

# **Initial Public Review**

## **DRAFT**

**REGULATORY IMPACT REVIEW/ENVIRONMENTAL  
ASSESSMENT/REGULATORY FLEXABILITY ANALYSIS**

**GROUND FISH LICENSE LIMITATION ANALYSIS FOR BSAI  
TRAWL CVs and GOA TRAWL CVs and CPs**

**September 14, 2007**



## DEFINITIONS AND ASSUMPTIONS FOR THE BSAI/GOA LLP TRAWL RECENCY ANALYSIS

There are a number of terms used in this report that may be subject to different interpretation. The following list provides definitions for a list of selected words or phrases used in the report.

- An **LLP license** is held by a person, and not by a vessel. A license may be held that is not assigned to a vessel, but before the license can be used in a fishery, a vessel must be named. Once a license is assigned to a vessel, the license holder is authorized to deploy a vessel of appropriate size to engage in directed fishing in accordance with the endorsements of the LLP, and the license must be physically on board the vessel when it is engaged in activities authorized by the license.
- An **AFA LLP** is a permit initially issued by NMFS to qualified AFA catcher vessels and processor vessels. An AFA vessel must be named on a valid LLP permit authorizing the vessel to engage in trawling for pollock in the Bering Sea subarea. AFA LLPs can be transferred to another AFA vessel, however, cannot be used on a non-AFA CV or a non-AFA CP (§679.4(k)(9)(iii)(3)).
- **AFA catcher vessel (CV)** means a catcher vessel permitted to harvest Bering Sea pollock under (§679.4(1)(3)).
- **AFA catcher/processor (CP)** means a catcher processor permitted to harvest Bering Sea pollock under (§679.4(1)(2)).
- **AFA replacement vessel** – Under provisions of the American Fisheries Act, the owner of an AFA CV or CP may replace such a vessel with a replacement vessel. Examples of this include the replacement for AFA rights of the PACIFIC ALLIANCE to the MORNING STAR (618797) including its AFA license and the replacement of the AFA rights of the OCEAN HOPE 1 to the MORNING STAR (1037811) along with its AFA license (see [http://www.fakr.noaa.gov/ram/06afa\\_cv.htm](http://www.fakr.noaa.gov/ram/06afa_cv.htm)).
- **Area Endorsements** – Each license carries one or more subarea endorsements authorizing entry to fisheries on those subareas (Bering Sea, Aleutian Islands, Western Gulf, Central Gulf).
- **Gear Designation**- Each license carries a gear designation, trawl and /or non-trawl, authorizing its entry in fisheries for the designated gear.
- **Landing** – For purposes of this report, a trawl catcher vessel landing includes any groundfish landed during one calendar day. Catcher vessel harvests are based upon ADF&G Fish ticket files. For purposes of this report, a trawl catcher processor landing includes any groundfish landed during the same week interval, since catcher processor landings are based upon weekly processor's report (WPR) data and are only specific to a week ending date.
- **MLOA designation** – Each license carries a maximum length overall (LOA) designation, limiting the length of the vessel that can use the license.
- **Non-severability** – The endorsements and designations of a license are non-severable and only transfer with the license.
- **Non-Trawl** – A license was assigned a non-trawl gear designation if only non-trawl gear was used to harvest LLP species from the qualifying during the period beginning January 1, 1998 through June 17, 1995 (§679(k)(3)(iv)(D)).
- **Operation-type designation** – Each license carries a designation for either catcher processor operation or catcher vessel operation. A catcher processor may choose to operate as a catcher vessel, delivering its catch to shore.
- **Qualified permit** – for purposes of this analysis, a qualified permit is one that meets the threshold criterion of either one landing or two landings for the respective qualification period, 2000-2005. If the Council selects Component 1, Option 3, the qualification period will extend to include harvests landed in 2006.
- **Trawl/non-trawl** – A license was assigned both a trawl and non-trawl gear designation if only both gear types were used to harvest LLP species from the qualifying vessel during the period beginning January 1, 1988 through June 17, 1995 (§679(k)(3)(iv)(B)).
- **Trawl** – A license was assigned a trawl gear designation if only trawl gear was used to harvest LLP species from the qualifying during the period beginning January 1, 1988 through June 17, 1995 (§679(k)(3)(iv)(C)).

### **Disclaimer on Harvest data used in this report**

*The tables presented in this paper estimate the history associated with LLPs by assigning catch history of the originating vessel (i.e., the vessel that earned the licenses) together with the catch history of the vessels assigned the license at particular times. Depending on the circumstances, this method of approximation can overcount or undercount history associated with a license. As a consequence, all tables and catch history estimates in this paper should be viewed as approximations that could have some degree of error.*



## SUMMARY OF THE PROPOSED ACTION

The Council has been discussing, modifying, and evaluating this proposed amendment since December 2005. In the review process to date, a number of decisions have been made to simplify the proposed amendments, components or portions. A description of the current version is contained in Section 2.

There are three main options for the Council to choose among, and several accompanying components and options, that can be selected independent of the main alternative selected. The main focus of the amendment is to remove the endorsements of latent permits. Latent permits are those that qualified in the initial implementation of the program, but have been unutilized in recent years.

The main action for Alternatives 2 and 3 will be to remove the area endorsement for licenses that do not meet the threshold requirements of one landing or two landings of groundfish during the qualifying period of 2000-2005. Using Option 1 – Component 3, the Council may choose to extend the qualifying period to include 2006. Component 1 Options 1 and 2 differ in the threshold landing criteria, requiring one landing or two landings, respectively, during the qualification period.

Component 1 – Option 4 provides the Council an opportunity to provide an exemption for licenses limited to be assigned to vessels less than 60 feet in length. There is some variability in this factor within the central and western subdistrict levels, but overall are in the same general proportion as for licenses assigned to vessels greater than 60 feet.

The Council has already made a decision on Component 2, which provides direction on evaluating multiple licenses assigned to a single vessel. This decision was essential to the staff being able to complete the analysis of impacts as presented in Section 3 of the report.

Component 4 is the portion of the proposed amendment that will increase the number of licenses assigned to the Aleutian Islands submanagement area. Vessels not having an Aleutian Islands LLP, but showing a history of participation in the parallel waters and state waters Pacific cod fisheries, will be allocated a new LLP for the Aleutian Islands. Between 9 and 14 vessels less than 60 feet would receive new LLPs, depending on the threshold selected by the Council. Between 3 and 4 vessels greater than 60 feet would receive new LLPs, depending upon the threshold selected by the Council.

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## 1.0 PURPOSE AND NEED

### 1.1 Introduction

The proposed amendment applies threshold landings criteria to trawl groundfish fisheries in the Bering Sea, Aleutian Islands, the western Gulf of Alaska and central Gulf of Alaska. The intent of the amendment is to prevent latent trawl groundfish fishing capacity, which is comprised of LLPs from the respective areas that have not been utilized in recent years from future re-entry into the fishery.

The groups likely to be affected by the proposed amendment include trawl CV and trawl CP groundfish LLP permit holders in the abovementioned areas as well as those holders of LLP permits that would have groundfish area endorsements extinguished under provisions of the amendment. Under options being considered in the amendment, the Council may choose to expand application of the threshold criteria to both CV and CP trawl groundfish LLPs in the BSAI and GOA. The alternatives in the action apply the harvest thresholds to trawl groundfish LLPs at the management district level (BSAI & GOA) or at the submanagement district level (AI, BS, WG and CG). Note that under LLP area designations, the CG submanagement area includes west Yakutat.

The rationale for this action is concern over the impacts possible future entry of latent effort would have on the LLP holders that have exhibited participation and dependence on the groundfish fisheries. Latent effort, as addressed by this amendment, is comprised of valid LLPs that have not been utilized in the trawl CV groundfish fishery (and the trawl CP groundfish in the BSAI & GOA) in recent years. Recency, as defined in the alternatives, has been determined by the Council to be participation during the most recent 6 year period from 2000-2005. The Council also specified that the analysis include 2006 non-AFA trawl groundfish harvests for the Aleutians Islands submanagement area (see Component 4 in the descriptions of alternatives below). In their discussions on this issue, the Council noted that LLP holders currently fishing the BSAI and GOA groundfish trawl fisheries have made significant investments, had long catch histories and are dependent on the groundfish resources from these areas. The Council believes these current participants need protection from LLPs that could re-enter the fisheries in the future.

As noted above, the management areas included under this program is the Bering Sea/Aleutian Islands (BSAI) and Gulf of Alaska (GOA). The management subareas areas included are the Bering Sea (BS), the Aleutian Islands (AI), the western Gulf of Alaska (WG), and the Central Gulf of Alaska (CG). The species included in the amendment include all species of trawl groundfish harvested in the above areas. Invertebrates (squid, octopus) crab, prohibited species (salmon, herring, halibut and steelhead), other species (sculpins, skates and sharks) and forage fish are not included and should not be affected by this amendment. The list of groundfish species affected by the analysis is shown in Appendix 1.

The Council's adopted the following draft problem statement on June 11, 2006.

*Trawl catcher vessel eligibility is a conflicting problem among the Bering Sea, Gulf of Alaska and Aleutian Islands. In the Bering Sea and Gulf of Alaska, there are too many latent licenses and in the Aleutian Islands there are not enough licenses available for trawl catcher vessels.*

*In the Bering Sea and GOA, the trawl catcher vessel groundfish fisheries in the BSAI and trawl vessel groundfish fisheries in the GOA are fully utilized. In addition, the existence of latent licenses may exacerbate the disadvantages to GOA dependant CVs resulting from a lack of comprehensive rationalization in the GOA. Competition for these resources is likely to increase as a result of a number of factors, including Council actions to rationalize other fisheries, favorable current market prices and a potential for TAC changes in future years. Trawl vessel owners who have made significant investments, have long catch histories, and are dependent upon BSAI and GOA groundfish resources need protection from others who have little or no recent history and with the ability to increase their participation in the*

*fisheries. This requires prompt action to promote stability in the trawl catcher vessel sector in the BSAI and trawl vessel sector in the GOA until comprehensive rationalization is completed.*

*In the Aleutian Islands, previous Congressional and Council actions reflect a policy encouraging economic development of Adak. The opportunity for non-AFA CVs to build catch history in the AI was limited until markets developed in Adak. The analysis indicates that there are only six non-AFA CV trawl AI endorsed LLPs. The Congressional action to allocate AI pollock to the Aleut Corporation for the purpose of economic development of Adak requires that 50% of the AI pollock eventually be harvested by <60' vessels. The Council action under Am. 80 to allocate a portion of AI POP and Atka mackerel to the limited access fleet does not modify AFA CV sideboard restrictions, thus participation is effectively limited to non-AFA vessels with AI CV trawl LLP endorsements. A mechanism is needed to help facilitate the development of a resident fishing fleet that can fish in both state and federal waters. The Council will consider different criteria for the CV Eligibility in the AI.*

It is important to note that the main focus of the amendment is to reduce the future potential for increases in trawl groundfish fishing effort from LLPs currently unused or underutilized in all areas. However the last paragraph on the problem statement addresses the need to increase the number of valid non-AFA trawl LLPs in the Aleutian Islands area, and is therefore different in its objective from other management areas included in the amendment.

This amendment addresses a number of other aspects of LLPs in the BSAI and GOA groundfish fisheries, including: alternatives for dealing with multiple (stacked) LLPs on a single vessel, options to exclude LLPs held by AFA vessel owners and LLPs used for eligibility in Amendment 80. Options for harvest during the qualification period include trawl groundfish harvests and groundfish harvests taken by trawl and fixed. The analysis also addresses an option for vessels with a catch history in the parallel waters or state waters Aleutian Island fishery to obtain an AI LLP on the basis of past landings of groundfish within the parallel waters fishery or in the 2006 State-waters fishery off Adak.

To help in understanding this proposed amendment, it is important to set out some general parameters of what this proposed action will and will not accomplish.

#### **What the amendment will do....**

- It will implement threshold criteria for trawl groundfish LLPs and extinguish area endorsements for those permits that have not been utilized for the respective recent period (2000-2005). By implementing either Alternative 2 or Alternative 3, the Council would maintain participation in trawl groundfish fisheries in the BSAI and GOA at current levels by preventing re-entry of latent licenses at some point in the future.
- It will mean that future gross revenues from groundfish harvests in the respective areas would not be diluted by additional fishing effort, as represented by latent LLPs. Those LLP holders exhibiting dependence and participation in the trawl groundfish fisheries, (i.e. those meeting the selected threshold criterion), would be protected from possible future increases in effort and 'dilution' of their gross revenue share.

#### **What the amendment will not do....**

- As discussed in the economic impact section, the action will not result in production efficiencies to LLPs that achieve the threshold levels, of the nature generally ascribed to an IFQ program. Following implementation of the amendment, each LLP holder will still have incentive to expand their effective fishing effort and thereby maximize their respective share of the gross revenues to be earned in the trawl groundfish fisheries.

- The amendment will not necessarily result in an ‘optimum’ harvesting capacity in any of the sectors or areas, however that term may be interpreted by different individuals. The Council selected two modest threshold levels for application of the exclusion criterion, one landing and two landings over six or 11 years. The number latent LLPs to be excluded under any of these choices was not based in any manner whatsoever on a predetermined ‘optimum’ capacity for the trawl groundfish fleet. The action should be regarded as a modest step in the fisheries management continuum between the status quo and a fully rationalized trawl groundfish fishery. It is a step in the preferred direction, with relatively modest goals, rather than a comprehensive approach to fully resolve long term participation issues in the trawl groundfish fishery.

## **1.2 Reasons for Concern – Further Discussion of Management Intent**

Whether or not the LLPs excluded under the provisions of the amendment would enter the trawl groundfish fishery in the future in absence of this action is uncertain. That entry would depend on future market conditions, future resource conditions, the future regulatory environment, as well as, costs and opportunity situations specific to each individual LLP holder.

Industry proponents refer to the effect of being one of the only fisheries remaining open to expended effort in the wake of effort limitation programs already in place in the BS/AI and GOA. Within the GOA, concern over latent effort could be partially resolved by Gulf rationalization; however, it may be some time before that program makes its way through the public process, resulting in support for this amendment.

### **1.2.1 Diminished Season Length**

To arrive at the conclusion that there are too many permits in most CV and CP trawl fisheries, i.e. there are latent LLPs that should be removed, the Council relied on data and testimony relating to diminished season lengths for most areas and upon industry testimony that future increases in effort would cause economic dislocation and hardship for those participating in, and depending upon, trawl groundfish fisheries. As an example, Table 1 shows the declining trend in the number of days the trawl catcher vessel fishery for Pacific cod has been open in recent years (2000-2006). The total number of days for this fishery had steadily declined from 346 days in 2000 to 95 days in 2006. As another example of this concern, the Council has been asked to address trip limits for pollock in areas of the GOA due to concern over shortened seasons from increased effort by large vessels.

### **1.2.2 Diminished alternative opportunities as an incentive for re-entry of latent LLPs**

Part of the concern that prompted this amendment was the perception that a series of fishery regulation decisions by the Council over a number of years has had the effect of gradually restricting opportunities. The concern is that those fisheries remaining open to entry will have new effort focused on it from LLPs assigned to vessels that have not had recent participation.

The series of management measures that have generated this concern include the following:

- the IFQ halibut and IFQ sablefish fisheries
- AFA rationalization of the BSAI pollock fishery
- Amendment 67 to the BSAI groundfish management plan that established an LLP limitation specifically for Pacific cod fishery participants
- BSAI crab rationalization
- GOA rockfish pilot program in the Gulf—initially approved for two years but recently extended under reauthorization of the Magnuson-Stevens Act.
- Amendment 80 to the groundfish fishery management plan for BSAI groundfish

**Table 1. BSAI Trawl CV Pacific cod fishery**

<b>BSAI Trawl CV Pacific Cod Fishery: Open Season 2000-2006</b>					
year	open	closed	reason for closure	# of days season open	
2006	1/20/2006	3/8/2006	TAC	47	
	4/1/2006	4/6/2006	TAC	5	
	7/19/2006	8/31/2006	halibut bycatch	43	
				<b>total for year</b>	<b>95</b>
2005	1/20/2005	3/13/2005	TAC	52	
	3/29/2005	8/18/2005	halibut bycatch	142	
				<b>total for year</b>	<b>194</b>
2004	1/20/2004	3/23/2004	TAC	63	
	4/1/2004	4/4/2004	TAC	3	
	4/10/2004	4/13/2004	TAC	3	
	6/10/2004	11/1/2004	REG	144	
				<b>total for year</b>	<b>213</b>
2003	1/20/2003	9/25/2003	halibut bycatch	248	
				<b>total for year</b>	<b>248</b>
2002	1/20/2002	7/1/2002	Red king crab zone 1	162	
	1/20/2002	10/29/2002	Halibut bycatch	282	
				<b>total for year</b>	<b>282</b>
2001	1/20/2001	11/1/2001	bycatch	285	
				<b>total for year</b>	<b>285</b>
2000	1/20/2000	12/31/2000		12/14/2000	closed by injunction *
	1/20/2000	12/31/2000	REG	346	
				<b>total for year</b>	<b>346</b>

\* in 2000, the trawl P. cod fishery was closed to within critical habitat zones on 12/14 to protect Steller sea lions.

Source: NOAA Fisheries, RAM Division, at:

<http://www.fakr.noaa.gov/sustainablefisheries/catchstats.htm>

TAC means closed by harvest of the allowable quota.

REG means closed by date in regulation.

An inadvertent product of this series of regulations could be an environment where groundfish fisheries participants gravitate towards any open venue, with the intent of preserving future opportunity, rather than specific interest in a particular fishery.

We do not know the extent to which future re-entry of latent groundfish LLPs could be triggered by the above series of management actions and concern over future diminished fisheries alternatives. However, it is one of the primary concerns that has led to the development of this amendment.

### 1.2.3 Insufficient non-AFA trawl CVs to participate in the AI groundfish fisheries

Component 4 has the opposite effect of the other parts of the proposed alternative. While Alternatives 2 and 3 and other components of the amendment would have the effect of removing area endorsements from recently unused LLPs, Component 4 would create new additional LLPs for non-AFA trawl CV vessels operating in the AI.

The Council’s rationale for considering new LLPs for the non-trawl CV is based upon the following three concepts:

- (1) Under the status quo (Alternative 1), there are very few non-AFA trawl groundfish LLPs. There are only six in total, and only one of the six has been fished in recent years.
- (2) The Council has heard testimony from representatives of Adak fisheries that their operations are currently hampered by the constraint of operating only in State waters when Pacific cod and other groundfish concentrations during part of the year are outside of the 3-mile limit.

Figure 1 shows the three mile boundary around Adak Island. In testimony to the Council, proponents of Component 4 of the analysis have expressed concern that the groundfish fleet operating out of Adak, under current regulations, could only operate in the parallel waters fishery or in the state waters fishery for Pacific cod. However, during the fishing season, the cod resource is concentrated outside of the state waters area, in Sitkin Sound and Tanaga Sound. Supporters of this component would like to have additional trawl non-AFA CV LLPs for the AI so that the resource can be harvested both within and outside the 3-mile waters by a larger fleet, including those that have only participated in the parallel waters or state Pacific cod fishery.

- (3) The Council and the Alaska Board of Fisheries have, through recent actions, established regulations for non-AFA groundfish fisheries in the Aleutians. However, industry representatives and Council members have suggested there may not be sufficient LLPs under the status quo to effectively harvest these fisheries. The recent actions include: the Pollock fishery allocations established under Amendment 82 to the BSAI groundfish management plan, the State waters Pacific cod fishery established by the Alaska Board of Fisheries and the Allocations under Amendment 80 for up to 10 percent of the AI ITAC for CV trawl harvests of POP and Atka mackerel. Table 2 below shows the allocations that will result under the latter action.

**Table 2. Trawl Limited Access AFA CV, CP and Non-AFA CV Allocations under Amendment 80 Provisions**

species	year	Area 541		Area 542		Area 543	
		% allocation	allocation in mt.	% allocation	allocation in mt.	% allocation	allocation in mt.
Atka Mackerel	year 1	2%	127.5	2%	603.5	0	0
Atka Mackerel	year 2	4%	255.0	4%	1207.0	0	0
Atka Mackerel	year 3	6%	382.5	6%	1810.5	0	0
Atka Mackerel	year 4	8%	510.0	8%	2414.0	0	0
Atka Mackerel	year 5	10%	637.5	10%	3017.5	0	0
POP	year 1	5%	130.9	5%	129.0	2%	86.4
POP	year 2	10%	261.8	10%	258.0	2%	86.4

note: example allocations are based upon percentages of 2005 ITAC  
percentage allocations are from Amendment 80.

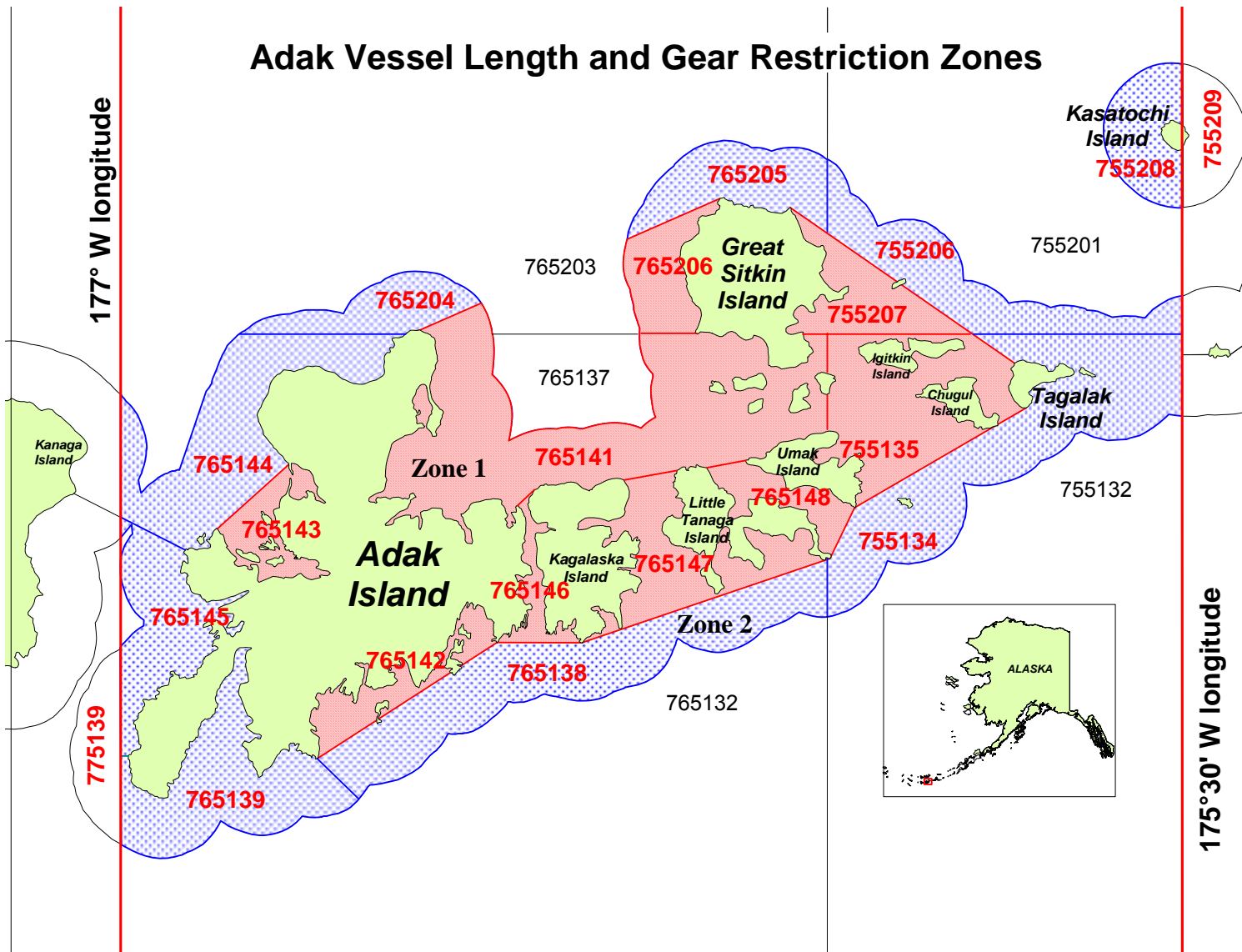


Figure 1. Adak vessel length and gear restriction zones and statistical reporting areas. Map from ADF&G.

## 2.0 DESCRIPTION OF ALTERNATIVES

### 2.1 Introduction and listing of Alternatives 1-3

The Council has approved a draft set of alternatives for analysis of a license-based LLP threshold eligibility program for vessels meeting minimum catch criteria of at least one landing or two landings over a qualification period. LLPs not meeting these minimum catch criteria will have endorsements in the non-qualifying management area removed of all area (BSAI and GOA) or subarea (Bering Sea, Aleutian Island, Western Gulf and Central Gulf) endorsements, depending upon the option selected by the Council. The only participation period selected by the Council is 2000-2005, although in the formulation of the draft alternatives, the Council did consider a longer participation period of 1995-2005. Component 1 Option 3 would extend the qualification period to allow harvests made in 2006 to be included. The analysis covers LLPs held by BSAI trawl catcher vessels and catcher processor vessels as well as LLPs held by both trawl catcher vessels and catcher processors within the GOA. The Council noted a specific request for the analysis to provide the number of LLPs for vessels under 60 feet that would be eliminated under the eligibility criteria, so that option is addressed in Component 1- Option 3.

There is a section in the motion that provides a number of exemption and inclusion statements that the Council may choose as their preferred action. These include an AFA exemption, an exemption for Central Gulf Rockfish, and potential inclusion of CP inclusion for the BSAI.

The Council decided to leave the issue of excluding licenses assigned to Amendment 80-qualified vessels as Component 3 rather than as a part of the exemption/inclusion section described above.

Component 4 provides for new licenses to be created and assigned for non-AFA trawl CVs that qualify under the threshold criteria selected by the Council.

The Council's draft alternatives for the program are described in the following text and also in Table 3 shown at the end of this section.

#### **Current motion, as revised by the Council in June 2007:**

#### **Trawl Recency Amendment - Description of Alternatives, Components and Options**

**Alternative 1 – No Action:** Under this alternative the existing situation will continue. All LLPs currently issued will continue to be valid for the BSAI and GOA trawl groundfish fisheries. There would also be no change in the number of non-AFA trawl CV LLPs for the Aleutian Islands area, which could occur under Component 4.

**Alternatives 2 and 3** are differentiated by whether or not the program is implemented at the management area or subarea designation.

*Alternative 2 would implement trawl CV LLP threshold criteria in the **BSAI** and trawl LLP threshold criteria in the **GOA** management areas. It would specify application of all **trawl groundfish harvests** within these areas for the respective qualification period. This threshold assessment only applies to trawl harvests and will not change non-trawl area endorsements on LLPs.*

*Alternative 3 would implement trawl CV LLP threshold criteria in the **BS** and **AI** submanagement areas and trawl LLP threshold criteria in the **WG** and **CG** submanagement areas. It would specify application of **trawl groundfish harvests** within these areas for the respective qualification period. This threshold assessment only applies to trawl harvests and will not change non-trawl area endorsements on LLPs.*

Throughout the analyses for this proposed amendment, when applying catch threshold criteria to CP LLPs, CP activity and/or CV activity shall be considered.

## **Exemption and Inclusion Statements**

**AFA exemption:** Excludes BSAI LLP endorsements originally issued to vessels qualified under the AFA and any non-AFA LLPs assigned to AFA vessels not having any other license from LLP qualification in the BSAI.

**Central Gulf Rockfish Demonstration Project exemption:** Excludes Central Gulf of Alaska area endorsements of the LLPs qualified for the rockfish demonstration program from LLP qualification under the amendment.

**BSAI CP inclusion:** Includes application of the harvest thresholds for BSAI CP LLPs that are non-AFA licenses and also are not LLPs qualified for Amendment 80 (LLPs assigned to vessels eligible for Amendment 80). As specified in the descriptions of Alternative 2 and Alternative 3 above, this is the only instance where CP LLPs in the BSAI are subject to the proposed amendment.

## **Component/Option Choices Common to Alternatives 2 and 3**

Alternatives 2 and 3 have a common set of four components that form the remainder of choices for this amendment. The Council can choose to include and apply any combination from these components to either Alternative 2 or Alternative 3.

**Component 1** includes a number of possible choices for landings criteria to be applied to the current LLP holders for existing trawl LLPs in the respective areas. The varying factors under Component 1 are the choice of threshold criteria to be applied (at least one landing for the qualification period or at least two landings for the qualification period); a choice to exempt licenses in the with a mean length overall less than 60 feet that have achieved certain levels directed Pacific cod harvest in the BSAI from application of the threshold criteria; and an option to include groundfish harvests made in 2006 in the qualification period.

The choices for Component 1 are as follows:

***Component 1 – Option 1** requires at least one landing of groundfish during the qualification period of 2000-2005.*

***Component 1 – Option 2** requires at least two landings of groundfish during the qualification period of 2000-2005.*

***Component 1 – Option 3** extends the qualification period one year to include landings in 2006.*

***Component 1 – Option 4** provides a choice to exempt trawl LLPs with a maximum mean length overall (MLOA) designation of less than or equal to 60 feet in the BSAI directed Pacific cod fishery using trawl or non-trawl harvests with minimum participation levels of:*

***suboption 1** – one landing*

***suboption 2** – two landings, or*

***suboption 3** – 200 metric tons directed Pacific cod harvest from the BSAI in any one year (2000-2005),*

*from the trawl landing threshold requirement.*

**Component 2** – where there are multiple LLPs registered to a single vessel, also known as ‘stacking’ of LLPs, the Council has specified a provision to deal with this situation as follows:

***Component 2** – will fully credit groundfish harvest history to all stacked licenses, each carrying its own qualifying endorsements and designations.*

**Component 3** addresses consideration of excluding Amendment 80-qualified vessels from LLP qualification under the amendment. The Council identified a single option as follows:

***Component 3 – Option 1** will exclude LLPs originally issued to vessels qualified under Amendment 80 and LLPs used for eligibility in Amendment 80 in the Gulf of Alaska.*



**Component 4** is different from other parts of the proposed amendment. It evaluates the effect of adding new LLPs to the Aleutian Islands non-AFA trawl groundfish CV fishery based on harvests during the respective qualification periods. Harvests for the parallel waters fishery in the Aleutian Islands and also the 2006 State waters fishery are included in the basis for qualification. In February 2007, the Council directed the following specifications for Component 4:

*A – Component 4 to be retained within the trawl recency analysis*

*B – The options within Component 4 are as follows:*

- 1) *For non-AFA vessels < 60 feet in length to receive an AI trawl endorsement, consider landing thresholds in the AI parallel cod fishery between 2000-2005 of at least:
  - a. 50 metric tons
  - b. 250 metric tons
  - c. 500 metric tons*
- 2) *For non-AFA vessels > 60 feet in length to receive an AI trawl endorsement, consider landing thresholds of at least one landing in the AI parallel (groundfish fishery) or State water cod fishery between 2000 and 2006 plus landings in the BSAI cod fishery between 2000 and 2006 of at least: (a) 500 metric tons, or (b) 1,000 metric tons*

## **2.2 BSAI and GOA Aggregation of LLP groundfish permits**

Figures 2 and 3 are intended to demonstrate the difference between Alternative 2, where the harvest thresholds or one landing or two landings are applied at the BSAI and GOA management levels and Alternative 3 that utilize submanagement levels, i.e. AI, BS, WG and CG.

As shown in Figure 2 below, there are currently 48 trawl CV LLPs in the AI submanagement area, and 148 LLPs in the BS submanagement area, based on the current LLP file<sup>1</sup>. In evaluating the number of LLPs for the combined BSAI management area for Alternative 2, we cannot simply add these two figures together. There are a number of LLPs (46 for the BSAI) that have endorsements for both areas. We add this number to the number of LLPs unique to each submanagement area (AI=2 and BS=102) to arrive at the combined total. Therefore, as can be seen in Figure 1 the number of trawl CV LLPs for the BSAI is 150. This is the total number of LLPs that are addressed in the following sections.

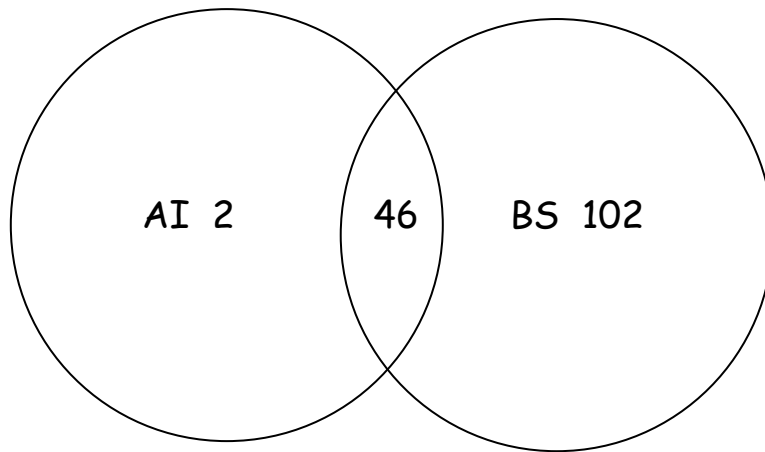
Figure 3 shows the number of LLPs in the GOA management area. There are 118 trawl CV LLPs that have endorsements for both the WG and CG, 43 for the WG and 58 for the CG, for a total of 218. This is the number of trawl CV GOA LLPs that are analyzed in the following sections.

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<sup>1</sup> National Marine Fisheries Service, Alaska Region website at: <http://www.fakr.noaa.gov/ram/llp.htm>.

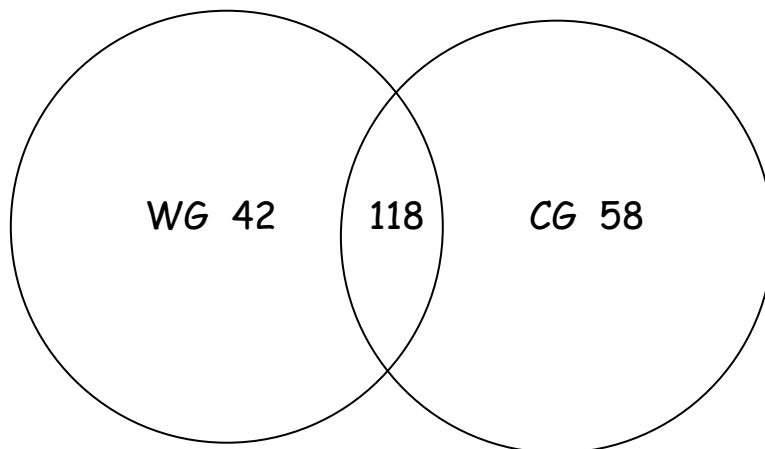
**Table 3. Alternatives, components, and options for the BSAI Trawl CV LLP and GOA Trawl CV & CP LLP analysis**

<b>Alternative/Element</b>	<b>Alternative 1 - No Action</b>	<b>Alternative 2</b>	<b>Alternative 3</b>
<b>Primary alternative to LLP trawl CV and CP groundfish licenses considered.</b>	Existing situation to continue. LLPs will remain as currently configured.	Implement LLP threshold criteria based upon <b>BSAI</b> and <b>GOA</b> management areas	Implement LLP threshold criteria based upon submanagement areas for the <b>BS, AI, WG and CG</b> .
<b>Exemption and Inclusion Statements - the same effect to each alternative</b>			
AFA exemption	Exclude BSAI LLP endorsements originally issued to vessels qualified under the AFA and any non-AFA LLPs assigned to AFA vessels not having any other license from LLP qualification in the BSAI.		
Central Gulf Rockfish Demonstration Project exemption	Exclude Central Gulf of Alaska area endorsements of the LLPs qualified for the rockfish demonstration project from LLP qualification under the amendment.		
BSAI CP inclusion	Include application of the harvest thresholds for BSAI CP LLPs that are non-AFA licenses and also are not LLPs qualified for Amendment 80(LLPs assigned to vessels eligible for Amendment 80). As specified in the descriptions of Alternatives 2 and 3, this inclusion is the only instance where CP LLPs in the BSAI are subject to the amendment.		
<b>Components common to Alternatives 2 and 3</b>			
Component 1: Option 1	no landing requirement implemented	Component 1: Option 1 - at least one landing of groundfish from 2000-2005	
Component 1: Option 2	no landing requirement implemented	Component 1: Option 2 - at least two landings of groundfish from 2000-2005	
Component 1: Option 3	no change from status quo	Component 1: Option 3 - extends the qualification period one year to include landings in 2006 for both options above.	
Component 1: Option 4 exemption for LLPs with a maximum length overall (MLOA) designation < 60 feet	no change from status quo	Component 1: Option 4 - provide a choice to exempt trawl LLPs with a MLOA designation of less than 60 feet in the BSAI directed Pacific cod fishery using trawl or non-trawl harvests with a minimum participation (2000-2005) of: (a) suboption 1 - one landing, (b) suboption 2 - two landings, and (c) 200 metric tons directed Pacific cod harvest from the BSAI in any one year.	
Component 2:	no change to LLP regulations	Component 2: will fully credit harvest history to all stacked licenses, each carrying its own qualifying endorsements and designations.	
Component 3:	no change from status quo	Component 3, will exclude Amendment 80-qualified vessels qualified under Amendment 80 and LLPs used for eligibility in Amendment 80 from the threshold criteria in the Gulf of Alaska.	
Component 5: Option for Aleutian Islands Fisheries. Implement a landing requirement for trawl groundfish as follows:	no change from status quo	Non-AFA vessels which lack an AI trawl CV endorsement may qualify based on deliveries in a parallel waters groundfish fisheries 2000-2005 or in the 2006 State water fishery for Pacific cod in the AI.	
Component 5: Option A	no landing requirement implemented	For non-AFA vessels ≤ 60 feet LOA to receive an AI trawl endorsement, consider landings thresholds in the AI parallel Pacific cod fishery between 2000-2005 of: (a) 50 metric tons, (b) 250 metric tons, or (c) 500 metric tons	
Component 5: Option B	no landing requirement implemented	For non-AFA vessels > 60 feet LOA to receive an AI trawl endorsement, consider landings thresholds of at least one landing in the AI parallel (groundfish) fishery or State water cod fishery between 2000-2006 <b>plus</b> ; landings in the BSAI cod fishery between 2000 and 2006 of at least: (a) 500 metric tons, or (b) 1,000 metric tons	



150 Unique BSAI Trawl CV LLPs

**Figure 2. AI has 48 LLPs BS has 148 LLPs A total of 46 LLPs have endorsements for both areas**



218 Unique GOA Trawl CV LLPs

**Figure 3. WG has 160 LLPs CG has 176 LLPs A total of 107 LLPs have endorsements for both areas**

## **3.0 REGULATORY IMPACT REVIEW**

### **3.1 Introduction**

This chapter provides information on the economic and socioeconomic impacts of the alternatives, as required under Executive Order 12866 (E.O. 12866). This chapter includes a description of the purpose and need for the action and the management objectives, a description of the alternatives proposed to meet those objectives, identification of the individuals or groups that may be affected by the action, the nature of those impacts (quantifying the economic impacts where possible), and discussion of the tradeoffs. The economic impacts of the alternatives under consideration, including the Council's preferred alternative, are summarized in Section 3.4.

The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement from the order:

*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, environment, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.*

This section addresses the requirements of E.O. 12866 to provide adequate information to determine whether an action is "significant" under E.O. 12866. The order 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:

- (1) 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;
- (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

As will be presented in the following sections, it is not anticipated that selection of any alternative under consideration for this amendment would trigger any of the above considerations to be a "significant regulatory action".

### **3.2 Purpose and Need for Action**

The purpose and need for action are described in Section 1 of the report.

### **3.3 Background**

#### **3.3.1 Economic Aspects of the Proposed Action**

This section presents a brief discussion of aspects of the economic effects that might be expected to occur as the result of eliminating area endorsements of LLPs that have not been utilized in recent years.

The impetus for this action originated with existing participants in the trawl groundfish fishery, concerned over possible future entry of ‘latent’ vessels that have not participated in the fishery in recent years. These ‘latent’ LLPs are valid, and holders are eligible to participate in the fishery as a result of being awarded an LLP when the program was initially implemented. The threshold criteria being considered in this amendment are similar to those in the initial LLP program, with the main difference being the consideration of recency in the years considered to qualify an existing LLP (i.e., 2000-2005).

In looking at potential economic benefits from reduced capacity, we typically anticipate benefits from increased efficiency (with respect to productive capability and reduced costs for vessels assigned to the respective LLPs), improved safety, potential for reduction in non-targeted species bycatch or prohibited species bycatch or impacts. In this instance, the action alternatives (Alternatives 2 and 3) will prevent a possible future re-entry of recently latent trawl license holders, will not result in any immediate exclusion (reduction) of effort. Therefore, the near term effects on efficiency, as a result of the action would be anticipated to be negligible. In the longer term, we have forestalled the possible situation where re-entry of recently latent licenses could exacerbate crowding, and/or vessel costs, and/or result in reduced efficiency of the harvesting sector. However, since we do not know, and will never know, what (if any) proportion of the latent licenses that would be excluded might have ever been expected to re-enter the trawl groundfish fishery; we cannot begin to quantify that effect.

In general terms, there is a continuum of management measures, working from a total open-access fishery towards full rationalization. In this process, the Council goes through a number of interim steps, beginning with implementation of a moratorium, assigning limited entry licenses, and then in some cases moving to a fully rationalized management regime. For BSAI and GOA trawl groundfish, the first two steps, a moratorium on new entry and assignment of LLPs have been completed. The current action is basically an ‘update’ of the assignment of LLPs, with the intent to remove area endorsements for those LLPs that have not been utilized.

### **3.3.2 History and Background of LLP Program**

The following section reviews the numbers of LLPs issued by area and sector. Due to the fact that CP LLPs can make landings both as a CP and a CV, there are some discrepancies between the totals of the numbers of LLPs in this section and the analyses presented above.

#### **The rules of the game – A License Limitation Program (LLP) Primer**

The LLP limits access to the groundfish and crab fisheries in the Bering Sea and Gulf of Alaska.<sup>2</sup> In the mid to late 1990s, the Council developed the LLP to address capacity concerns and take a first step toward rationalization of the groundfish fisheries under its management. Fishing under the program began in 2000. The LLP established criteria for the issuance of licenses to persons based on fishing history of vessels. This discussion briefly summarizes the primary provisions applicable to the trawl participants. Further detail could be provided in a future paper (or in the analysis) at the Council’s discretion.

The LLP defined a general qualification period (GQP) and an endorsement qualification period (EQP) both of which must be satisfied for a management subarea for a vessel owner to receive a license. Vessels that meet requirements for more than one subarea endorsement are issued a single, non-severable LLP license with multiple area endorsements. GQP and EQP criteria differ across areas and subareas, and include a variety of exceptions meant to address specific circumstances in the different areas. Table 4 shows the primary GQP and EQP requirements applicable to trawl vessels in the various BSAI and GOA subareas. In general, the endorsements and EQP catch requirements apply to a single subarea. However, the Central Gulf endorsement and EQP catch requirements treat the Central Gulf and West Yakutat subareas as a single subarea. So, catch in

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<sup>2</sup> Amendment 39 to the BSAI groundfish plan and Amendment 41 to the groundfish plan for the GOA established the LLP. The rules governing the LLP are contained in 50 CFR 679.4(k).

either the Central Gulf or West Yakutat would qualify a vessel for a Central Gulf endorsement, which in turn, qualifies a vessel to participate in the Central Gulf and West Yakutat. EQP requirements differ across the different endorsement areas.<sup>3</sup>

**Table 4. General LLP license issuance criteria**

	<b>GQP requirement (Jan. 1, 1988 – June 27, 1992)</b>	<b>Endorsement Area</b>	<b>Vessel length and operation</b>	<b>EQP requirement (January 1, 1992 – June 17, 1995)</b>
<b>Bering Sea/ Aleutian Islands</b>	One landing	Bering Sea	All vessels	One landing
		Aleutian Islands		One landing
<b>Gulf of Alaska</b>	One landing	Western Gulf	CVs $\geq$ 125' and CPs $\geq$ 60'	One landing in at least two calendar years
			125' > CVs and CPs < 60'	One landing
		Central Gulf (inc. Central Gulf and West Yakutat)	All vessels $\geq$ 60'	One landing in at least two calendar years
			All vessels < 60'	One landing

In addition to the different area endorsements, LLP licenses also carry a designation for operation type (i.e., catcher processor or catcher vessel), gear (trawl or non-trawl), and vessel length. LLP licenses were issued catcher processor designations, if groundfish were processed on the vessel during the period from January 1, 1994 through June 17, 1995 or the last calendar year of the EQP. It is important to recognize that licenses of either operation type (i.e., catcher vessel or catcher processor) authorize participation as a catcher vessel. So, removing inactive catcher vessel licenses will not affect the potential entry of holders of catcher processor licenses to the catcher vessel sector.<sup>4</sup>

Each license carries a gear designation (trawl or non-trawl) based on the gear used on the vessel during the period beginning January 1, 1988 through June 17, 1995. If a vessel used both trawl and non-trawl gear during this period, its license was designated for both gear types.

Lastly, each license carries an MLOA, identifying the maximum vessel LOA for use of the license. For vessels 125 feet or greater in length on June 24, 1992, the MLOA is the vessel length. For vessels under 125 feet in length on that date, the MLOA is the lesser of 1.2 times the LOA or 125 feet. If a vessel was under reconstruction on June 24, 1995, the basis for determining the MLOA is the vessel's length on completion of the reconstruction. In addition, vessels under 60 feet on June 17, 1995 (or under construction on that date with a reconstructed LOA under 60 feet) cannot have an MLOA greater than 60 feet; vessels under 125 feet on June 17, 1995 (or under construction on that date with a reconstructed LOA under 125 feet) cannot have an MLOA greater than 125 feet; and vessels under construction on that date with a reconstructed LOA over 125 feet will have an MLOA equal to the vessel's reconstructed length.

<sup>3</sup> Notably, persons fishing only inside 3 nm (i.e., in state waters only) were eligible for an LLP license based on their state water participation. However, persons that never acquired a federal fisheries permit (FFP), required for participation in fisheries in federal waters, were issued LLPs that are not transferable from the originating vessel.

<sup>4</sup> This transition could occur one of two ways. First, a catcher processor license can be voluntarily (and irreversibly) converted to a catcher vessel license. In addition, a catcher processor may choose to deliver its catch to shore.

Generally, a vessel participating in groundfish fisheries in federal waters in the BSAI or GOA is required to have an LLP license with the applicable area endorsement and designated for the gear (trawl or non-trawl) and operation type (catcher processor or catcher vessel) and of sufficient MLOA.<sup>5</sup>

A number of past (as well as pending) actions have an effect on the environment for effort limitation in the BSAI and GOA groundfish fisheries. First and most important, the segmentation of fisheries by sector contributes to impacts of entry of latent effort. Sectors that receive exclusive allocations and have constraining limits on access are less likely to be affected by entry.

The adverse impacts of entry of latent capacity are exacerbated for sectors with substantial latent capacity, if other sectors receive allocations that are not affected by the increase in effort. Two effects contribute to this impact. First, exclusive allocations leave less of the TAC available to the sectors not receiving those allocations, concentrating the impact of entry of latent effort. Second, exclusive allocations (especially when accompanied by new entry limits) reduce the number of fisheries available to latent effort, further contributing to the impact of entry of latent effort.

The actions under Amendment 80 (non-AFA trawl catcher processor sector allocation and cooperative program) and Amendment 85 (Pacific cod sector allocations) have the effect of limiting the dispersal of impacts of entry. Both of these actions could leave some sectors exposed to the effects of increases in trawl catcher vessel effort. Under Amendment 85, trawl catcher vessels receive an exclusive allocation of Pacific cod. Participants in the trawl catcher vessel Pacific cod fishery (both AFA vessels and non-AFA vessels) could be affected by any increase in trawl catcher vessel effort. Under Amendment 80, the exclusive allocation to the non-AFA catcher processors would leave a portion of the TAC of the five Amendment 80 species (i.e., yellowfin sole, rock sole, other flatfish, Atka mackerel, and Pacific ocean perch) available to all other sectors.

These sectors (primarily, the AFA trawl catcher processors, AFA trawl catcher vessels, and non-AFA trawl catcher vessels) would be vulnerable to entry of latent catcher vessels. In a broader sense, as opportunities for entry are foreclosed, latent participants wishing to reenter have access to fewer fisheries. So, those sectors and

**Trawl LLP License Endorsements and Designations**

**Area endorsements** – Each license carries one or more subarea endorsements authorizing entry to fisheries in those subareas (BS, AI, CG, or WG).

**Operation-type designations** – Each license carries a designation for either catcher processor operation or catcher vessel operation. A catcher processor may choose to operate as a catcher vessel, delivering its catch to shore.

**Gear designation** – Each license carries a gear designation, trawl and/or non-trawl, authorizing its entry in fisheries for the designated gear.

**MLOA designation** – Each license carries a maximum LOA designation, limiting the length of the vessel that can use the license.

**Non-severability** – The endorsements and designations of a license are non-severable and only transfer with the license.

**AFA LLP licenses** – Licenses derived from AFA vessel histories cannot be transferred to non-AFA vessels.

fisheries that remain accessible are especially vulnerable to impacts of entry. Trawl catcher vessels in the BSAI and GOA have expressed a concern that their interests could be severely affected by entry of holders of latent licenses.

The AFA also impacts the distribution of effects of entry of holders of latent licenses in a few ways. To understand these impacts requires an understanding of the limits on AFA participation in fisheries (other than the BSAI pollock fisheries). Most AFA vessels are subject to sideboards in the BSAI non-pollock fisheries and GOA fisheries. The total catch of these vessels should be effectively limited by the sideboards. Some smaller AFA catcher vessels (i.e., less than 125 feet LOA) with limited BSAI pollock history (i.e., less than 1,700 mt during 1995-1997) are exempt from certain sideboards. Catcher vessels meeting the size and pollock catch criteria with at

least 30 landings in the BSAI Pacific cod fishery during 1995-1997 are exempt from the sideboard in that fishery. Nine vessels have qualified for this exemption. In addition, meeting the size and pollock catch criteria

<sup>5</sup> A few exceptions to the requirement for an LLP license allow some fishing without an LLP. Most pertinent to this action, a person fishing exclusive in state waters (i.e., inside 3 nm) is not required to have an LLP. In addition, vessels of 26 feet or less LOA in the GOA and vessels of 32 feet or less LOA in the BSAI are not required to have an LLP license.

with more than 40 groundfish landings in the GOA during 1995-1997 are exempt from the GOA sideboards. Sixteen vessels have qualified for this exemption. Catch of these exempt vessels was not included in calculating the applicable sideboard limit. To further protect non-AFA GOA groundfish participants, GOA sideboard exempt AFA vessels have agreed through the intercooperative agreement that the GOA exemption will only apply to vessels that do not lease any of their BSAI pollock allocation. This agreement is intended to prevent an exempt vessel from using leasing to increase its catch in the GOA, while receiving the benefit of its AFA pollock allocation. Lastly, LLP licenses derived from the history of an AFA vessel cannot be transferred to a non-AFA vessel. This prohibition prevents holders of AFA vessel LLPs from transferring an LLP to a non-AFA vessel, resulting in an increase in effort in fisheries other than the BSAI pollock fishery. The combination of sideboard limits together with this prohibition on transfer of LLPs to non-AFA vessels appears to prevent any potential increase in effort by AFA vessels (beyond the level used to determine the AFA sideboards) that would necessitate the removal of latent AFA licenses from either BSAI or GOA fisheries.

Some participants in fisheries other than the BSAI pollock fisheries, however, believe that this action should remove any licenses (including AFA licenses) to protect current participants from any potential increase in effort from AFA vessels beyond their current effort level in the fisheries. Without eliminating inactive AFA licenses, it is possible for AFA licenses that are currently inactive to reenter the fisheries. While this increase in effort would be subject to the sideboard limitations, the reentry of effort by AFA vessels could result in increases in catch by AFA vessels when compared to the recent post-AFA implementation years.

### **Problem Statement**

The Council has expressed a concern that the trawl catcher vessel fleet is one of the only remaining components in which latent effort has not been addressed. Without action, CV trawl vessels that have had no participation or very little participation in the Pacific cod fishery could increase their level of effort, thus impacting the current fleet that has a long-term dependence on the fishery.

At its December 2005 meeting, the Council approved the Amendment 85 problem statement as a draft for addressing this issue. However, only one portion of the Amendment 85 problem statement addresses the issue of Pacific cod endorsements in the BSAI trawl CV sector. Specifically:

*Participants in the BSAI Pacific cod fishery who have made significant investments and have a long-term dependence on the resource need stability.*

The problem statement is clearly deficient for this action, since it only addresses the issue of latent effort in the BSAI Pacific cod fishery. A more appropriate problem statement should address all trawl fisheries in the BSAI and GOA. The following draft problem statement, which the Council may wish to consider, is adapted from the Amendment 67 problem statement:

*The trawl catcher vessel groundfish fisheries in the BSAI and GOA are fully utilized. Competition for these resources is likely to increase as a result of a number of factors, including Council actions to rationalize other fisheries, favorable current market prices and a potential for TAC changes in future years. Trawl catcher vessel owners who have made significant long-term investments, have long catch histories, and are significantly dependent upon BSAI and GOA groundfish resources need protection from others who have little or limited history and with the ability to increase their participation in the fisheries. This requires prompt action to promote stability in the BSAI and GOA trawl catcher vessel sectors until comprehensive rationalization is completed.*

This problem statement may need revision to focus on the specific problem perceived by the Council. The Council may determine that the problem is limited to some subset of the BSAI and GOA fisheries or could determine that the action should address concerns related to catcher processors in the GOA.



## Licenses and Recent Participation

This section examines the number of outstanding licenses and recent participation in the BSAI and GOA trawl fisheries to enable the Council to consider various catch thresholds that could be applied to remove latent licenses.

Examining the number of existing licenses is the starting point for assessing a potential latent capacity problem. Since AFA licenses cannot be transferred to non-AFA vessels, licenses can be separated into AFA and non-AFA categories. Table 5 shows the number of non-AFA trawl catcher vessel licenses with different area endorsement combinations and non-trawl designation. The table shows that only six trawl catcher vessel licenses carry area endorsements in the Gulf that do not also have a Bering Sea or Aleutian Islands endorsement. On the other hand, 79 licenses carry endorsements for the Gulf fisheries that do not also carry BSAI endorsements. In addition, over 50 percent of the licenses endorsed for each area carry non-trawl designations. Given the presence of non-trawl endorsements, the Council should consider that licenses are latent for trawl use could be active in the non-trawl fisheries. Elimination of area endorsements on these licenses (without consideration of non-trawl activity) could remove the license from a fishery in which it has substantial non-trawl catch. The table also shows that very few vessels have Aleutian Islands endorsements.

**Table 5. Trawl catcher processor licenses by endorsement area and non-trawl designation**

non-AFA trawl catcher vessel licenses License endorsement area	Licenses that also have an endorsement (or designation) for						
	Bering Sea or Aleutian Islands	Aleutian Islands	Bering Sea	Central Gulf or Western Gulf	Central Gulf	Western Gulf	Non-trawl
Bering Sea or Aleutian Islands	<b>52</b>	6	50	46	37	41	35
Aleutian Islands		<b>6</b>	4	6	6	5	5
Bering Sea			<b>50</b>	44	35	39	33
Central Gulf or Western Gulf				<b>127</b>	116	81	98
Central Gulf					<b>116</b>	70	94
Western Gulf						<b>81</b>	60

Source: NFMS LLP license database.

**Bold** shows number of licenses endorsed for the area.

Note: Non-AFA licenses assigned to AFA vessels are included in this table.

Table 6 shows the number of non-AFA trawl catcher processor licenses with various area endorsement combinations and non-trawl designations. The table shows that most licenses endorsed for the Bering Sea or Aleutian Islands also carry a Gulf endorsement. In addition, only 1 license endorsed for the Gulf does not also carry a Bering Sea or Aleutian Islands endorsement. Also, one-third of the licenses with a Bering Sea or Aleutian Islands endorsement carry a non-trawl designation, while only 5 of the 10 licenses with Central Gulf or Western Gulf endorsements have a non-trawl designation.

**Table 6. Non-AFA trawl catcher processor licenses by endorsement area and non-trawl designation**

non-AFA trawl catcher processor licenses License endorsement area	Licenses that also have an endorsement (or designation) for						
	Bering Sea or Aleutian Islands	Aleutian Islands	Bering Sea	Central Gulf or Western Gulf	Central Gulf	Western Gulf	Non-trawl
Bering Sea or Aleutian Islands	<b>37</b>	32	36	29	23	23	11
Aleutian Islands		<b>32</b>	31	25	19	20	10
Bering Sea			<b>36</b>	29	23	23	10
Central Gulf or Western Gulf				<b>30</b>	24	23	5
Central Gulf					<b>24</b>	17	5
Western Gulf						<b>23</b>	2

Source: NFMS LLP license database.

**Bold** shows number of licenses endorsed for the area.

Table 7 shows the number of AFA trawl catcher vessel licenses with various area endorsement area and non-trawl designation. The table shows that only 99 trawl catcher vessel licenses endorsed for the Bering Sea or Aleutian Islands were issued to the 112 AFA catcher vessels.<sup>6</sup> Four AFA catcher vessels did not receive LLP licenses; one AFA catcher vessel received a trawl license endorsed only for the Central Gulf; one AFA catcher vessel received a license with only a non-trawl designation; and seven AFA catcher vessels received catcher processor designated licenses. Over 60 percent of the AFA catcher vessel licenses carry Central Gulf endorsements, while 80 percent have Western Gulf endorsements. Several of the licenses also carry non-trawl designations.

**Table 7. AFA trawl catcher vessel licenses by endorsement area and non-trawl designation.**

AFA trawl catcher vessel licenses	Licenses that also have an endorsement (or designation) for						
	Bering Sea or Aleutian Islands	Aleutian Islands	Bering Sea	Central Gulf or Western Gulf	Central Gulf	Western Gulf	Non-trawl
<b>Bering Sea or Aleutian Islands</b>	<b>99</b>	42	99	91	60	79	29
<b>Aleutian Islands</b>		<b>42</b>	42	41	19	38	11
<b>Bering Sea</b>			<b>99</b>	91	60	79	29
<b>Central Gulf or Western Gulf</b>				<b>92</b>	61	79	29
<b>Central Gulf</b>					<b>61</b>	48	22
<b>Western Gulf</b>						<b>79</b>	20

Source: NFMS LLP license database.

**Bold** shows number of licenses endorsed for the area.

Note: One AFA catcher vessel license (which is included) has only a Central Gulf endorsement; and one AFA catcher vessel license (which is not included) does not have a trawl designation. Non-AFA licenses assigned to AFA vessels are excluded from this table.

Table 8 shows the AFA trawl catcher processor licenses by endorsement area and non-trawl designation. Although only 20 catcher processors are qualified for the AFA (excluding the Ocean Peace), 27 catcher processor licenses were issued to AFA qualified vessels. Seven catcher processor licenses were issued to AFA catcher vessels, which may use those licenses for catcher vessel or catcher processor activity.

**Table 8. AFA trawl catcher processor licenses by endorsement area and non-trawl designation**

AFA trawl catcher processor licenses	Licenses that also have an endorsement (or designation) for						
	Bering Sea or Aleutian Islands	Aleutian Islands	Bering Sea	Central Gulf or Western Gulf	Central Gulf	Western Gulf	Non-trawl
<b>Bering Sea or Aleutian Islands</b>	<b>27</b>	25	27	8	4	6	5
<b>Aleutian Islands</b>		<b>25</b>	25	6	2	6	4
<b>Bering Sea</b>			<b>27</b>	8	4	6	5
<b>Central Gulf or Western Gulf</b>				<b>8</b>	4	6	3
<b>Central Gulf</b>					<b>4</b>	2	3
<b>Western Gulf</b>						<b>6</b>	2

Source: NFMS LLP license database.

**Bold** shows number of licenses endorsed for the area.

Note: Seven AFA catcher vessels received licenses with catcher processor designations.

Tables 9 and 10 show all trawl catcher vessel licenses and trawl catcher processor licenses, respectively, by endorsement and non-trawl designation. The table is provided for convenience and simply sums all AFA and non-AFA licenses.

<sup>6</sup> Currently only 111 AFA catcher vessels are operating, as one vessel was lost.

**Table 9. All trawl catcher vessel licenses by endorsement area and non-trawl designation**

All trawl catcher vessel licenses	Licenses that also have an endorsement (or designation) for						
	Bering Sea or Aleutian Islands	Aleutian Islands	Bering Sea	Central Gulf or Western Gulf	Central Gulf	Western Gulf	Non-trawl
Bering Sea or Aleutian Islands	151	48	149	137	97	120	64
Aleutian Islands		48	46	47	25	43	16
Bering Sea			149	135	95	118	62
Central Gulf or Western Gulf				219	177	160	127
Central Gulf					177	118	116
Western Gulf						160	80

Source: NFMS LLP license database.

**Table 10. All trawl catcher processor licenses by endorsement area and non-trawl designation.**

All trawl catcher processor licenses	Licenses that also have an endorsement (or designation) for						
	Bering Sea or Aleutian Islands	Aleutian Islands	Bering Sea	Central Gulf or Western Gulf	Central Gulf	Western Gulf	Non-trawl
Bering Sea or Aleutian Islands	64	57	63	37	27	29	16
Aleutian Islands		57	56	31	21	26	14
Bering Sea			63	37	27	29	15
Central Gulf or Western Gulf				38	28	29	8
Central Gulf					28	19	8
Western Gulf						29	4

Source: NFMS LLP license database.

To further assist the Council in the development of alternative this section presents catch data in various trawl fisheries. Species designations in this analysis are conducted at three levels of aggregation as follows: all groundfish, Amendment 80 species (a group comprised of yellowfin sole, rock sole, flathead, sole, Atka mackerel and Pacific ocean perch), and Pacific cod. The Council requested staff to include information on each of these three species aggregations to determine the nature and extent of latent LLP licenses in these respective fisheries.

### 3.3.3 Multiple LLPs held by a Single Owner

Earlier formulations of the alternatives, components and options for the proposed amendment included a choice for the method of determining how to address ‘stacked’ licenses, i.e. more than one license assigned to a single vessel. At the June 2006 meeting in Kodiak, the Council inquired about the characteristics of the multiple LLPs assigned to a single vessel. The concern was whether multiple LLPs were being sought and held for their utility in gaining area endorsements or gear endorsements or whether they may be held by vessel owners for speculative purposes.

As discussed in the section above describing the current regulations, more than one LLP can be assigned to a single fishing vessel. This section responds to a Council request for an analysis of the occurrences multiple LLPs registered to a single vessel in the Bering Sea and Gulf of Alaska.

In the BS/AI, there are a total of 150 LLPs for trawl groundfish. Out of this total, there are only four LLPs assigned to two vessels having multiple (two) LLPs each (i.e. there are 149 unique vessels having valid LLPs to trawl groundfish in the BS/AI, two of which have two LLPs).

The two BS/AI permits that are assigned to single vessels both have the characteristic of having dissimilar area endorsements. That is, it appears as if the LLP was obtained to gain an area endorsement that was not held in the initial LLP.

In the Western Gulf and Central Gulf, there are a total of 218 valid LLPs for trawl groundfish. There are 10 LLPs that are currently not assigned to a vessel. These are valid LLPs but are not currently being utilized. Of the remaining 208 LLPs for the WG and CG, there are 28 LLPs assigned to 14 unique vessels (two LLPs per vessel). Of the 14 ‘sets’ of multiple LLPs, there is only a single instance where the two LLPs assigned to a single vessel are identical. In 12 ‘sets’ of multiple LLPs assigned to a vessel, the area endorsements differ. It seems logical in these instances that a vessel owner acquired a second LLP to gain a valid endorsement for an area that was not available in the initial LLP held. In the last case, two LLPs held by a single vessel have identical area endorsements, but the additional LLP provided a different gear endorsement.

Based on this analysis, it appears clear that multiple LLPs held in the BS/AI and GOA are made on the basis of gaining an area or gear endorsement, rather than held for speculative purposes. There is a very limited market for LLPs. If a vessel owner wishes to gain an area or gear endorsement different from their currently held LLP, it is not likely that an LLP would be available for purchase that would be limited to just the area or gear endorsement desired. For that reason, the acquisition of multiple LLPs with some area endorsements being duplicated occurs in the instances noted above. It is not clear what is the purpose of the identical LLPs held by the single vessel in the GOA since both LLPs have identical characteristics. However, since this is one vessel out of 344 in the BS/AI and GOA, it can safely be viewed as an anomaly.

Should the Council, through this amendment, invalidate one of the multiple LLPs held by these vessels, the action would not result in an immediate decrease in the numbers of participants in the trawl groundfish fishery. However, the action would create a severe economic blow to the affected vessels and would diminish the market value of the affected permit. Since it appears that there is a functional reason that multiple LLPs are held, it would be reasonable for the Council to consider that threshold landings be applied to multiple LLPs, in order to allow them to continue to be utilized in the current manner.

Based on the Council’s review of this issue, they selected a single choice in Component 2, to fully credit groundfish harvest history to all stacked licenses, each carrying its own qualifying endorsements and designations.

### **3.3.4 Potential Interaction with Existing Fisheries Management**

Section 1.2.2 presents information on some of the previous fisheries management regulations which set the conditions that have created concern for possible future re-entry of latent LLPs into the trawl groundfish fisheries in the BSAI and GOA. There are also some current actions being considered that will interact with the proposed amendment.

For the February 2007 Council meeting, staff presented a short discussion paper that discusses the potential cross effects that amendment will have with: (a) the proposed action being considered by the Council to divide the Bering Sea/Aleutian Islands Pacific cod allocations into separate Bering Sea allocations and Aleutian Islands allocations, and to combine the Bering Sea and Aleutian Islands license endorsements into a single Bering Sea/Aleutian Islands endorsement;; and (b) an action to be discussed that would make sector allocations of Gulf of Alaska Pacific cod and remove latent licenses from the Gulf of Alaska fisheries.

These actions could result in regulatory overlap with this proposed amendment, but since they are currently in the development process, that situation has not been determined.

### **3.3.5 Management Issues for the Aleutian Island Groundfish Fishery**

Information is presented in Section 1.2.3, with information on the rationale and need for additional non-AFA trawl CV LLPs in the Aleutian Islands area. That section also discusses some of the regulatory decisions made by the Council and the Alaska Board of Fisheries that have, or will, extend groundfish fishing opportunities for non-AFA trawl CV license holders fishing in the Aleutians under the provisions of Amendment 80.

### **3.4 Description of the Effects of the Alternatives**

#### **3.4.1 Status quo (No Action Alternative)-**

Under the no-action alternative, there would be no reduction in the number of valid LLPs in any of the trawl CV or trawl CP fisheries in the BSAI and GOA. Should future re-entry of latent LLPs into the trawl groundfish fisheries over the qualification periods result in either reduced gross trawl groundfish revenues or increased operating costs for LLPs who have participated in recent years, there could be future negative economic impacts to the current trawl CP and CV LLP participants in the BSAI and GOA under the no-action alternative.

Additionally, the level of possible future entry is unknown and would depend on a number of factors including future changes in fisheries management regulations, fluctuations in resource abundance, changes in market conditions and prices and changes in operating costs for vessels assigned to LLPs.

#### **3.4.2 Alternatives 2 and 3 for Bering Sea/Aleutian Island and Gulf of Alaska groundfish LLPs**

The following section provides information on the licenses that meet, and do not meet the respective threshold levels (one landing and two landings) for Alternatives 2 and 3. Looking at Table 11, the first line shows 48 trawl catcher vessel LLPs in the AI subdistrict. If we only count landings in the AI (Alternative 2), then 25 licenses would meet the one landing threshold for the period 2000-2005 and 23 licenses would not meet the one landing threshold over this qualification period.

Under Alternative 1, at the management level, landings in either the BS or AI would qualify the AI licenses. In this case, the number of licenses that meet the threshold, with at least one landing, increases to 42 of the 48, with 6 of the 48 not meeting the harvest threshold. The numbers are slightly different for Option 2 (requiring at least two landings of groundfish). For the situation described above, 22 AI licenses would meet the 2000-2005 threshold under Alternative 2 (counting only AI landings). Under Alternative 1, where landings in either the AI or BS would qualify the respective AI licenses, the number meeting the two landing threshold increases to 42 licenses meeting the threshold and 6 licenses not meeting the threshold. The same pattern of reporting results is carried throughout this discussion paper. There are no licenses with trawl and Aleutian Island endorsements that have a MLOA less than 60 feet, so there are no lines in Table 11 for licenses with that length characteristic.

**Table 11. Trawl catcher vessel licenses for the BSAI and GOA - 2000-2005**

LLP Area	Alternative	Harvest Area	License Sector	Total Licenses	Option 1 at least one day w/landing		Option 2 at least two days w/landing	
					2000-2005 Yes	2000-2005 No	2000-2005 Yes	2000-2005 No
AI	Alt 2	AI or BS	ALL	48	42	6	42	6
AI	Alt 3	AI only	ALL	48	25	23	22	26
BS	Alt 2	AI or BS	ALL	149	111	38	110	39
BS	Alt 3	BS only	ALL	149	111	38	110	39
BS	Alt 2 Option3	AI or BS	MLOA lt 60	17	3	14	3	14
BS	Alt 3 Option3	BS only	MLOA lt 60	17	3	14	3	14

LLP Area	Alternative	Harvest Area	License Sector	Total Licenses	Option 1 at least one day w/landing		Option 2 at least two days w/landing	
					2000-2005 Yes	2000-2005 No	2000-2005 Yes	2000-2005 No
CG	Alt 2	CG or WG	ALL	177	119	58	113	64
CG	Alt 3	CG only	ALL	177	91	86	81	96
CG	Alt 2 Option3	CG or WG	MLOA lt 60	67	45	22	45	22
CG	Alt 3 Option3	CG only	MLOA lt 60	67	26	41	19	48
WG	Alt 2	CG or WG	ALL	160	95	65	85	75
WG	Alt 3	WG only	ALL	160	78	82	64	96
WG	Alt 2 Option3	CG or WG	MLOA lt 60	51	43	8	43	8
WG	Alt 3 Option3	WG only	MLOA lt 60	51	40	11	40	11

Source: ADF&G fish ticket files and NMFS WPR landings data merged to an August 2007 RAM Division LLP file.

Table 12 shows the numbers of GOA catcher processor licenses meeting and not meeting the respective threshold, under the alternatives and options indicated. Table 12 includes CP license landings made while operating both as a catcher processor and in catcher vessel mode.

**Table 12. Trawl catcher processor licenses for the GOA**

Catcher Processor Trawl Licenses						Option 1 at least one week w/landing as a Catcher/Processor		Option 2 at least two weeks w/landings as a Catcher/Processor	
LLP Area	Alternative	Harvest Area	License Sector	Harvest as a CV	Total Licenses	2000-2005 Yes	2000-2005 No	2000-2005 Yes	2000-2005 No
CG	Alt 1	CG or WG	ALL	no	28	19	9	17	11
CG	Alt 2	CG only	ALL	no	28	17	11	14	14
WG	Alt 1	CG or WG	ALL	no	29	24	5	22	7
WG	Alt 2	WG only	ALL	no	29	21	8	20	9

Source: ADF&G fish ticket files and NMFS WPR landings data merged to an August 2007 RAM Division LLP file.

### 3.4.2.1 Non-AFA Trawl CV LLPs

The number of non-AFA trawl CV LLPs that meet or do not meet the threshold criteria will not be fully defined until the Council makes a selection on whether or not non-AFA licenses assigned to AFA vessels will be exempted. The situation for these non-AFA licenses is described in Section 6.4 of this report. If these non-AFA licenses are not exempted, they will be required to meet landings thresholds to remain valid. If, instead, the Council decides to extend the AFA exemption to include non-AFA licenses assigned to AFA vessels, then those licenses will not be disqualified, regardless of whether or not they have been used.

Since the main focus of this discussion paper is to address impacts associated with the three license limitation programs, non-AFA licenses are not more fully analyzed, pending the specification of the exemptions. The

exception is for non-AFA licenses with a mean length overall (MLOA) limit of less than 60 feet, as noted in the following section.

### 3.4.2.2 Effects of adding 2006 to the qualifying years

At the March/April 2007 meeting, the Council requested that staff identify the numbers of licenses that would meet the threshold only if the qualifying period were extended to include 2006. As noted above, the number of non-AFA licenses will be determined by the exemption selected by the Council for Component 3. Table 13 provides the numbers of all trawl catcher vessel licenses that would meet and not meet the threshold criteria for the years 2000-2005. These numbers can be compared with those in Table 11 to determine the difference in numbers of qualifying licenses that results from adding 2006 to the qualification period.

There is an increase of one additional qualifying license in the following areas, compared with Table 11:

- An increase of one license in the AI for Alternative 3, Option 2 from 22 to 23
- An increase of one license in the BS for Alternative 2 and Alternative 2, Option 1 from 111 to 112
- An increase of one license in the BS for Alternative 2 and Alternative 2, Option 2 from 110 to 111
- An increase of three licenses in the CG for Alternative 2, Option 1 from 119 to 122
- An increase of one license in the CG for Alternative 2, Option 2 from 113 to 114
- An increase of one license in the CG for Alternative 2, Option 3, one landing, from 45 to 46
- An increase of one license in the CG for Alternative 2, Option 3, two landings from 45 to 46
- An increase of three licenses in the WG for Alternative 2, Option 1 from 95 to 98
- An increase of one license in the WG for Alternative 2, Option 2 from 85 to 86
- An increase of one license in the WG for Alternative 2, Option 3, one landing and two landings, from 43 to 44
- An increase of one license in the WG for Alternative 3, Option 3, one landing and two landings, from 40 to 41

**Table 13. Trawl catcher vessel licenses for the BSAI and GOA: all licenses including 2006**

LLP area	Harvest Area	License Sector	Alternative	Total Licenses	Option 1		Option 2	
					2000-2006		2000-2006	
					Yes	No	Yes	No
AI	AI or BS	ALL	Alt 2	48	42	6	42	6
AI	AI only	ALL	Alt 3	48	25	23	23	25
BS	AI or BS	ALL	Alt 2	149	112	37	111	38
BS	BS only	ALL	Alt 3	149	112	37	111	38
CG	CG or WG	ALL	Alt 2	177	122	55	114	63
CG	CG only	ALL	Alt 3	177	91	86	81	96
WG	CG or WG	ALL	Alt 2	160	98	62	86	74
WG	WG only	ALL	Alt 3	160	82	78	65	95
BS	AI or BS	MLOA lt 60	Alt 2 Option 3	17	3	14	3	14
BS	BS only	MLOA lt 60	Alt 3 Option 3	17	3	14	3	14
CG	CG or WG	MLOA lt 60	Alt 2 Option 3	67	46	21	46	21
CG	CG only	MLOA lt 60	Alt 3 Option 3	67	26	41	19	48
WG	CG or WG	MLOA lt 60	Alt 2 Option 3	51	44	7	44	7
WG	WG only	MLOA lt 60	Alt 3 Option 3	51	41	10	41	10

Source: ADF&G fish ticket files and NMFS WPR landings data merged to an August 2007 RAM Division LLP file.

In summary, adding 2006 to the qualifying period would add one license in many of the alternative and option choices for this proposed amendment, with the exception of the Western Gulf of Alaska where up to three additional licenses could meet the threshold criteria.

### **3.4.2.3 Effect on licenses assigned to vessels less than 60 feet LOA**

Data presented in Table 11 provides specific information on the numbers of LLPs with MLOA less than 60 feet. For example, Table 11 shows the number of LLPs not meeting the threshold criterion for Alternative 1 in the GOA (WG or CG) to be 58 out of a total of 177 LLPs. For LLPs with a MLOA under 60 feet, the total number of LLPs not meeting the threshold for Alternative 1 in the GOA are 45 out of a total of 67 LLPs. Data presented in Table 11 allow similar comparisons with all LLPs and those with LLPs having a MLOA less than 60 feet for all areas.

Discussions related to this component have centered on the need to preserve participation in the groundfish fisheries and make sure that this group would not be disproportionately affected by the proposed amendment. Table 15 below shows the proportional comparison between two groups of LLPs: (1) all LLPs, and (2) LLPs with a MLOA less than 60 feet. We can see from the table how the respective proportion of the numbers of LLPs not achieving the threshold criteria varies between these two groups and from area to area.

The purpose for in this analysis is to determine the areas where the numbers of licenses with the MLOA less than 60 feet included or excluded by the provisions of the proposed amendment are significantly different from the sector as a whole.

As shown in the first two rows of Table 14, in the Gulf of Alaska (Alternative 1) there is not a great disparity between the numbers of LLPs not meeting the threshold criteria between all licenses in the sector and those with a MLOA less than 60 feet. However, the rest of the table shows instances where the numbers of LLPs not meeting the threshold criteria for LLPs with a MLOA less than 60 feet are much different from the sector as a whole. For example, under Alternative 2 (Option 1) for the Central Gulf, 48.6 percent of all trawl catcher licenses would not meet the threshold criteria, whereas 61.2 percent of LLPs with a MLOA less than 60 feet would not meet the threshold criteria. This result is based upon the qualification period 2000-2005. The results for the longer qualification period (1995-2005) are shown in the next column to the right. The same comparison for the Central Gulf shows that 18.8 percent of all trawl catcher vessels would not achieve the threshold, using the qualification period 1995-2005) whereas 19.6 percent of LLPs with an MLOA less than 60 feet would not meet the threshold criteria.

Interestingly, in the Western Gulf, the pattern is reversed, with the higher percentage of LLPs having an MLOA less than 60 feet meeting the harvest threshold than for all trawl CVs. Comparing the last two lines in Table 14, in the Western Gulf, 51.3 percent of all trawl CVs would not meet the threshold harvest under Alternative 1, Option 1. For those LLPs having a maximum MLOA less than 60 feet, there are only 21.6 percent that would not meet the threshold.

The results presented in Table 15 are for all sectors, and will vary within sectors, (i.e. AFA and non-AFA trawl catcher vessels).



**Table 14. Trawl catcher vessel licenses in the GOA: all licenses compared with those limited to a vessel having a maximum length of 60 feet MLOA**

Comparison of numbers of LLPs not achieving the threshold level: All LLPs and those LLPs with a maximum MLOA of 60 feet						Option 1 at least one day w/landing		Option 2 at least two days w/landing	
LLP Area	Alternative	Harvest Area	License Sector	FMP AREA	Total Licenses	2000-2005 No	2000-2005 No	2000-2005 No	2000-2005 No
CG	Alt 2	GOA	ALL	GULF	177	58	32.8%	64	36.2%
CG	Alt 2 Option3	GOA	MLOA lt 60	GULF	67	22	32.8%	22	32.8%
CG	Alt 3	CG only	ALL	GULF	177	86	48.6%	96	54.2%
CG	Alt 3 Option3	CG only	MLOA lt 60	GULF	67	41	61.2%	48	71.6%
WG	Alt 2	GOA	ALL	GULF	160	65	40.6%	75	46.9%
WG	Alt 2 Option3	GOA	MLOA lt 60	GULF	51	8	15.7%	8	15.7%
WG	Alt 3	WG only	ALL	GULF	160	82	51.3%	96	60.0%
WG	Alt 3 Option3	WG only	MLOA lt 60	GULF	51	11	21.6%	11	21.6%

Source: ADF&G fish ticket files and NMFS WPR landings data merged to an August 2007 RAM Division LLP file.

**3.4.2.4 Analysis of Component 5 – Options for New Non-AFA LLPs in the Aleutian Islands Groundfish Fishery**

The analyses for this section of the proposed amendment reflect the changes in the threshold landings requirements for Component 5 motion made by the Council at the March/April 2007 meeting. Component 5 is directed to non-AFA trawl catcher vessels not having a license endorsement for the Aleutians Islands but having a history of participation in trawl groundfish fishing in the parallel waters fishery during 2000 to 2006 or in the 2006 State waters Pacific cod fishery in the Aleutian Islands. Vessels meeting the required threshold in Component 5 would receive a trawl groundfish endorsement for the Aleutian Islands (if they have a current LLP), or would receive a trawl groundfish LLP with an endorsement for the Aleutian Islands (if they do not have a current LLP).

Under the new wording in the motion, Component 5 would add new non-AFA trawl catcher vessel LLPs to the Aleutian Islands submanagement area if they met a new set of threshold criteria. The new criteria are:

*For non-AFA vessels < 60 feet in length to receive an AI trawl endorsement, consider landing thresholds in the AI parallel cod fishery between 2000 and 2005 of at least:*

- a. 50 metric tons
- b. 250 metric tons
- c. 500 metric tons

*For non-AFA vessels > 60 feet in length to receive an AI trawl endorsement, consider landing thresholds of at least one landing in the AI parallel (groundfish fishery) or State water cod fishery between 2000 and 2006 **plus** landings in the BSAI cod fishery between 2000 and 2006 of at least: (a) 500 metric tons, or (b) 1,000 metric tons*

The figures below show the number of vessels < 60 feet in length that would meet the respective landings threshold for the first part of Component 5. The numbers of vessels < 60 feet in length not having an AI LLP and meeting these criteria are:

- 14 non-AFA CVs < 60 feet with landings > 50 mt.
- 12 non-AFA CVs < 60 feet with landings > 250 mt.
- 9 non-AFA CVs < 60 feet with landings > 500 mt.

The second portion of Component 5 shows the number of vessels  $\geq 60$  feet in length that meet the landings thresholds described above. Meeting the Component 5 harvest threshold for vessels  $\geq 60$  feet in length require achieving either the levels in (1) or (2) below, plus meeting the threshold in (3):

- 1) at least one landing of trawl groundfish in the AI parallel waters fishery between 2000 and 2006, or
- 2) at least one landing of trawl Pacific cod in the AI State waters cod fishery in 2006, plus
- 3) landings in the BSAI cod fishery between 2000 and 2006 of at least (a) 500 mt. or (b) 1,000 mt.

The numbers of non-AFA trawl CV vessels  $\geq 60$  feet meeting the Component 5 thresholds are:

- 4 non-AFA trawl CVs  $\geq$  meet (1) & (2) plus (3) at the 500 mt. level
- 3 non-AFA trawl CVs  $\geq$  meet (1) & (2) plus (3) at the 1,000 mt level

Depending upon the threshold criteria selected by the Council, the above numbers of non-AFA trawl CVs less than 60 feet and greater than 60 feet would receive new AI LLP endorsements.

#### **3.4.2.5 AFA LLPs**

As of March, 2007, there are 111 American Fisheries Act (AFA) catcher vessels designated by the Act that became law in October 1998. This section provides an analysis of the permits assigned to those 111 AFA vessels.

- When the listing of AFA vessels was merged with a current (March 2007) listing of LLPs, the result was 119 LLPs assigned to 110 AFA catcher vessels. There was one AFA vessel that did not appear to have an LLP currently assigned.
- There are 99 AFA catcher vessels that are still assigned their original AFA LLP. Of this total, 7 LLPs assigned to AFA catcher vessels are CP LLPs. Because the proposed amendment does not address CP LLPs in the BSAI (except for those included in Component 1- Option 4), these LLPs are addressed only in the GOA analysis where CPs are included.
- For the 99 AFA catcher vessel noted above, there are 9 instances where two LLPs are assigned to the same vessel (6 CP LLPs and 3 CV LLPs). These are referred to as 'stacked' permits. Note that 6 of the 9 stacked licenses have a CP designation, and would not be affected by the proposed amendment in the BSAI.
- There are 9 instances where AFA LLPs were transferred from one AFA vessel to another.
- There are two instances where the non-AFA LLP transferred to an AFA vessel is the only permit assigned to that vessel

To summarize, there are 119 LLPs assigned to 110 AFA vessels. There are 99 instances where the original LLPs are still assigned to their original vessel, 9 instances where AFA CV LLPs were transferred from one AFA vessel to another, two instances where non-AFA permits transferred to AFA vessels with no other LLPs assigned, and the last instance where no LLP is currently assigned ( $99 + 9 + 2 + 1 = 111$ ).

The issues for AFA LLPs are slightly more complex than for non-AFA LLPs impacts described above. There are two main issues of concern that relate to the effect of the proposed amendment on LLPs assigned to AFA vessels.

#### **Concern 1 – Would the AFA vessels potentially be restricted from harvesting their AFA allocation of pollock under the proposed amendment?**

This concern is based on the potential situation where an AFA vessel's license, that has not been fished recently and would not meet the threshold criteria, could be extinguished under the proposed amendment.

Since there is a requirement for a valid LLP to be assigned to AFA vessels and we know from the analysis that some AFA catcher vessels would not meet the threshold level under certain options, they could lose their ability to participate in the AFA pollock fishery. This issue would be resolved if Component 3 provided an exemption to AFA catcher vessel licenses as discussed below <sup>7</sup>.

**Concern 2 – What are the effects of a proposed exemption on stacked permits assigned to AFA vessels, where the stacked permits include both: a) AFA LLPs and b) non-AFA LLPs**

There is a different effect if the exemption were to be applied to include both of these situations. Allowing an exemption for non-AFA licenses assigned to AFA vessels could allow latent permits to remain in the system that would otherwise have endorsements extinguished. AFA licenses are tied to use by AFA vessels and thus are prevented from being transferred to non-AFA vessels at some point in the future. Non-AFA LLPs, that could receive an exemption under Component 3, could both be protected from application of the threshold criteria and be transferred to and used by non-AFA vessels at some future point.

**Concern 3 – Addresses the groundfish sideboard limits for AFA vessels. Will application of the threshold criteria to LLPs assigned to AFA vessels inhibit their ability to benefit from the groundfish fisheries that are subject to sideboards under the AFA?**

These concerns are addressed in the following sections.

**3.4.2.6 AFA LLP Issue – Effects on the eligibility of AFA pollock cooperative participants to fish pollock in the Bering Sea or Aleutian Islands.**

Table 15 shows the number of AFA catcher vessel licenses that meet (and fail to meet) the various landing criteria in the Bering Sea and Aleutian Islands. The table shows that 4 AFA licenses in the BSAI would not meet either landing criterion. Absent an exemption for AFA licenses, the vessels to which these licenses are assigned would lose their ability to harvest their pollock allocations in the Bering Sea, based on current license assignments. If the Council wishes to ensure that these vessels would not need to acquire another license to maintain their AFA qualification, it could exempt the Bering Sea and Aleutian Islands endorsements of AFA licenses from this action.

**Table 15. Trawl catcher vessel licenses in the BSAI & GOA: all AFA licenses**

AFA Trawl Catcher Vessel Licenses					Option 1 at least one day w/landing		Option 2 at least two days w/landing	
LLP Area	Alternative	Harvest Area	License Sector	Total Licenses	2000-2005 Yes	2000-2005 No	2000-2005 Yes	2000-2005 No
AI	Alt 2	AI or BS	AFA cv	42	41	1	41	1
AI	Alt 3	AI only	AFA cv	42	24	18	21	21
BS	Alt 2	AI or BS	AFA cv	99	95	4	95	4
BS	Alt 3	BS only	AFA cv	99	95	4	95	4
CG	Alt 2	CG or WG	AFA cv	61	37	24	31	30
CG	Alt 3	CG only	AFA cv	61	30	31	28	33
WG	Alt 2	CG or WG	AFA cv	79	35	44	26	53
WG	Alt 3	WG only	AFA cv	79	24	55	13	66

Source: ADF&G fish ticket files and NMFS WPR landings data merged to an August 2007 RAM Division LLP file.

<sup>7</sup> See Regulations at 679.4(l)(6)(ii)(D)(1)(ii) for inshore AFA cooperatives, page 34: “The vessel must be named on a valid LLP permit authorizing the vessel to engage in trawling in the Bering Sea Subarea. If the vessel is more than 60 feet (18.3 m) LOA, the vessel must be named on a valid LLP permit endorsed for the AI to engage in trawling for pollock in the AI.”

### 3.4.2.7 Effect of adding 2006 to the qualifying years

At the March/April 2007 Council meeting, the Council requested that staff identify the numbers of licenses that would meet the threshold only if the qualifying period were extended to include 2006. Table 16 provides the numbers of all trawl catcher vessel licenses that would meet and not meet the threshold criteria for the years 2000-2005. These numbers can be compared with Table 16 to determine the difference in numbers of qualifying licenses that results from adding 2006 to the qualification period. Table 16 only evaluates the changes during the most recent qualifying period, 2000-2006, since the incremental increase would be the same as for the 1995-2005 qualifying period.

There is an increase of one additional qualifying license in the following areas, compared with Table 8:

- An increase of one license in the AI for Alternative 2, Option 2 from 21 to 22
- An increase of two licenses CG for Alternative 1, Option 1 from 37 to 39
- An increase of two licenses in the WG for Alternative 1, Option 1 from 35 to 37
- An increase of one license in the WG for Alternative 1, Option 2 from 85 to 86
- An increase of three licenses in the WG for Alternative 2, Option 1 from 24 to 27

**Table 16. Trawl catcher vessel licenses in the BSAI & GOA: all AFA licenses including 2006**

LLP Area	Alternative	Alt	Total Licenses	Option 1 2000-2006		Option 2 2000-2006	
				Yes	No	Yes	No
AI	AI or BS	Alt 2	42	41	1	41	1
AI	AI only	Alt 3	42	24	18	22	20
BS	AI or BS	Alt 2	99	95	4	95	4
BS	BS only	Alt 3	99	95	4	95	4
CG	CG or WG	Alt 2	61	39	22	31	30
CG	CG only	Alt 3	61	30	31	28	33
WG	CG or WG	Alt 2	79	37	42	26	53
WG	WG only	Alt 3	79	27	52	13	66

*Source: ADF&G fish ticket files and NMFS WPR landings data merged to an August 2007 RAM Division LLP file.*

In summary, adding 2006 to the qualifying period would add between one and three AFA licenses, depending upon the alternatives and options selected.

### 3.4.2.8 Summary for the AFA LLP direct effects of the amendment – those LLPs that would meet and not meet the threshold criteria

The most apparent conclusion from Table 16 is the large effect from application of the threshold criteria to AFA licenses in the earlier qualification period (Option 1 1995-2005) versus the later qualification period (Option 1, suboption 1 2000-2005). Due to changes in operations of licenses under the AFA, the numbers of AFA licenses that would be excluded is much higher under Option 1, suboption 1. Depending upon the action of the Council on the AFA exemption (Component 3) this difference could be very important or moot.

### 3.4.2.9 AFA LLP Issue – Exempting or Not Exempting AFA trawl CV LLPs

While LLPs are license-based not vessel-based, LLPs initially assigned to AFA trawl vessels cannot be transferred to non-AFA vessels (cite reference here). This makes them anchored within the AFA sector, not liable to transfer to other sectors. If the Council decides to provide an exemption for AFA LLPs, one decision that will be required is: for which areas is the AFA exemption to apply? For example, if the concern is to prevent any potential for impacting an AFA pollock allocation, the exemption could be limited to the BSAI.

At the March/April the Council considered a recommendation from the Advisory Council to adopt an option to apply the AFA exemption only to the Bering Sea and Aleutian Islands, but they decided to reserve action on that issue pending further information.

Another decision would be: **whether the exemption is to apply to AFA CVs, AFA CPs (in the GOA), or both.**

Another, more complicated, decision would be to choose **which AFA LLPs would be exempted.** The most straightforward action would be to exempt AFA licenses. However, there are several ‘categories’ of AFA LLP licenses as noted below, based upon their characteristics.

- 1) original licenses derived from the history of an AFA vessel to which the license remains assigned (hereinafter called the ‘original’ AFA LLP),
- 2) AFA LLPs that are currently assigned to a different AFA vessel
- 3) Non-AFA LLPs assigned to AFA vessels

As they relate to the proposed exemption in Component 3, AFA licenses described in both (1) and (2) above would be treated the same.

There are 111 AFA trawl CV vessels named in the AFA. Using current (March 2007) NOAA Fisheries RAM division LLP files, there are currently 111 AFA vessels with 119 LLPs assigned to them. The following sections analyze the effects of various exemption wordings on the numbers of AFA vessels affected by the proposed amendment.

As previously discussed, Table 15 shows the respective numbers of AFA LLPs that would meet and not meet the groundfish harvest threshold criteria for the two qualification periods. These tables show the direct effects on which AFA LLPs would and would not meet the threshold criteria. However, as discussed above, the effects of the exemption could vary depending on the LLPs qualifying for the exemption (i.e., AFA licenses only or AFA licenses and non-AFA licenses assigned to AFA vessels). The possible choices are described below, based on the information in Table 17.

The transfer information presented in Table 17 is useful to track down the respective situations for the 119 licenses held by AFA vessels. There are 6 CP licenses shown on lines 1 and 2 of Table 15 that would not be subject to the proposed amendment, and would not be included in an AFA exemption. There are 9 AFA licenses that have been transferred between one AFA vessel and another that would be included in an exemption that was provided to AFA licenses. The most important figures to note from Table 15 are the non-AFA licenses that are currently assigned to AFA vessels that the Council may choose to include or to not include in the AFA exemption. There are a total of 5 non-AFA trawl CV licenses currently assigned to AFA vessels, as noted on lines 2 and 4 of Table 17.

**Table 17. AFA original LLP transfer situations and non-AFA licenses currently assigned to AFA vessels**

	<b>Transfer Situations</b>	<b>No. of occurrences</b>
1	AFA LLPs that were transferred from one AFA vessel and assigned to another AFA vessel, the new assigned vessel also having retained its original AFA LLP (both C/P LLPs)	2
2	Non-AFA LLPs that were transferred to AFA vessels, the new assigned vessel also having retained its original AFA LLP (3 C/V LLPs and 4 C/P LLPs)	7
3	AFA LLP transferred from one AFA vessel to another, in two cases to a replacement vessel and on the other cases as a transfer, the new assigned vessel only having one LLP assigned to it.	9
4	Original AFA LLP was transferred from another AFA vessel, and a replacement non-AFA LLP was acquired as the only LLP (both C/V LLPs)	2
	<b>total</b>	<b>20</b>

Source: NMFS RAM Division LLP files at <http://www.fakr.noaa.gov/ram>

**3.4.2.10 AFA LLP Issue - Effects on the eligibility of AFA pollock cooperative participants to fish sideboard amounts in the Gulf of Alaska.**

A concern raised by the Council is the potential effect of this action on the ability of AFA pollock cooperative participants to fish sideboard amounts in the Gulf of Alaska fisheries. AFA Gulf of Alaska sideboards limit the annual harvest of AFA pollock fishery participants from Gulf of Alaska fisheries, based upon the retained catches of AFA vessels during the period 1995-97. The sideboard provisions were placed into effect under the AFA to protect non-AFA vessels participating in other groundfish fisheries from adverse impacts that could occur following rationalization of the Bering Sea pollock fishery. To implement the annual sideboard limit, NOAA Fisheries sets an aggregate catcher vessel sideboard limit for each groundfish species. This aggregate amount, and an associated PSC bycatch limit, is made available to all AFA catcher vessels. The sideboard limits are divided and distributed among the respective co-ops through the intercooperative agreement.<sup>8</sup>

Generally, AFA catcher vessels have failed to fully harvest their sideboard limits for most species in recent years. To take advantage of efficiencies in operations cost savings, some AFA LLP holders have not entered their vessels into sideboarded fisheries. By allowing other cooperative partners to fish the sideboard amounts attributed to their catch history, these LLP holders may not meet the threshold criteria within an endorsement area, particularly for the later qualification period from 2000-2005. If this action eliminates a latent LLP endorsement that does not have recent history of participation in a sideboard fishery, that AFA vessel would be unable to fish its contribution to the sideboard limit in the future.

Industry representatives testifying to the Council have voiced the concern that any AFA vessel that loses a Gulf area endorsement could lose the value from the sideboard amount attributable to the vessel. Under the status quo, some AFA vessels that have the ability to fish under a sideboard have chosen to allow other co-op members to fish their contributions to the sideboard limit. If such a vessel loses the ability to fish its own sideboard amount, its bargaining power within the co-op would be diminished with respect to that sideboard amount. Recognizing that the sideboard amounts are fleet limits which are distributed and managed through the intercooperative agreement, any impact to a specific LLP holder from the LLP amendment is

<sup>8</sup> John Gruver, United Catcher Boats Association. "2006 American Fisheries Act Catcher Vessel Intercoop Annual Report to the North Pacific Fishery Management Council, February 2007.

indeterminate. The ultimate impact to the affected LLP holder would be determined within the business arrangements of the AFA pollock fleet.

Absent an exemption for AFA trawl CV licenses (Component 3 of the proposed amendment) those licenses listed in Table 15 as not meeting the respective threshold criteria would be subject to having their groundfish area endorsements extinguished. In the BSAI, this could create difficulties with participation in the AFA pollock fishery. In the Gulf, the effects would be less onerous, limited to restricting future participation for those licenses that have not been fished recently.

#### **3.4.2.11 Effects on the eligibility of allocations to rockfish pilot program participants.**

To assess the effects of this action on participants in the rockfish pilot program one must first consider the basis for allocations and participation in that program. Allocations in the program are based on history attributable to an LLP license and are made to the license holder. Consequently, if this action were to eliminate a Central Gulf endorsement from a license eligible for that program, the license could be deprived of its allocation.

In the Central Gulf of Alaska, there are 63 licenses qualified for the rockfish pilot program, 17 catcher processor licenses and 49 catcher vessel licenses. The qualification period for the rockfish pilot program was based upon the highest 5 of 7 years from 1996 through 2002. Some rockfish program qualifying LLPs not qualifying under the LLP recency thresholds primarily because of latency in the more recent years included in the 2000-2005 qualification period.

Table 18 shows the number of licenses that are eligible for the rockfish pilot program that would not meet the threshold criteria, and thus would lose their groundfish LLP endorsement in the CG if included in the LLP recency amendment. Representatives of the industry have pointed out that it is illogical to be in the final process of implementing one Council program (the rockfish demonstration program) and at the same time be developing a new amendment to remove the capability for an LLP holder to participate in that program.

If the Council were to exempt the Central Gulf area endorsements of the 63 LLPs that qualify for the rockfish pilot program from the LLP recency amendment, that action would remove the conflict described above. There is currently no wording in the alternatives, components and options to exclude participants on the rockfish pilot program in the GOA. Since LLPs qualified under the program can be transferred to vessels outside of the program, should the Council wish to implement an exemption for LLPs qualified under the program, appropriate wording is included in exemption/inclusion section.

#### **3.4.2.12 Exclusion of Central Gulf area endorsements of the LLPs qualified for the rockfish demonstration program from LLP qualification under the amendment.**

The above exemption and discussion is appropriate for Alternative 3, where the threshold criteria are applied at the management area level. However, if the Council decides in favor of Alternative 2, then the exemption will need to be at the level of the GOA instead of the Western Gulf of Alaska. The data representing the respective situations is shown in Table 18.

**Table 18. Qualified catcher vessel licenses and catcher processor licenses in the BSAI & GOA for the rockfish demonstration project that meet specific harvest thresholds**

LLP Area	Alternative	Harvest Area	License Sector	Total Licenses	Option 1 at least one week w/landing as a Catcher Processor or as a Catcher Vessel		Option 2 at least two weeks w/landings as a Catcher Processor or as a Catcher Vessel	
					2000-2005 Yes	2000-2005 No	2000-2005 Yes	2000-2005 No
AI	AI or BS	CG Rockfish Cps	alt 2	14	10	4	10	4
AI	AI only	CG Rockfish Cps	alt 3	14	7	7	7	7
BS	AI or BS	CG Rockfish Cps	alt 2	16	11	5	11	5
BS	BS only	CG Rockfish Cps	alt 3	16	11	5	11	5
CG	CG or WG	CG Rockfish Cps	alt 2	17	11	6	11	6
CG	CG only	CG Rockfish Cps	alt 3	17	11	6	11	6
WG	CG or WG	CG Rockfish Cps	alt 2	12	10	2	10	2
WG	WG only	CG Rockfish Cps	alt 3	12	10	2	9	3
Central Gulf Rockfish Pilot Program Catcher Vessel Licenses								
LLP Area	Alternative	Harvest Area	License Sector	Total Licenses	Option 1 at least one day w/landing		Option 2 at least two days w/landing	
					2000-2005 Yes	2000-2005 No	2000-2005 Yes	2000-2005 No
AI	AI or BS	CG Rockfish Cvs	alt 2	2	1	1	1	1
AI	AI only	CG Rockfish Cvs	alt 3	2	1	1	1	1
BS	AI or BS	CG Rockfish Cvs	alt 2	29	26	3	26	3
BS	AI or BS	CG Rockfish Cvs	alt 2 Opt3	1	1	0	1	0
BS	BS only	CG Rockfish Cvs	alt 3	29	26	3	26	3
BS	BS only	CG Rockfish Cvs	alt 3 Opt3	1	1	0	1	0
CG	CG only	CG Rockfish Cvs	alt 3	46	41	5	41	5
CG	CG only	CG Rockfish Cvs	alt 3 Opt3	1	1	0	1	0
CG	CG or WG	CG Rockfish Cvs	alt 2	46	41	5	41	5
CG	CG or WG	CG Rockfish Cvs	alt 2 Opt3	1	1	0	1	0
WG	CG or WG	CG Rockfish Cvs	alt 2	21	18	3	18	3
WG	CG or WG	CG Rockfish Cvs	alt 2 Opt3	1	1	0	1	0
WG	WG only	CG Rockfish Cvs	alt 3	21	11	10	6	15
WG	WG only	CG Rockfish Cvs	alt 3 Opt3	1	1	0	1	0

Source: ADF&G fish ticket files and NMFS WPR landings data merged to an August 2007 RAM Division LLP file.

**3.4.2.13 Rockfish Demonstration Sideboard Issues - Would the proposed LLP amendment prevent qualified LLPs from harvesting sideboard amounts attributed to their catch histories?**

The sideboard issues for the rockfish pilot program are similar to the AFA sideboard issues discussed above. For a few reasons, however, these sideboard issues are less complex and troubling. As under the AFA, the sideboards are limits on harvests, rather than allocations. As such, concern for possible disqualification of participants from sideboarded fisheries is of lower concern than disqualification from the allocated Central Gulf rockfish fisheries. Unlike the AFA, the rockfish pilot program has yet to be implemented. Since it is a new program, no rockfish participants have relied on that program's allocations to adapt fishing patterns in sideboarded fisheries. Given that the Council did not intend these sideboards to be allocations and that the Council intends to use this action to eliminate latent licenses, it is unclear what rationale would support exempting rockfish licenses from this action to protect their interest in sideboarded fisheries. This situation described above is also applicable to Amendment 80 sideboard groundfish allocation, as discussed below. It should also be noted that sideboards in the CGOA rockfish program apply only in the month of July, so that sideboard interest that could be lost with the endorsement would be relatively minor.



**3.4.2.14 Impacts of applying the LLP amendment thresholds to Amendment 80-qualified CP vessels and to other LLPs currently assigned to those vessels**

Table 19 presented below shows the effects of the proposed amendment to the Amendment 80 program. NOAA Fisheries recently completed their determination of the qualifying vessels under the program. Once selected, the LLP tied to the Amendment 80 quota, as well as all other LLPs assigned to the Amendment vessel at the time of program implementation, will be restricted from being used by a non-Amendment 80 vessel. It should be noted that Amendment 80 has not yet been implemented, so there is not a historical dependence upon its effects.

There are a total of 28 vessels that are qualified for the Amendment 80 program<sup>9</sup>. The respective numbers of LLPs associated with the Amendment 80 program meeting the threshold levels for the proposed LLP recency amendment is shown below. Table 19 shows the numbers of LLPs assigned to Amendment 80-qualified vessels that would meet and not meet the respective thresholds in the proposed LLP amendment. The qualification period for the Amendment 80 program was based on harvests from 1997 through 2002. The relatively small number of LLPs not qualifying under the LLP recency thresholds, as shown in Table 17 are due to the more recent years included in the 2000-2005 qualification period.

**Table 19. GOA CP LLPs assigned to Amendment 80-Qualified Vessels LLP having groundfish harvests that meet specific harvest thresholds**

Catcher Processor Trawl Licenses						Option 1 at least one week w/landing as a Catcher/Processor or as a Catcher Vessel		Option 2 at least two weeks w/landings as a Catcher/Processor or as a Catcher Vessel	
LLP Area	Alternative	Harvest Area	License Sector	Harvest as a CV included?	Total Licenses	2000-2005 Yes	2000-2005 No	2000-2005 Yes	2000-2005 No
CG	Alt 2	CG or WG	Amend 80	yes	20	17	3	16	4
CG	Alt 3	CG only	Amend 80	yes	20	17	3	14	6
WG	Alt 2	CG or WG	Amend 80	yes	23	22	1	21	2
WG	Alt 3	WG only	Amend 80	yes	23	21	2	20	3

Source: ADF&G fish ticket files and NMFS WPR landings data merged to an August 2007 RAM Division LLP file.

As noted in Table 19, between 1 and 6 LLPs would not meet the trawl recency threshold, depending upon the alternatives and options selected by the Council. If the LLPs assigned to Amendment 80 are not exempted from the program, these LLPs would lose their endorsement for the specific area not meeting the threshold landings amount. Since the Amendment 80 allocations are in the BSAI, the Gulf of Alaska effects are limited to restricting future participation for those licenses that have not been fished recently.

If the Council wishes to consider an exemption in the Gulf of Alaska for Amendment 80-qualified licenses, the following language is recommended:

***Component 4 – Option 1 will exclude Gulf of Alaska endorsements of LLPs assigned to the vessels qualified under Amendment 80 and other LLPs assigned to the qualifying vessels at the time of implementation.***

<sup>9</sup> unpublished computer file, personal communication from Glenn Merrill, NOAA Fisheries, Sustainable Fisheries Division, March 14<sup>th</sup>, 2007)

Exempting other licenses assigned to the Amendment 80 qualified vessels would not result in preserving latent licenses that could be transferred to other vessels, since licenses assigned to Amendment 80 vessels are subsequently restricted to use on vessels in that program.

**3.4.2.15 Amendment 80 Sideboard Issues Sideboard Issues - Would the proposed LLP amendment prevent qualified LLPs from harvesting sideboard amounts attributed to their catch histories?**

In the BSAI, there are no sideboards for any species for the Amendment 80 vessels, therefore the following discussion relates only to LLPs assigned to Amendment 80-qualified vessels in the Gulf of Alaska. As noted above, the Council staff prepared a discussion paper (Agenda C-2(a) for the March/April 2007 meeting which details sideboard issues for the AFA, rockfish pilot program and Amendment 80 programs.

Amendment 80 allows members of the H&G trawl CP sector to optimize when and where they fish. The intended results of the program include increased efficiency for vessels in the program, by allowing them to alter their historic fishing patterns. The flexibility introduced with the amendment could also provide these vessels a competitive advantage over participants in other fisheries, particularly GOA fisheries, currently unable to rationalize their fishing operations.

Recognizing this situation, the Council adopted sideboard limits to prevent expansion into non-Amendment 80 fisheries. The sideboard limits were based upon the harvest of species not allocated by the main portion of Amendment 80 (Component 1), based upon harvests during the same qualification years used to determine the H&G trawl CP sector's allocation of the target species.

The sideboard issues for the Amendment 80 program are much the same as for the AFA LLPs described in the section above. Even if an Amendment 80-qualified vessel were to lose its LLP, the sideboard limits attributed to its catch history during the qualifying years would still exist and could be utilized. The actual effect of this situation is indeterminate, and would depend upon the private business agreements within the respective cooperative of the specific vessel affected. An exception to this situation could occur where the affected LLP owner would choose not to join a cooperative, or if they selected to be in a cooperative with no other LLP holders, no alternative would exist to harvest the sideboard limits.

**3.4.2.16 Component 1 Option 4 - Potential Inclusion of catcher processor LLPs that are non-AFA & non-Amendment 80 groundfish in the BSAI**

At the October, 2006 meeting, the Council added a new option to the LLP analysis. Prior to that time, the proposed amendment did not address the operation of CPs in the BSAI. The new option provides the choice of whether or not to include application of the harvest thresholds for LLPs to CPs operating in the BSAI that are non-AFA licenses and also are LLPs qualified for Amendment 80.

Table 20 shows the number of all non-AFA/non-Amendment 80 trawl CP licenses that meet and do not meet the threshold harvests for the respective areas. The assumption for this analysis is that depending upon the area and options, the number of licenses in this category not meeting the threshold is as high as seven of nine.

Under the assumptions of Alternative 3, CP non-trawl landings could be included in the analysis of threshold qualification. Under this situation, each of the five non-AFA, non-Amendment 80 CP LLPs would meet the thresholds of both one and two landings over either of the qualification periods.

**Table 20. CP LLPs assigned to neither Amendment 80-Qualified nor AFA vessels that meet specific harvest thresholds, 1995-2005 and 2000-2005**

Catcher Processor Trawl Licenses				Option 1 at least one week w/landing as a Catcher/Processor		Option 2 at least two weeks w/landings as a Catcher/Processor	
LLP Area	Alternative	Harvest Area	Total Licenses	2000-2005 Yes	2000-2005 No	2000-2005 Yes	2000-2005 No
AI	Non-AFA/Non-AM80	Alt 2	9	3	6	2	7
AI	Non-AFA/Non-AM80	Alt 3	9	2	7	2	7
BS	Non-AFA/Non-AM80	Alt 2	8	2	6	1	7
BS	Non-AFA/Non-AM80	Alt 3	8	2	6	1	7
CG	Non-AFA/Non-AM80	Alt 2	5	1	4	1	4
CG	Non-AFA/Non-AM80	Alt 3	5	1	4	1	4
WG	Non-AFA/Non-AM80	Alt 2	1	1	0	1	0
WG	Non-AFA/Non-AM80	Alt 3	1	1	0	1	0

Source: ADF&G fish ticket files and NMFS WPR landings data merged to an August 2007 RAM Division LLP file.

### 3.5 Analysis of the Impacts of the Alternatives – Costs and Benefits of the proposed alternatives

Typically, the economic analyses in a Regulatory Impact Review (RIR) attempts to quantify the various costs and benefits associated with the proposed actions. However, this amendment provides some unique constraints. Since don't know with any degree of certainty the actual effect the amendment would have in circumventing possible future entry of latent LLPs through selection of any specific alternative, we are somewhat constrained in our analysis of impacts. However, we can discuss alternatives and options with regard to the most important factor, specifically, the number of latent LLPs that would have area endorsements removed. More removals are presumed to be better than fewer removals due to the relatively larger potential effect on LLPs meeting the threshold criterion.

Section 3.4 of the report presented data on the impacts, in terms of numbers of LLPs that would meet and not meet the respective thresholds for the alternatives for this amendment. Depending upon the management-level area selected (Alternative 1 or Alternative 2) endorsements for non-qualifying LLPs would be extinguished.

The following discussion addresses the general areas of costs and benefits that might be typically anticipated to be affected by the proposed action. In most cases, we cannot differentiate between the proposed alternatives on the basis of these factors, making the Council's choice of alternative selection dependent upon other factors.

Assigning probability to the likelihood of the latent effort entering the fishery isn't possible. However, we can deal with the potential effects of this entry, should it occur in at least a qualitative manner. The following lists number of factors to consider:

- a) There could be losses of efficiency from 'too much effort' in a fishery. In this case, too much effort would reflect a level where trip lengths would be excessively short, processing capacity would be plugged (reducing quality of the fish landed) and the other usual symptoms of excessive effort in a short period of time. In this instance, the number of future licenses participating in the fishery is the same as the current situation, since the licenses that would lose their endorsement under Alternatives 2 or 3 have not had even minimal landings (one landing or two landings in 6 years) in the trawl groundfish fishery. Since we have no way to project or anticipate the number of the licenses that would be excluded might re-enter the fishery at some point in the future, we cannot reasonably discuss the potential effects from 'too much effort'. What we do know is

that the average gross revenues of the qualifying group of license holders would be diminished with additional re-entry of latent licenses a result.

Data presented in Section 1 shows decreasing season lengths for the Pacific cod fishery in the BSAI as steadily diminishing over the period from 2000 to 2006. If latent licenses were to re-enter this groundfish fishery, the problem of excessive effort would be exacerbated.

To apply this factor to the Council decision, either Alternative 3 would result in the greater number of licenses not meeting the threshold criteria. The difference between Alternative 3, Option 1 (one landing) or Alternative 3, Option 2 (two landings) is relatively modest.

b) There could be effects on the historical participants, for example the average gross revenue for the 'historical' participants in the fishery could decrease. Since we don't have detailed information on the cost and revenue characteristics of these vessels, we can't say with certainty what the net effect on revenues for the historical participants would be, but it is logical to assume that average gross revenues would decrease with increased participation levels.

This situation results in a similar situation to (a) above. Either Alternative 3 would result in the greater number of licenses not meeting the threshold criteria. The difference between Alternative 3, Option 1 (one landing) or Alternative 3, Option 2 (two landings) is relatively modest.

c) There could be impacts associated with consumer surplus or other market-related changes that could result. However, we need to keep in mind that a large proportion of the production is being frozen H&G and exported for reprocessing overseas. In this case, the effects on consumer surplus are uncertain, but are likely to be low (see Section 3.7.3). The reasonable conclusion from the information presented in Section 3.7.3 is that changes to consumer surplus and/or quality of groundfish produced is not likely to change from the status quo under either Alternatives 2 or 3.

d) There could be costs of forgone opportunities for LLPs closed out of a fishery. Note that this foregone cost could be zero if the LLP area endorsements that are extinguished would have remained unused in the future in the absence of this amendment.

The Council initially made public notice of a control date of December 11, 2005. After this date, the Council wanted the public to know that landings on previously unutilized trawl groundfish licenses past that date may not be considered for future allocations or eligibility. That action was taken at the December 2005 meeting, and at the time, the action was focused on trawl landings of Pacific cod in the BSAI. Over the following meetings, as the proposed amendment was expanded to include all trawl groundfish species, and the GOA, as well as other management issues, the Council did not revisit the initial control date statement.

The Council has heard public testimony from at least one license holder concerned that they would not meet the threshold landings requirement for the period 2000-2005. In response to that concern, the Council added Component 1 – Option 3, which would extend the qualification period through 2006. We cannot assume, despite given the small amount of public testimony on the harvest qualification period, that the future costs of foregone opportunity costs are zero, even if the qualification period were to be extended to include 2006. However, the costs of foregone opportunity are likely to be minimal, since it requires such a low level of activity (one landing or two landings) over the past six or seven years to qualify. If past participation and dependence upon the trawl groundfish on the part of the license holders that would be excluded is zero or a negligible amount, it seems logical that costs of future foregone opportunities for that group would also be negligible.

e) There could be are regional impact issues on vessels and communities resulting from this action. However, it is important to consider that the threshold for whether or not a license will meet or not meet the threshold analysis is entirely dependent upon past harvests. The community or regional location of the license owner is not a factor considered in the decision.

f) We need to determine whether there are any cross effects on any other marine resources, fisheries or participants in other BSAI or GOA fisheries. These impacts are addressed in the Sections 3.3.5 and 3.3.6. In summary, it is not anticipated that selection of any of the alternatives will initiate impacts on non-groundfish species, participants or other fisheries as a result of this proposed amendment.

g) Address any other induced or reduced resource, management and/or enforcement costs. Implementation of this amendment will require a couple of administrative tasks by NOAA Fisheries. These include processing and adjudicating the qualifying licenses under the program, and extinguish those licenses that do not qualify. The license limitation file administered and maintained by NOAA Fisheries will need to be updated to reflect the valid licenses. Also, it will be necessary for NOAA Fisheries to make changes within the data programs to administer and record license information, to create the newly required capability to separately record and monitor area endorsement and gear endorsements. These costs would not exist for Alternative 1, and are assumed to be identical for Alternatives 2 and 3.

In evaluating the respective effects of items (a) through (g), we do not have information to differentiate between Alternatives 2 and 3, or between the main options, Option 1 (one landing) or Option 2 (two landings).

The main economic benefit to be obtained from this amendment is to prevent possible future negative effects from occurring, by preventing future entry of latent LLPs. These effects are compared in the following section.

### **3.5.1 Status quo (No Action Alternative)**

Under the no-action alternative, there would be no reduction in the number of valid LLPs in any of the trawl CV or trawl CP fisheries in the BSAI and GOA. To the extent that future re-entry of latent LLPs into the trawl groundfish fisheries over the qualification periods would result in either reduced gross trawl groundfish revenues or increased operating costs for LLPs who have participated in recent years, there could be future negative economic impacts to the current trawl CP and CV LLP participants in the BSAI and GOA under the no-action alternative.

The level of possible future entry is unknown and would depend on a number of factors including future changes in fisheries management regulations, fluctuations in resource abundance, changes in market conditions and prices and changes in operating costs for vessels assigned to LLPs. This analysis does not estimate the potential economic impacts that would result from selection of the status quo.

### **3.5.2 Alternative 2 – BSAI/GOA Trawl Harvests of Groundfish**

Alternative 2 would administer the amendment at the management level, i.e. the BSAI and GOA. In general, the numbers of latent licenses failing to meet the threshold, which would lose their endorsements, would be fewer under for Alternative 2 compared with Alternative 3. Looking at Table 11, we can see an example of this general situation. Under Alternative 2, there would only be 6 licenses not meeting the one landing threshold criteria for the Aleutians, since harvests made in either the Bering Sea or Aleutians over the qualifying period of 2000-2005 would qualify the license for both the Bering Sea and the Aleutians. Using the same comparison for Alternative 3, there would be 23 non-AFA trawl CV licenses not meeting the one landing threshold criteria for the Aleutians.

The Council would want to favor Alternative 2 if it wishes to extinguish a smaller number of latent licenses (compared with Alternative 2), and if it believes that participation in the trawl groundfish fisheries in one

submanagement area (the Bering Sea in the example noted above) is justification for qualifying for a license in the adjacent submanagement area (the Aleutian Islands in this example).

The participation information for the various fleet components are presented in a number of tables as follows: Table 12 (GOA trawl CVs); Table 15 (AFA trawl CV); Table 18 (qualified participants in the Rockfish Pilot Demonstration Project); Table 19 (GOA CPs assigned to Amendment 80 qualified vessels); and Table 20 (CPs that are neither AFA nor Amendment 80-qualified).

### **Component 1 – Option 1**

Component 1 Option 1 requires at least one landing of trawl groundfish to have been harvested over the period from 2000-2005. The respective numbers of licenses that would qualify for the different fleet components are shown in Table 12 (GOA trawl CVs); Table 15 (AFA trawl CV); Table 18 (qualified participants in the Rockfish Pilot Demonstration Project); Table 19 (GOA CPs assigned to Amendment 80 qualified vessels); and Table 20 (CPs that are neither AFA nor Amendment 80-qualified).

The effect of selecting one landing, as opposed to two landings, is a small decrease in the number of licenses that do not meet the threshold criteria.

### **Component 1, Option 2**

Component 1 Option 2 requires at least two landings of trawl groundfish to have been harvested over the period from 2000-2005. The respective numbers of licenses that would qualify for the different fleet components are shown in Table 12 (GOA trawl CVs); Table 15 (AFA trawl CV); Table 18 (qualified participants in the Rockfish Pilot Demonstration Project); Table 19 (GOA CPs assigned to Amendment 80 qualified vessels); and Table 20 (CPs that are neither AFA nor Amendment 80-qualified).

The effect of selecting one landing, as opposed to two landings, is a small decrease in the number of licenses that do not meet the threshold criteria.

### **Component 1, Option 3**

Table 13 presents information on the number of additional licenses that would qualify, assuming that 2006 were added to the qualification period. Under Alternative 2, the number of additional qualifying licenses is limited to 3 licenses or less if the qualifying period is modified to include 2000-2006.

### **Component 1, Option 4**

Table 14 provides an analysis of the effects of Component 1, Option 4. Overall, the numbers of licenses excluded that are limited to vessels less than 60 feet in length overall (LOA) are in the same proportion as licenses for vessels greater than 60 feet LOA. The proportion varies between the western Gulf and the central Gulf, as noted in the table.

### **Component 3**

Table 19 summarizes the numbers of Amendment 80-qualified licenses that would meet, and not meet, the threshold criteria of one landing and two landings. If the Council wishes to do so, Component 3 would exempt this group from participation in the amendment, using the language in the descriptions in Section 2. The exemption is only an issue in the Gulf of Alaska. Since this group is comprised of CPs, they are not included in the BSAI in any case, with or without the exemption contained in Component 3. Since Amendment 80 allocations are in the BSAI only, this issue in the Gulf of Alaska is limited to sideboard effects only, and is limited to restricting future participation for these licenses that have not been fished recently. Table 19 shows

that 1 license in the central Gulf and one license in the western Gulf would not qualify under Alternative 2 under the one landing threshold.

#### **Component 4**

In the problem statement, the Council notes that there are too few non-AFA trawl CV licenses under the present situation to allow the fishing activities at Adak to develop successfully. Fisheries operations at Adak include the in-state waters fishery for Pacific cod as well as the pollock fishery in the FCZ fully allocated to the Aleut Corporation under the Magnuson-Stevens Act, as amended by the Consolidated Appropriations Act of 2004.

The proposed action will only address non-AFA trawl catcher vessel licenses for groundfish (all species) in the Aleutian Islands. Currently there are only six of these, but only one of the six has been fished recently. To qualify for the new licenses, non-AFA trawl CVs have to have had a history of participation in either the trawl groundfish fishery in the parallel waters fishery (within the state 3 mile limit) or in the 2006 State waters Pacific cod fishery at Adak. The qualifying vessels have a history of trawl fishing in the area, and absent the amendment could continue to operate as they have in the past, inside 3-miles. What would be different under the amendment is that the 9 to 14 new licenses for trawl CV vessels under 60 feet and 3 to 4 new licenses for trawl CV vessels over 60 feet would be able to fish in federal waters (3 to 200 miles) for groundfish.

The new licenses will be non-AFA trawl groundfish endorsements. The licensees would be able to fish any groundfish species in the Aleutians they had access to. Given the limited areas for pollock trawling in the Aleutians, and the fact that most of the licenses are for vessels up to 60 feet, they may have little opportunity for additional opportunities for pollock that they do not have currently (see note below). The most likely use, for the new licenses to be allocated under Component 4 would be to fish Pacific cod out of Adak, being able to cross over into federal waters when the main abundance areas for the cod resource are out of the State waters area.

Under PL 108-199, the Aleut Corporation can invite participation in the AI pollock fishery to vessels less than 60 feet, without the requirement of an LLP. Under the proposed amendment, the 9-14 qualifying vessels less than 60 feet that meet the threshold criteria would receive an AI LLP. However, they would still require the invitation to participate from the Aleut Corporation. Therefore, for the group of non-AFA trawl CV vessels less than 60 feet, the proposed amendment represents no change from the status quo.

The new licenses could also fish the 10 percent of TAC allocation for POP and Atka mackerel in Amendment 80. Under Amendment 80, currently being implemented, non-AFA trawl CVs would be able to participate in the limited access allocation for Atka mackerel and Pacific Ocean perch (POP).

In areas 541 and 542, the allocation to non-AFA trawl CVs starts at 2 percent of TAC, increasing 2 percent per year up to the maximum of 10 percent. For POP, the allocation in areas 541 and 542 for the non-AFA trawl CVs begins at five percent of TAC for the first year, then increasing to the maximum amount of 10 percent the second year. In area 543, the initial allocation is 2 percent which is fixed.

Given the areas closed to trawling and the relatively small size of the vessels licensed (most less than 60 feet), it is uncertain how much POP or Atka mackerel will be harvested. A small fishery for non-AFA trawl CVs may occur for both Atka mackerel and POP.

The new licenses proposed would only be for non-AFA Aleutian Islands trawl groundfish. They could only fish in other areas if they had a license to do so, but the new license granted under this amendment would be limited to trawl groundfish in the Aleutians.

With respect to pollock, for vessels less than 60 feet, there would not be a change from the status quo. Currently, the Aleut Corporation can invite vessels less than 60 feet to participate in the fishery - without the

requirement of an AI LLP. With the proposed amendment, those 9-14 vessels less than 60 feet that would qualify would receive an AI LLP, but their access to the fishery is available under either situation.

The situation for vessels greater than 60 feet, the situation is different than for vessels less than 60 feet. There are 3-4 non-AFA vessels that would qualify for an AI LLP under the proposed amendment. These vessels do not have AI trawl groundfish LLPs currently. Under the status quo, these vessels are participating in the parallel waters fishery in the AI for Pacific cod and/or the State waters 2006 fishery for Pacific cod at Adak and meet a requirement to have fished P. cod in the BSAI with a threshold of either 500 mt. or 1,000 mt. They currently have no history of pollock harvests in the AI.

Since participation in the AI pollock fishery is restricted by PL 108-199 to vessels less than 60 feet or vessels having an AFA trawl license, the 3-4 new non-AFA trawl CVs would not qualify to fish for pollock.

### **Effect of Exemptions and Exclusions**

The current alternatives, components described in Section 2 of the report contain a section for exemptions and inclusions under the proposed amendment. The Council will have the choice of including or exempting the AFA licenses in the BSAI under the exemption proposed. This exemption includes endorsements originally issued to vessels qualified under the AFA and any non-AFA LLPs assigned to AFA vessels not having any other license from the threshold qualification under the proposed amendment. Since a valid LLP is a requirement for AFA vessels to participate in the BSAI pollock fishery, this exemption would prevent this group from any unintended adverse impacts in the BSAI.

The central Gulf Rockfish Pilot Program Demonstration Project exemption is also intended to keep the proposed amendment from extinguishing the licenses just awarded under this development program. It would exclude Central Gulf of Alaska area endorsements of the LLPs qualified for the rockfish demonstration project from LLP qualification under the amendment.

The third item in this section is a potential inclusion of BSAI CPs that are non-AFA and are also not qualified under Amendment 80. Because of the characteristics of CP licenses, these CPs could, if not excluded, enter the BSAI groundfish CV sector in the future, exacerbating the existing level of overcrowding in that sector.

### **3.5.3 Alternative 3 – BS, AI, WG and CG Trawl Harvests of Groundfish**

Alternative 3 would administer the amendment at the submanagement level, i.e. the Bering Sea, Aleutian Islands, western Gulf and Central Gulf. In general, the numbers of latent licenses failing to meet the threshold, which would lose their endorsements, would be greater for Alternative 3 compared with Alternative 2. Looking at Table 11, we can see an example of this general situation. Under Alternative 3, there would be 23 licenses not meeting the one landing threshold criteria for the Aleutians. Using the same comparison for Alternative 2, there would only be 6 non-AFA trawl CV licenses not meeting the one landing threshold criteria for the Aleutians.

The Council would want to favor Alternative 3 if it wishes to extinguish a larger number of latent licenses (compared with Alternative 2), and if it believes that participation in the trawl groundfish fisheries in one submanagement area (the Bering Sea in the example noted above) is not justification for qualifying for a license in the adjacent submanagement area (the Aleutian Islands in this example).

The participation information for the various fleet components are presented in a number of tables as follows: Table 12 (GOA trawl CVs); Table 15 (AFA trawl CV); Table 18 (qualified participants in the Rockfish Pilot Demonstration Project); Table 19 (GOA CPs assigned to Amendment 80 qualified vessels); and Table 20 (CPs that are neither AFA nor Amendment 80-qualified).



### **Component 1 – Option 1**

Component 1 Option 1 requires at least one landing of trawl groundfish to have been harvested over the period from 2000-2005. The respective numbers of licenses that would qualify for the different fleet components are shown in Table 12 (GOA trawl CVs); Table 15 (AFA trawl CV); Table 18 (qualified participants in the Rockfish Pilot Demonstration Project); Table 19 (GOA CPs assigned to Amendment 80 qualified vessels); and Table 20 (CPs that are neither AFA nor Amendment 80-qualified).

The effect of selecting one landing, as opposed to two landings, is a small decrease in the number of licenses that do not meet the threshold criteria.

### **Component 1, Option 2**

Component 1 Option 2 requires at least two landings of trawl groundfish to have been harvested over the period from 2000-2005. The respective numbers of licenses that would qualify for the different fleet components are shown in Table 12 (GOA trawl CVs); Table 15 (AFA trawl CV); Table 18 (qualified participants in the Rockfish Pilot Demonstration Project); Table 19 (GOA CPs assigned to Amendment 80 qualified vessels); and Table 20 (CPs that are neither AFA nor Amendment 80-qualified).

The effect of selecting one landing, as opposed to two landings, is a small decrease in the number of licenses that do not meet the threshold criteria.

### **Component 1, Option 3**

Table 13 presents information on the number of additional licenses that would qualify, assuming that 2006 were added to the qualification period. Under Alternative 3, the number of additional qualifying licenses is limited to one license or less if the qualifying period is modified to include 2000-2006.

### **Component1, Option 4**

Table 14 provides an analysis of the effects of Component1, Option 4. Overall, the numbers of licenses excluded that are limited to vessels less than 60 feet in length overall (LOA) are in the same proportion as licenses for vessels greater than 60 feet LOA. The proportion varies between the western Gulf and the central Gulf, as noted in the table.

### **Component 3**

Table 19 summarizes the numbers of Amendment 80-qualified licenses that would meet, and not meet, the threshold criteria of one landing and two landings. If the Council wishes to do so, Component 3 would exempt this group from participation in the amendment, using the language in the descriptions in Section 2. The exemption is only an issue in the Gulf of Alaska. Since this group is comprised of CPs, they are not included in the BSAI in any case, with or without the exemption contained in Component 3. Since Amendment 80 allocations are in the BSAI only, this issue in the Gulf of Alaska is limited to sideboard effects only, and is limited to restricting future participation for these licenses that have not been fished recently. Table 19 shows that 3 licenses in the central Gulf and 2 licenses in the western Gulf would not qualify under Alternative 3, under the one landing threshold.

### **Component 4**

(same as for Alternative 2 – see above discussion)

## **Effect of Exemptions and Exclusions**

(same as for Alternative 2 – see above discussion)

### **3.6 Fisheries Resources, Biology and Environmental Conditions**

It is not anticipated that any portion of the proposed amendment will have a significant effect on fisheries resources, biological aspects of the different groundfish species or on environmental conditions in the BSAI or GOA.

### **3.7 Groundfish Industry Sectors**

#### **3.7.1 Harvesting Sector Overview**

The impacts upon the harvesting sectors are anticipated to be limited to the potential future benefits from ‘current’ license holders—those that meet the threshold criteria to maintain their groundfish LLP area endorsements (see Tables 4 through 13). There is a corresponding hypothetical future cost of lost future opportunity for those license holders not meeting the threshold criteria.

#### **3.7.2 Processing Sector Overview**

The impacts upon the processing sector are anticipated to be minimal. The situation following implementation would result in continuation of the status quo, at least in the short term. The effects of either alternative 2 or 3 would be to prevent future re-entry of latent trawl CV licenses. Since the licenses that would lose their area endorsements have not been participating in the fishery in recent years in any case, there should be no effect to the processing sector.

#### **3.7.3 Markets**

Information relevant to the evaluation of the market effects of the proposed amendment is included in Appendix 2 to this report.

We can conclude from the information presented in Appendix 2 that export markets are a very important component of both pollock and Pacific cod production from Alaska. When evaluating potential consumer effects of proposed regulations, we typically attempt to measure the impacts to consumer surplus or at least to comment upon the likely direction of effect (positive or negative). Since a high proportion of Alaska’s production of groundfish, as represented by pollock and Pacific cod noted above, is exported, it would not be expected that an increase in consumer benefits would result from changes in the groundfish fishery from implementation of this amendment.

### **3.8 Summary – Net Benefits to the Nation**

The main benefit of the proposed amendment is to remove a future threat of increased effort in the trawl groundfish fisheries in the BSAI and GOA from re-entry of latent licenses. If that re-entry would occur at some point in the future, it could have the effects of crowding, reduced efficiency, potential increases in bycatch and decreased fishing days.

As discussed above only re-entry of latent licenses would be prohibited. The existing cost structure of vessels operating in the fisheries is not likely to change markedly from the status quo. All of the vessels with LLPs that qualify and remain in the fishery still will have an incentive to increase their production capacity to try to capture a higher proportion of the TAC. This action in itself will not increase the number of fishing days in the

fisheries, and will not allow vessels to move towards an optimum set of production inputs as they would in a fully rationalized management regime.

Categories of costs and benefits of the proposed amendment were evaluated in items (a) through (g) in Section 3.5, however, they do not provide sufficient information to assist the Council in choosing one of the proposed alternatives.

In choosing between Alternatives 2 and 3, and between Options 1-3, the Council may need to decide on the choices that provide the most benefit in terms of latent licenses extinguished, and the choice of management area application (management area or submanagement area) that best meets their overall goals for the groundfish fishery.

## **4.0 ENVIRONMENTAL ASSESSMENT**

The purpose of this section is to analyze the environmental impacts of the proposed Federal action: to establish threshold criteria for use of BSAI and GOA trawl limited license permits (LLPs). An environmental assessment is intended, in a concise manner, to provide sufficient evidence of whether or not the environmental impacts of the action is significant (40 CFR 1508.9).

Three of the four required components of an environmental assessment (EA) are included below. These include brief discussions of: the need for the proposal (Section 4.1), the alternatives (Section 4.2), and the environmental impacts of the proposed action and alternatives (Section 4.3). A list of agencies and persons consulted is included later in this document in Section 7.1.

### **4.1 Purpose and Need**

The Council has identified the following problem statement for these actions. Further elaboration on the background of the proposed action and supporting information can be found in Section 1.

#### **LLP Analysis Problem Statement**

*Trawl catcher vessel eligibility is a conflicting problem among the Bering Sea, Gulf of Alaska and Aleutian Islands. In the Bering Sea and Gulf of Alaska, there are too many latent licenses and in the Aleutian Islands there are not enough licenses available for trawl catcher vessels.*

*In the Bering Sea and GOA, the trawl catcher vessel groundfish fisheries in the BSAI and trawl vessel groundfish fisheries in the GOA are fully utilized. In addition, the existence of latent licenses may exacerbate the disadvantages to GOA dependant CVs resulting from a lack of comprehensive rationalization in the GOA. Competition for these resources is likely to increase as a result of a number of factors, including Council actions to rationalize other fisheries, favorable current market prices and a potential for TAC changes in future years. Trawl vessel owners who have made significant investments, have long catch histories, and are dependent upon BSAI and GOA groundfish resources need protection from others who have little or no recent history and with the ability to increase their participation in the fisheries. This requires prompt action to promote stability in the trawl catcher vessel sector in the BSAI and trawl vessel sector in the GOA until comprehensive rationalization is completed.*

*In the Aleutian Islands, previous Congressional and Council actions reflect a policy encouraging economic development of Adak. The opportunity for non-AFA CVs to build catch history in the AI was limited until markets developed in Adak. The analysis indicates that there are only six non-AFA CV trawl AI endorsed LLPs. The Congressional action to allocate AI pollock to the Aleut Corporation for the purpose of economic development of Adak requires that 50% of the AI pollock eventually be harvested by <60' vessels. The Council action under Am. 80 to allocate a portion of AI POP and Atka mackerel to the limited access fleet does not modify AFA CV sideboard restrictions, thus participation is effectively limited to non-AFA vessels with AI CV trawl LLP endorsements. A mechanism is needed to help facilitate the development of a resident fishing fleet that can fish in both state and federal waters. The Council will consider different criteria for the CV Eligibility in the AI.*

## **4.2 Description of Alternatives**

Three alternatives have been identified for analysis. A detailed description of these alternatives can be found in Section 2.0 of this document. Table 3 from Section 2.1, showing the three alternatives and respective components and options, is reprinted below.

## **4.3 Probable Environmental Impacts**

This section analyzes the alternatives for their effect on the biological, physical, and human environment. The alternatives establish threshold criteria for using BSAI and GOA trawl LLPs.

**Table 21. Alternatives, components, and options for the BSAI Trawl CV LLP and GOA Trawl CV & CP LLP analysis**

Alternative/Element	Alternative 1 - No Action	Alternative 2	Alternative 3
<b>Primary alternative to LLP trawl CV and CP groundfish licenses considered.</b>	Existing situation to continue. LLPs will remain as currently configured.	Implement LLP threshold criteria based upon BSAI and GOA management areas	Implement LLP threshold criteria based upon submanagement areas for the BS, AI, WG and CG.
<b>Exemption and Inclusion Statements - the same effect to each alternative</b>			
AFA exemption	Exclude BSAI LLP endorsements originally issued to vessels qualified under the AFA and any non-AFA LLPs assigned to AFA vessels not having any other license from LLP qualification in the BSAI.		
Central Gulf Rockfish Demonstration Project exemption	Exclude Central Gulf of Alaska area endorsements of the LLPs qualified for the rockfish demonstration project from LLP qualification under the amendment.		
BSAI CP inclusion	Include application of the harvest thresholds for BSAI CP LLPs that are non-AFA licenses and also are not LLPs qualified for Amendment 80(LLPs assigned to vessels eligible for Amendment 80). As specified in the descriptions of Alternatives 2 and 3, this inclusion is the only instance where CP LLPs in the BSAI are subject to the amendment.		
<b>Components common to Alternatives 2 and 3</b>			
Component 1: Option 1	no landing requirement implemented	Component 1: Option 1 - at least one landing of groundfish from 2000-2005	
Component 1: Option 2	no landing requirement implemented	Component 1: Option 2 - at least two landings of groundfish from 2000-2005	
Component 1: Option 3	no change from status quo	Component 1: Option 3 - extends the qualification period one year to include landings in 2006 for both options above.	
Component 1: Option 4 exemption for LLPs with a maximum length overall (MLOA) designation < 60 feet	no change from status quo	Component 1: Option 4 - provide a choice to exempt trawl LLPs with a MLOA designation of less than 60 feet in the BSAI directed Pacific cod fishery using trawl or non-trawl harvests with a minimum participation (2000-2005) of: (a) suboption 1 - one landing, (b) suboption 2 - two landings, and (c) 200 metric tons directed Pacific cod harvest from the BSAI in any one year.	
Component 2:	no change to LLP regulations	Component 2: will fully credit harvest history to all stacked licenses, each carrying its own qualifying endorsements and designations.	
Component 3:	no change from status quo	Component 3, will exclude Amendment 80-qualified vessels qualified under Amendment 80 and LLPs used for eligibility in Amendment 80 from the threshold criteria in the Gulf of Alaska.	
Component 5: Option for Aleutian Islands Fisheries. Implement a landing requirement for trawl groundfish as follows:	no change from status quo	Non-AFA vessels which lack an AI trawl CV endorsement may qualify based on deliveries in a parallel waters groundfish fisheries 2000-2005 or in the 2006 State water fishery for Pacific cod in the AI.	
Component 5: Option A	no landing requirement implemented	For non-AFA vessels ≤ 60 feet LOA to receive an AI trawl endorsement, consider landings thresholds in the AI parallel Pacific cod fishery between 2000-2005 of: (a) 50 metric tons, (b) 250 metric tons, or (c) 500 metric tons	
Component 5: Option B	no landing requirement implemented	For non-AFA vessels > 60 feet LOA to receive an AI trawl endorsement, consider landings thresholds of at least one landing in the AI parallel (groundfish) fishery or State water cod fishery between 2000-2006 <b>plus</b> ; landings in the BSAI cod fishery between 2000 and 2006 of at least: (a) 500 metric tons, or (b) 1,000 metric tons	

The physical and biological effects of the alternatives on the environment and animal species are discussed together in Section 4.3.1. Economic and Socioeconomic effects of the alternatives are primarily analyzed in Section 3.0, but are summarized in Section 4.3.2. Cumulative effects are addressed in Section 4.3.3.

### **4.3.1 Physical and Biological Impacts**

#### *Alternative 1*

Alternative 1 represents the status quo, with no changes made to the management of LLPs. Status quo groundfish fishing is annually evaluated in the environmental assessment (EA) that supports decision-making on harvest specifications for the BSAI and GOA groundfish fisheries (NMFS 2006). The EA evaluates all physical and biological resources affected by the groundfish fisheries, and describes the impact of the fisheries. A “beneficial” or “adverse” impact leaves the resource in better or worse, respectively, condition than it would be in an un-fished condition. “Significant” impacts are those adverse or beneficial impacts that meet specified criteria for each resource component, but generally are those impacts that affect the species population outside the range of natural variability, and which may affect the sustainability of the species or species group.

The analysis of Alternative 2 in NMFS (2006), which describes status quo fishing, is incorporated by reference. The EA has found that under status quo groundfish fishery management there is a low probability of overfishing target species, or generating significant adverse impacts to fish species generally (target, non-specified, forage, or prohibited species). Direct and indirect effects on marine mammals and seabirds have been identified as adverse but not significant, and effects on essential fish habitat are no more than minimal and temporary. Effects on ecosystem relationships are also analyzed as adverse but not significant.

#### *Alternatives 2 and 3: Components 1-4*

The net effect of components 1-4 of the alternatives is to maintain fishing activity at status quo levels. The alternatives propose landing thresholds that would invalidate trawl LLPs that have not been used in recent years. Recent years are defined either as the last 6 years, or seven years, if harvests for 2006 are included in the qualifying years (Component 1, Option 3). The criteria contain various options, but generally require a valid LLP to have either one or two groundfish landings within the management area (Alternatives 2) or within each management subarea (Alternatives 3). There is also an option for exempting vessels under 60 ft LOA. The criteria would apply to catcher vessel LLPs in the BSAI and the GOA, and potentially some catcher processor LLPs in the GOA.

Section 3 describes the numbers of latent LLPs that would be invalidated under the various alternatives. In terms of effects on the physical and biological environment, however, the effect is the same as Alternative 1. These licenses are not currently being used to prosecute groundfish fishing in the BSAI and GOA. The status quo level of fishing has been analyzed in NMFS (2006) and determined to have no significant adverse impacts on fish species, marine mammals, seabirds, habitat, or ecosystem relationships. Under components 1-4 of the alternatives, the status quo level of fishing activity would continue. As a result, there are no significant adverse impacts of components 1-3 of the alternatives.

#### *Component 4*

Component 4 of the alternatives is a separate component dealing exclusively with the Aleutian Islands subarea LLP endorsement. In effect, this component may increase the number of LLPs valid in the AI subarea. The component provides that any non-AFA vessel with a CV trawl LLP may qualify for an AI endorsement if the qualifying vessel has 1 or 2 groundfish landings in an AI parallel or state waters fishery within the last 6.

There are currently 6 trawl CV LLPs with an AI subarea endorsement. The maximum number of trawl CV LLPs that might qualify for an AI subarea endorsement under this component is 14 vessels less than 60 feet length

overall (LOA) and up to 4 large vessels having a LOA greater than 60 feet. However, the license holders who will qualify for the endorsement are those that have already been fishing in state waters either in the state or parallel fisheries in the Aleutian Islands subarea.

Effects on target species from this increase in the number of LLPs qualified to fish outside 3 miles will not be adverse. The TAC is determined annually based on the carrying capacity of target species, and effective monitoring and enforcement are in place to ensure that TACs are not exceeded. Therefore, regardless of the potential increase in fishing capacity, the total amount of fish caught will not increase under this component. Most fish species targeted in the AI have an AI subarea quota, and so there could be no localized increase in catch accruing to the AI subarea. Pacific cod is the exception, as it currently has a BSAI-wide TAC. Pacific cod is believed to be one stock within the BSAI, and so additional effort in the AI subarea would not adversely affect the stock. Additionally, the maximum number of LLPs that would gain an AI endorsement under this component is small, so the potential increase in fishing effort for Pacific cod in the AI subarea would be correspondingly small.

Changes in interactions with other fish species, marine mammals, seabirds, habitat, and ecosystem relations are tied to changes in target fishery effort. As described above, only the Pacific cod trawl target fishery may experience an overall increase in fishing effort due to an increase in qualified LLPs. Limits regulate the catch of forage and prohibited species in Federal waters, so any increase in their catch will not achieve a significantly adverse threshold. The LLP holders who are newly qualified to fish in Federal waters are likely those who are already fishing in State waters, so any movement of their fishing activities further offshore is likely to benefit marine mammals. Vessels would still have to comply with existing Federal regulations protecting Steller sea lion rookeries and haulouts (see <http://www.fakr.noaa.gov/sustainablefisheries/2003hrvstspecssl.htm> for exact regulations and maps). Current Steller sea lion protections measures close most of the AI region out to 20 nautical miles offshore from rookeries and haulouts for pollock trawling, effectively limiting pollock fishing opportunities, particularly for small vessels. Pacific cod Steller sea lion closed areas in the AI region are less restrictive. This measure would increase cod fishing effort in the AI region, but that effort would still be restricted to areas outside the cod Steller sea lion protection areas. Thus, the effects on Steller sea lions would be minimal. However, since this measure could be considered a change in the action upon which the last ESA Section 7 consultation was based, NOAA Fisheries Office of Protected Resources may have some concerns and should be consulted. In this case, this change in potential cod fishing effort may be included in the ongoing FMP-level consultation and could be dealt with in that process. It is scheduled to be completed and a draft Biological Opinion issued by April 2008. Council staff has discussed the potential effects of Component 4 with NOAA Fisheries, Protected Resources staff, and based on these initial discussions, Component 4 may be considered to have a minimal impact on Steller sea lion protection measures.

The Council and NOAA Fisheries have also recently closed much of the AI subarea to fishing to mitigate any potential adverse effects to habitat (see <http://www.fakr.noaa.gov/habitat/efh.htm> for further detail), and vessels would also be subject to closure areas. Given the limited increase that may result in fishing activity as a result of component 5, and the measures currently in place to protect the physical and biological environment, the potential effect of the component on an ecosystem scale is very limited. As a result, no significant adverse impact to marine mammals, seabirds, habitat, or ecosystem relations is anticipated.

#### **4.3.2 Economic and Socioeconomic Impacts**

The economic and socioeconomic impacts of the proposed amendment were addressed in the Regulatory Impact Review, Section 3 of this report. Alternatives 2 and 3 have very similar effects, only the number of LLPs to be excluded from participation in the groundfish fishery in the future changes with each alternative.

### **4.3.3 Cumulative Impacts**

Analysis of the potential cumulative effects of a proposed action and its alternatives is a requirement of NEPA. Cumulative effects are those combined effects on the quality of the human environment that result from the incremental impact of the proposed action when added to other past, present, and reasonably foreseeable future actions, regardless of what Federal or non-Federal agency or person undertakes such other actions (40 CFR 1508.7, 1508.25(a), and 1508.25(c)). Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. The concept behind cumulative effects analysis is to capture the total effects of many actions over time that would be missed by evaluating each action individually. At the same time, the CEQ guidelines recognize that it is not practical to analyze the cumulative effects of an action on the universe but to focus on those effects that are truly meaningful.

The 2004 Final Alaska Groundfish Fisheries Programmatic Supplemental Environmental Impact Statement (Groundfish PSEIS; NOAA 2004) assesses the potential direct and indirect effects of groundfish FMP policy alternatives in combination with other factors that affect physical, biological and socioeconomic resource components of the BSAI and GOA environment. To the extent practicable, this analysis incorporates by reference the cumulative effects analysis of the Groundfish PSEIS, including the persistent effects of past actions and the effects of reasonable foreseeable future actions.

Beyond the cumulative impacts analysis documented in the Groundfish PSEIS, no additional past, present, or reasonably foreseeable cumulative negative impacts on the biological and physical environment (including fish stocks, essential fish habitat, ESA-listed species, marine mammals, seabirds, or marine ecosystems), fishing communities, fishing safety or consumers have been identified that would accrue from the proposed action. Cumulatively significant negative impacts on these resources are not anticipated with the proposed action because no negative direct or indirect effects on the resources have been identified.

While there are no expected cumulative adverse impacts on the biological and physical environment, fishing communities, fishing safety or consumers, there may be economic effects on the groundfish trawl fishery sectors as a result of the proposed action in combination with other actions. As discussed below, participants in the groundfish trawl fishery sectors have experienced several regulatory changes in the past several years that have affected their economic performance. Moreover, a number of reasonably foreseeable future actions are expected to affect the socioeconomic condition of these sectors.

#### **4.3.3.1 Past and Present Actions**

The cumulative impacts from past management actions are one of the driving forces behind the industry support for the proposed amendment. Other fisheries in the region have been subject to increasingly restricted management measures. As one of the last fisheries in the region to be open to increased effort, the resultant situation from past management actions has current trawl groundfish license holders in the BSAI and GOA anxious to maintain their current situation with regard to effort. The actions below are some of the actions that have resulted in the existing conditions.

- the IFQ halibut and IFQ sablefish fisheries
- AFA rationalization of the BSAI pollock fishery
- Amendment 67 to the BSAI groundfish management plan that established an LLP limitation specifically for Pacific cod fishery participants
- BSAI crab rationalization
- GOA rockfish pilot program in the Gulf – initially approved for two years but recently extended under reauthorization of the Magnuson-Stevens Act
- Amendment 80 to the groundfish fishery management plan for BSAI groundfish
- Potential groundfish rationalization in the GOA



#### **4.3.3.2 Reasonably Foreseeable Future Actions**

The Council is in the early stages of considering a similar license amendment that would apply to non-trawl license endorsements in the Gulf of Alaska. The Council has also begun the process to evaluate a comprehensive rationalization program for Gulf of Alaska groundfish, but that program has been slowed due to opposition from participants. Neither issue would affect the implementation or success of the proposed amendment.

#### **4.3.3.3 Summary of Cumulative Effects**

As noted above, the cumulative effects of past management decisions are the primary reason for the proposed amendment. The proposed amendment, in itself, is not expected to adversely affect the fisheries sectors (harvesting or processing), market conditions, or communities.

## **5.0 INITIAL REGULATORY FLEXIBILITY ANALYSIS**

### **5.1 Introduction**

The Regulatory Flexibility Act (RFA), first enacted in 1980, and codified at 5 U.S.C. 600-611, was 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 impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts, while still achieving the stated objective of the action. When an agency publishes a proposed rule, it must either, (1) “certify” that the action will not have a significant adverse effect on a substantial number of small entities, and support such a certification declaration with a “factual basis”, demonstrating this outcome, or, (2) if such a certification cannot be supported by a factual basis, prepare and make available for public review an Initial Regulatory Flexibility Analysis (IRFA) that describes the impact of the proposed rule on small entities.

Based upon a preliminary evaluation of the proposed pilot program alternatives, it appears that “certification” would not be appropriate. Therefore, this IRFA has been prepared. Analytical requirements for the IRFA are described below in more detail.

The IRFA must contain:

1. A description of the reasons why action by the agency is being considered;
2. A succinct statement of the objectives of, and the legal basis for, the proposed rule;
3. 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);
4. 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;
5. An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule; and
6. A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes, and that would minimize any significant

adverse 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:

- a. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
- b. The clarification, consolidation or simplification of compliance and reporting requirements under the rule for such small entities;
- c. The use of performance rather than design standards;
- d. An exemption from coverage of the rule, or any part thereof, for such small entities.

The “universe” of entities to be considered in an IRFA generally includes only those small entities that can reasonably be expected to be directly regulated by the proposed action. If the effects of the rule fall primarily on a distinct segment of the industry, or portion thereof (e.g., user group, gear type, geographic area), that segment would be considered the universe for purposes of this analysis.

In preparing an IRFA, an agency may provide either a quantifiable or numerical description of the effects of a proposed rule (and alternatives to the proposed rule), or more general descriptive statements if quantification is not practicable or reliable.

## **5.2 Definition of a Small Entity**

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

Small businesses: Section 601(3) of the RFA defines a “small business” as having the same meaning as a “small business concern,” which is defined under Section 3 of the Small Business Act. A “small business” or “small business concern” includes any firm that is independently owned and operated and not dominate in its field of operation. The U.S. Small Business Administration (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 form is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.”

The SBA has established size criteria for all major industry sectors in the U.S., including fish harvesting and fish processing businesses. A business “involved in fish harvesting” is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates), and if it has combined annual receipts not in excess of \$4.0 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation (including its affiliates) and employs 500 or fewer persons, on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it does not meet the \$4.0 million criterion for fish harvesting operations. A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

The SBA has established “principles of affiliation” to determine whether a business concern is “independently owned and operated.” In general, business concerns are affiliates of each other when one concern controls or has the power to control the other or a third party controls or has the power to control both. The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. Individuals or firms that have identical or substantially identical business or economic interests, such as family members, persons with common investments, or firms that are economically dependent through contractual or other relationships, are treated as one party, with such

interests aggregated when measuring the size of the concern in question. The SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern's size. However, business concerns owned and controlled by Indian Tribes, Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601), Native Hawaiian Organizations, or Community Development Corporations authorized by 42 U.S.C. 9805 are not considered affiliates of such entities, or with other concerns owned by these entities, solely because of their common ownership.

Affiliation may be based on stock ownership when: (1) A person is an affiliate of a concern if the person owns or controls, or has the power to control 50% or more of its voting stock, or a block of stock which affords control because it is large compared to other outstanding blocks of stock, or (2) If two or more persons each owns, controls or have the power to control less than 50% of the voting stock of a concern, with minority holdings that are equal or approximately equal in size, but the aggregate of these minority holdings is large as compared with any other stock holding, each such person is presumed to be an affiliate of the concern.

Affiliation may be based on common management or joint venture arrangements. Affiliation arises where one or more officers, directors, or general partners control the board of directors and/or the management of another concern. Parties to a joint venture also may be affiliates. A contractor and subcontractor are treated as joint ventures if the ostensible subcontractor will perform primary and vital requirements of a contract or if the prime contractor is unusually reliant upon the ostensible subcontractor. All requirements of the contract are considered in reviewing such relationship, including contract management, technical responsibilities, and the percentage of subcontracted work.

Small organizations: The RFA defines "small organizations" as any nonprofit enterprise that is independently owned and operated and is not dominant in its field.

Small governmental jurisdictions: The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of fewer than 50,000.

### **5.3 A description of the reasons why action by the agency is being considered**

The Council's adopted the following draft problem statement on June 11, 2006.

*Trawl catcher vessel eligibility is a conflicting problem among the Bering Sea, Gulf of Alaska and Aleutian Islands. In the Bering Sea and Gulf of Alaska, there are too many latent licenses and in the Aleutian Islands there are not enough licenses available for trawl catcher vessels.*

*In the Bering Sea and GOA, the trawl catcher vessel groundfish fisheries in the BSAI and trawl vessel groundfish fisheries in the GOA are fully utilized. In addition, the existence of latent licenses may exacerbate the disadvantages to GOA dependant CVs resulting from a lack of comprehensive rationalization in the GOA. Competition for these resources is likely to increase as a result of a number of factors, including Council actions to rationalize other fisheries, favorable current market prices and a potential for TAC changes in future years. Trawl vessel owners who have made significant investments, have long catch histories, and are dependent upon BSAI and GOA groundfish resources need protection from others who have little or no recent history and with the ability to increase their participation in the fisheries. This requires prompt action to promote stability in the trawl catcher vessel sector in the BSAI and trawl vessel sector in the GOA until comprehensive rationalization is completed.*

*In the Aleutian Islands, previous Congressional and Council actions reflect a policy encouraging economic development of Adak. The opportunity for non-AFA CVs to build catch history in the AI was limited until markets developed in Adak. The analysis indicates that there are only six non-AFA CV trawl AI endorsed LLPs. The Congressional action to allocate AI pollock to the Aleut Corporation for the purpose of economic development of Adak requires that 50% of the AI pollock eventually be harvested by <60' vessels. The Council action under Am. 80 to allocate a portion of AI POP and Atka mackerel to the*

*limited access fleet does not modify AFA CV sideboard restrictions, thus participation is effectively limited to non-AFA vessels with AI CV trawl LLP endorsements. A mechanism is needed to help facilitate the development of a resident fishing fleet that can fish in both state and federal waters. The Council will consider different criteria for the CV Eligibility in the AI.*

#### **5.4 The objectives of, and the legal basis for, the proposed rule**

Trawl groundfish fisheries in the BSAI and GOA are managed by NOAA Fisheries and the State of Alaska. There are two management plans that are affected by the proposed amendment: the Bering Sea and Aleutian Islands Groundfish Fishery Management Plan and the Gulf of Alaska Groundfish Fishery Management Plan. The proposed action is limited to activities within the FCZ waters administered under the two plans. The authority for the fishery management plans, and the actions in this amendment are contained in the Magnuson-Stevens Act, as amended by the Consolidated Appropriations Act of 2004.

#### **5.5 A description of, and where feasible, an estimate of the number of small entities to which the proposed rule will apply**

Information concerning ownership of vessels and processors, which would be used to estimate the number of small entities that are regulated by this action, is somewhat limited. Using available information and data, however, estimates of the number of small entities regulated by the action will be provided in the future.

#### **5.6 A description of the projected reporting, record keeping, and other compliance requirements of the proposed rule**

Under the proposed alternatives, record keeping and other compliance requirements of the proposed rule will not change from the current situation. Therefore, the action under consideration requires no additional reporting, record keeping, or other compliance requirements.

Implementation of Alternatives 2 or 3 will require NOAA Fisheries to implement a program to revise the system for keeping track of LLP area endorsements. Currently, the tracking system in place does not differentiate between gear and area endorsements, if an LLP has both a trawl and non-trawl gears validated. It will be necessary to change the tracking system to allow differentiation by area and gear to allow implementation of Alternatives 2 and 3. It will also be necessary for NOAA fisheries to administer a program to audit harvests by vessel license, in cases where transfers have occurred and there is some dispute as to which license should be assigned historical trawl groundfish harvests.

#### **5.7 An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule**

The analysis did not identify any Federal rules that would duplicate, overlap, or conflict with the proposed rule.

#### **5.8 A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes, and that would minimize any significant adverse economic impact of the proposed rule on small entities**

The Council has identified three alternatives for action under this proposed amendment. Alternative 1 is the status quo, which would result in no change to the existing area endorsements for trawl groundfish LLPs for the BSAI or GOA. Alternatives 2 and 3 would result in application of threshold landings criteria (one landing over the period of 2000-2005). If either alternative is selected, the licenses not meeting the threshold would be

extinguished, or in the case of licenses having more than one area endorsement, the license would be reissued with the exclusion of the area endorsement failing to meet the threshold harvest level.

The primary intent of the amendment is to prevent future economic dislocation among license holders who have a demonstrated history of recent participation in the trawl groundfish fisheries in the BSAI and GOA, as well as a demonstrated dependence upon those fisheries.

Component 1, Option 4 provides an exemption that the Council will consider to exempt licenses limited to be assigned to vessels under 60 feet in length overall. Most of the license owners benefited by this amendment, as well as those owning the licenses that would be extinguished under the program are small entities. However, it is reasonable that the proportion of licenses assigned to vessels less than 60 feet would be at the lower end of the range of small entities. It is unlikely that Alternatives 2 and 3 would result in extinguishing the licenses of vessels with a high degree of economic dependence upon the trawl groundfish fisheries, since to lose their exemption, they would have to have no participation in the fishery since 2000.

The Council will also consider Component 1, Option 3, which would include landings in 2006 in eligibility to meet the threshold landings criteria.

## **6.0 CONSISTENCY WITH APPLICABLE LAW AND POLICY**

This section of the analysis examines the consistency of the rockfish pilot program alternatives with respect to the National Standards and Fishery Impact Statement requirements in the Magnuson-Stevens Act and Executive Order 12866.

### **6.1 National Standards**

Below are the ten National Standards as contained in the Magnuson-Stevens Act, and a brief discussion of the consistency of the proposed alternatives with each of those National Standards, as applicable.

#### ***National Standard 1***

*Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.*

None of the alternatives considered in this action would have a detrimental effect on overfishing of groundfish in the BSAI or GOA and would have no effect, on a continuing basis, on achieving 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 most accurate, up to date and best scientific information available. It was necessary for the Council staff to develop a series of new data bases to complete the analyses contained herein.

#### ***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 U.S. 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 license holders the same. Alternatives 2 and 3 would affect only those license holders who have not demonstrated a minimal level of use (one landing or two landings) over six years. The proposed alternatives would be implemented without discrimination among participants and is intended to promote

#### **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 trawl groundfish resource in the BSAI and the GOA by preventing future increased crowding in the fishery through re-entry of license holders who have not participated in the fishery in recent years.

#### **National Standard 6**

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

None of the proposed alternatives are expected to affect changes in the availability and variability in the groundfish resources in the BSAI and GOA in future years. The harvest would be managed for and limited by the TACs for each species with or without 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 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.*

This action will not have adverse impacts on communities or affect community sustainability.

#### **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.*

Through preventing future crowding by latent license holders in the trawl groundfish fisheries in the BSAI and GOA, this proposed amendment could help to minimize bycatch by preventing further condensing of the respective fisheries.

#### **National Standard 10**

*Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.*

The alternatives proposed under this action should have no effect on safety at sea, except as noted above, that is could have the positive effect of preventing new effort, above levels of recent years, in the respective trawl groundfish fisheries.

## **6.2 Section 303(a)(9) - Fisheries Impact Statement**

Section 303(a)(9) of the Magnuson-Stevens Act requires that any management measure submitted by the Council take into account potential impacts on the participants in the fisheries, as well as participants in adjacent fisheries. The impacts on participants in the trawl groundfish trawl fisheries in the BSAI and GOA have been discussed in previous sections of this document. The proposed alternatives will have no effect on participants in other fisheries.

## **7.0 CONSULTATION AND PREPARERS**

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## **8.0 REFERENCES**

(references to be added)

NMFS. 2006. BSAI and GOA Harvest Specifications for 2006-2007. Environmental Assessment (EA) and Final Regulatory Flexibility Analysis (FRFA). NOAA NMFS Alaska Region Office, Juneau, Alaska. January 2006.

NOAA. 2004. Alaska Groundfish Fisheries Final Programmatic Supplemental Environmental Impact Statement, U.S. Dept. of Commerce, NOAA Fisheries, Alaska Region. June 2004.  
<http://www.fakr.noaa.gov/sustainablefisheries/seis/intro.htm>.

## APPENDIX 1. LIST OF GROUND FISH SPECIES INCLUDED IN THE PROPOSED ACTION

The species included in the amendment include all species of trawl groundfish harvested in the Aleutians Islands, Bering Sea, Western Gulf of Alaska and Central Gulf of Alaska, specifically:

arrowtooth flounder – *Atheresthes stomias*  
Atka mackerel – *Pleurogrammus monoptyerygius*  
sablefish – *Anoplopoma fimbria*  
deep water flatfish – includes dover sole (*Microstomus pacificus*),  
Greenland turbot (*Reinhardtius hippoglossoides*) and deep-sea  
sole (*Embassichthys bathybius*)  
demersal rockfish – an assemblage of rockfishes including canary  
rockfish (*Sebastes pinniger*), China rockfish (*Sebastes  
nebulosus*), copper rockfish (*Sebastes caurinus*), quillback  
rockfish (*Sebastes malingeri*), rosethorn rockfish (*Sebastes  
helvonomaculatus*), tiger rockfish (*Sebastes nigrocinctus*) and  
yelloweye rockfish (*Sebastes ruberrimus*).  
flathead sole – *Hippoglossoides elassodon*  
northern rockfish – *Sebastes polyspinus*  
other flatfish – miscellaneous flatfish not included in the deep water  
and shallow water assemblage  
other rockfish – miscellaneous rockfish species not identified  
individually or aggregated as an assemblage  
Pacific cod – *Gadus macrocephalus*  
Pacific Ocean perch – *Sebastes alutus*  
pelagic shelf rockfish – a mixed assemblage comprised of dusky  
rockfish (*Sebastes cilatus*), yellowtail rockfish (*Sebastes  
flavidus*) and widow rockfish (*Sebastes entomelas*)  
rex sole – *Errex zachirus*  
northern rock sole – *Lepidopsetta polyxystra n. sp.*  
shallow water flatfish – an assemblage that includes northern rock  
sole (*Lepidopsetta polyxystra*), southern rock sole (*Pleuronectes  
bilineata*), yellowfin sole (*Pleuronectes asper*), starry flounder  
(*Platichthys stellatus*), butter sole (*Pleuronectes isolepis*),  
English sole (*Pleuronectes vetulus*), Alaska plaice (*Pleuronectes  
quadrituberculatus*) and sand sole (*Psettichthys melanosticus*)  
shortraker rockfish – *Sebastes borealis*  
roughey rockfish – *Sebastes Aleutianus*  
other slope rockfish – miscellaneous species assemblage including  
sharpchin rockfish, redstripe rockfish, harlequin rockfish,  
silverygrey rockfish, redbanded rockfish, and a number of minor  
species not identified individually (not including shortraker and  
roughey rockfish)  
thornyhead rockfish – *Sebastes alaskanus*  
turbot walleye pollock - *Theragra chalcogramma*  
yellowfin sole – *Limanda aspera*

Invertebrates (squid, octopus) crab, prohibited species (salmon, herring, halibut and steelhead), other species (sculpins, skates and sharks) and forage fish are not included and should not be affected by this amendment.



## APPENDIX 2. MARKET INFORMATION ON ALASKA POLLOCK AND PACIFIC COD PRODUCTS

### Market information on Alaska pollock products

From “An Overview of Alaska Pollock Markets”, by Gunnar Knapp, January 24<sup>th</sup> 2006 in a presentation at the Marine Science Symposium.

- Alaska pollock accounts for more than one-third of the total U.S. fisheries landings, and about 7 percent of total U.S. fisheries ex-vessel value.
- Alaskan pollock harvests have been at high levels in recent years, increased significantly from the 1995-2000 period, although the TACs for 2007 and 2008 reflect a slight decrease from recent years.
- Harvests of Russian pollock are declining.
- Share of product by volume (2004) – surimi 39%, fillets 33 %, roe 5%.
- Proportion of harvest processed into fillets has been increasing since 2000.
- The highest proportion of fillet production has been skinless/boneless fillets.
- Most of the increase in fillet production has been exported (approximately 2/3 in 2004) – while the volume going into the domestic market has remained relatively constant.
- The volume of pollock surimi has been relatively constant in recent years. The increase in production due to harvests and yields has been offset by a shift from surimi to fillets.
- Most pollock surimi is exported to Japan and South Korea.

### Market information on Pacific cod products

From “Selected Market Information for Pacific Cod” by Gunnar Knapp, January 12<sup>th</sup>, 2006, an unpublished report prepared for the North Pacific Fishery Management Council.

- The proportion of frozen (headed & gutted) Pacific cod was steadily increasing from 1995 through 2004. The overall amount of Pacific cod exported has also increased.
- Data presented in this report show a convergence between headed & gutted production in the U.S. with total exports of frozen cod (currently over 90 percent). This suggests that most headed & gutted Pacific cod is being exported.
- Since 2001, there has been a declining trend in exports of Pacific cod fillets as a share of total U.S. production. The production of Pacific cod fillets have been declining in the U.S. since 1997 and the proportion of the fillet production exported has recently decreased.
- China has received an increasing share of U.S. exports of frozen cod since 1999, but Japan still accounts for the largest proportion of U.S. exports of cod.
- The cod imports to the U.S. from China have increased very dramatically since 1998.
- The amount of frozen cod fillets imported by the U.S. has increased steadily since 1998.

## Summary

We don't have market information for groundfish species other than pollock and Pacific cod readily available. However, pollock and Pacific cod account for a substantial proportion (74.9 percent in 2005<sup>10</sup>) of the total value of the groundfish harvest from the BSAI and GOA.

We also know from reviewing the above market information reports that:

1. Most surimi is exported.
2. An increasing amount of Alaska's production of frozen pollock fillets is exported.
3. Over 70 percent of Alaska's production of Pacific cod goes into a headed & gutted product (2004).
4. About 90 percent (2004) of U.S. export of Pacific cod is headed & gutted production.

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<sup>10</sup> See "Stock Assessment and Fishery Evaluation Report for the Groundfish Fisheries of the Gulf Of Alaska and Bering Sea/Aleutian Islands Area: Economic Status of the Groundfish Fisheries off Alaska, 2005" at <http://www.afsc.noaa.gov/refm/docs/2006/economic.pdf>.