage of the rule, or any part thereof, for such small entities.

When an agency publishes a final rule, it must prepare a Final Regulatory Flexibility Analysis, unless, based on public comment, it chooses to certify the action.

As of January 2017, NMFS Alaska Region prepares the IRFA for a proposed action in the Classification section of the proposed rule. Therefore, the preparation of a complete IRFA is not necessary for Council final action on this issue. This section of the RIR provides information about the small entities that may be directly regulated by the alternatives and the general nature of those effects. This information is useful for the Council to consider in selecting among the alternatives analyzed in this EA/RIR and for NMFS to use to prepare the IRFA for the proposed rule, should the Council recommend implementation of one of the action alternatives. Specifically, this section provides a description and estimate of the number of small entities that may be directly regulated by the action alternatives, noting if the categories or numbers of directly regulated small entities differs among the action alternatives. This section also identifies the general nature of the potential economic impacts on directly regulated small entities, specifically

addressing whether the impacts may be adverse or beneficial. The exact nature of the costs and benefits of each of the alternatives is addressed in the impact analysis sections of the RIR and is not repeated in this section, unless the costs and benefits described elsewhere in the RIR differs between small and large entities.

Alternative 2 would prohibit vessels with an FFP or LLP license from participating in the BSAI Pacific cod parallel fishery if they do have the appropriate LLP Pacific cod and area endorsements. The amendment would also require the above Federally permitted or licensed vessels that fish in parallel fishery to adhere to gear/operator seasonal closures of the BSAI Pacific cod Federal water fishery and would restrict those vessels from surrendering their FFP and later reapplying for it within a three-year time period.

The RFA recognizes and defines three kinds of small entities: 1) small businesses, 2) small non-profit organizations, and 3) small government jurisdictions.

Small businesses. Section 601(3) of the RFA defines a ‘small business’ as having the same meaning as ‘small business concern’, which is defined under section 3 of the Small Business Act (SBA). ‘Small business’ or ‘small business concern’ includes any firm that is independently owned and operated and not dominant in its field of operation. The SBA has further defined a “small business concern” as one “organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor...A small business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the firm is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.”

The thresholds applied to determine if an entity or group of entities is a small business under the RFA depend on the industry classification for the entity or entities. Businesses classified as primarily engaged in commercial fishing are considered small entities if they have combined annual gross receipts not in excess of \$11.0 million for all affiliated operations worldwide (81 FR 4469; January 26, 2016). Businesses classified as primarily engaged in fish processing are considered small entities if they employ 750 or fewer persons on a full-time, part-time, temporary, or other basis, at all affiliated operations worldwide. Since at least 1993, NMFS has considered CPs to be predominantly engaged in fish harvesting rather than fish processing. Under this classification, the threshold of \$11.0 million in annual gross receipts is appropriate.

Of the 160 vessels that participated in the BSAI Pacific cod parallel fishery, 75 are considered small entities as of 2018. Of the 30 vessels that would be out of compliance under Alternative 2, 29 are considered small entities.

2.10. Summation of the Alternatives with Respect to Net Benefit to the Nation

Overall, this action is likely to have a limited effect on net benefits to the Nation. Under the status quo (Alternative 1), vessels that do not currently hold an LLP license or the appropriate endorsements or an FFP would continue to have the potential to enter the BSAI Pacific cod parallel fishery, increasing overall effort in the fishery. This increase in effort could contribute to losses of production efficiency. 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 difficult to predict and depends on several factors, including future TAC levels, market conditions, and operating costs.

Under Alternative 2, vessels that hold an FFP or LLP license could not enter the BSAI Pacific cod parallel fishery unless the license is appropriately endorsed. Vessels that do not hold any Federal permits or license could continue to access the fishery. The proposed action may reduce the potential for an influx of vessels into the parallel fishery. Limiting the number of participants in the fishery could contribute to slowing down the fishery, less aggressive fishing practices, and a shift of available Pacific cod to sector vessels that comply with Alternative 2 requirements, which is mostly the HAL/pot CV < 60 ft sector.

Implementation of the action alternative would require NOAA fisheries to track FFPs and possibly other endorsements participating in the BSAI Pacific cod parallel fishery. These FFPs could no longer be surrendered and reissued without restrictions. These costs would not be incurred under Alternative 1. The main economic benefit from the proposed action is that it will prevent the expansion of effort by Federally permitted vessels that do not hold the correct LLP license endorsements into the BSAI Pacific cod parallel fishery, but it will not preclude an increase in effort by non-Federally permitted vessels. Therefore, the action has the potential to benefit license holders who are economically dependent on the BSAI Pacific cod fishery, but this benefit may not be realized if there is a significant increase in effort by non-Federally permitted vessels. The costs of Alternative 2 will be incurred by those vessel operators who will forgo the opportunity to participate in the BSAI parallel fishery.

3. Magnuson-Stevens Act and FMP Considerations

3.1. Magnuson-Stevens Act National Standards

Below are the 10 National Standards as contained in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and a brief discussion of how each alternative is consistent with the National Standards, where applicable. In recommending a preferred alternative, the Council must consider how to balance the national standards.

National Standard 1 — Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

None of the alternatives considered in this action would result in overfishing of groundfish in the BSAI or GOA. The alternatives would also not impact, on a continuing basis, the ability to achieve the optimum yield from each groundfish fishery.

National Standard 2 — Conservation and management measures shall be based upon the best scientific information available.

The analysis for this amendment is based upon the best and most recent scientific information available.

National Standard 3 — To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

The proposed action is consistent with the management of individual stocks as a unit or interrelated stocks as a unit or in close coordination.

National Standard 4 — Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be: (A) fair and equitable to all such fishermen, (B) reasonably calculated to promote conservation, and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

The proposed alternatives treat all vessels the same. The proposed alternative would be implemented without discrimination among participants and is intended to promote conservation of the Pacific cod resource in the BSAI by providing stability in the fisheries by reducing the uncertainty for how a sector's allocation is accounted for under the TAC. That accounting would more closely align with the Council's intent when sector allocations were developed under Amendment 85. The proposed action would also reduce the opportunities for some classes of vessels to exploit slight differences between State of Alaska and Federal fishery management regulations.

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

This action will potentially improve efficiency in utilization of the Pacific cod resource in the BSAI by preventing future increased crowding in the fishery through entry of vessels that do not have LLP licenses with BS or AI area endorsements and a fixed-gear Pacific cod endorsement.

National Standard 6 — Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

The proposed alternative is expected to affect the availability of and variability in the groundfish resources in the BSAI and GOA in future years. The BSAI Pacific cod harvest would be managed to and limited by the TACs for each species, regardless of the proposed action considered in this amendment.

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

This action does not duplicate any other management action.

National Standard 8 — Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of National Standard 2, in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

Under this proposed action, CV landings from the BSAI Pacific cod parallel fishery are primarily delivered to shoreside processors in Unalaska/Dutch Harbor and other Alaska communities. The proposed action is not expected to directly impact the distribution of CV landings from the parallel fishery among shoreside processing communities. It is possible that fewer Federal vessels will participate in the parallel fishery, but that would likely not necessarily result in fewer onshore fleet support services being needed in the Alaska communities since these vessels could continue to fish in the parallel fishery as a State vessel or continue to fish in other fisheries as a Federal vessel. Those vessels that remain eligible to participate in the parallel fishery could experience a slight increase in fishing opportunities.

National Standard 9 — Conservation and management measures shall, to the extent practicable, (A) minimize bycatch, and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

By preventing future crowding in the BSAI Pacific cod parallel fishery, the proposed amendment could help to minimize bycatch and bycatch mortality by preventing any exacerbation of the race for fish.

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

The proposed action could promote safety at sea by increasing the number of vessels that have USCG safety inspections. All commercial fishing vessels must comply with USCG safety regulations and carry specific safety equipment, but the safety inspections ensure that vessels are in compliance. Currently, the USCG safety inspections are voluntary. However, vessels that participate in the Federal Observer program is required to have a biennial safety inspection and carry a USCG decal. The proposed action would preclude Federally permitted catcher processors from surrendering and reactivating the FFP on an unlimited basis, making it more likely that these vessels will continually hold Federal fisheries permits, participate in the Observer program and have a biennial safety inspection. Vessels that hold an FFP are also required to carry a VMS, and this geographic location data is available to USCG search and rescue personnel. The VMS data provides search and rescue personnel with real-time vessel location data, and may be used in addition to data from emergency locator devices to conduct searches for vessels in distress.

3.2. Section 303(a)(9) Fisheries Impact Statement

Section 303(a)(9) of the Magnuson-Stevens Act requires that a fishery impact statement be prepared for each FMP or FMP amendment. A fishery impact statement is required to assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for (a) participants in the fisheries and fishing communities affected by the plan amendment; (b) participants in the fisheries conducted in adjacent areas under the authority of another Council; and (c) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery.

The EA/RIR prepared for this plan amendment constitutes the fishery impact statement. The likely effects of the proposed action are analyzed and described throughout the RIR. The effects on participants in the fisheries and fishing communities are analyzed in the RIR chapter of the analysis (Chapters 2). The effects of the proposed action on safety of human life at sea are evaluated in Section 2.8.8, and above under National Standard 10, in Section 3.1. Based on the information reported in this section, there is no need to update the Fishery Impact Statement included in the FMP.

The proposed action affects the groundfish fisheries in the EEZ off Alaska, which are under the jurisdiction of the North Pacific Fishery Management Council. Impacts on participants in fisheries conducted in adjacent areas under the jurisdiction of other Councils are not anticipated as a result of this action.

3.3. Council's Ecosystem Vision Statement

In February 2014, the Council adopted, as Council policy, the following:

Ecosystem Approach for the North Pacific Fishery Management Council

Value Statement

The Gulf of Alaska, Bering Sea, and Aleutian Islands are some of the most biologically productive and unique marine ecosystems in the world, supporting globally significant populations of marine mammals, seabirds, fish, and shellfish. This region produces over half the nation's seafood and supports robust fishing communities, recreational fisheries, and a subsistence way of life. The Arctic ecosystem is a dynamic environment that is experiencing an unprecedented rate of loss of sea ice and other effects of climate change, resulting in elevated levels of risk and uncertainty. The North Pacific Fishery Management Council has an important stewardship responsibility for these resources, their productivity, and their sustainability for future generations.

Vision Statement

The Council envisions sustainable fisheries that provide benefits for harvesters, processors, recreational and subsistence users, and fishing communities, which (1) are maintained by healthy, productive, biodiverse, resilient marine ecosystems that support a range of services; (2) support robust populations of marine species at all trophic levels, including marine mammals and seabirds; and (3) are managed using a precautionary, transparent, and inclusive process that allows for analyses of tradeoffs, accounts for changing conditions, and mitigates threats.

Implementation Strategy

The Council intends that fishery management explicitly take into account environmental variability and uncertainty, changes and trends in climate and oceanographic conditions, fluctuations in productivity for managed species and associated ecosystem components, such as habitats and non-managed species, and relationships between marine species. Implementation will be responsive to changes in the ecosystem and our understanding of those dynamics, incorporate the best available science (including local and traditional knowledge), and engage scientists, managers, and the public.

The vision statement shall be given effect through all of the Council's work, including long-term planning initiatives, fishery management actions, and science planning to support ecosystem-based fishery management.

In considering this action, the Council is being consistent with its ecosystem approach policy. The proposed amendment would preclude fixed gear and trawl gear vessels from participating in the BS and AI Pacific cod parallel fishery if they do not have an LLP license with the correct LLP endorsements. The amendment would also require the above Federally permitted or licensed vessels that fish in parallel fishery to adhere to gear/operator seasonal BSAI Pacific cod closures and would restrict those vessels from surrendering and later reapplying for the FFP within a specified time period. The proposed amendment would prevent all fixed and trawl gear vessels from circumventing the intent of previous Council decisions regarding license limitation, sector allocations, and catch reporting while participating in the BS and AI Pacific cod parallel fishery.

In considering this action, the Council is being consistent with its ecosystem approach policy. This action expands the tools available for appropriate and conservative monitoring of fishing activities, especially species caught incidentally and discarded at sea. This is directly supportive of the Council's intention to provide best data possible for scientists, managers, and the public in order to ensure sustainable fisheries for managed species and their effects on associated ecosystem components.

4. Preparers and Persons Consulted

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