

**Gulf Pacific cod LLP latency
North Pacific Fishery Management Council
February 2007**

At its February 2007 meeting, the Council reviewed a discussion paper exploring the goals, objectives, elements and options of a division of the Gulf of Alaska Pacific cod fishery among various sectors and the removal of latent licenses from fisheries in the Gulf. In response, the Council indicated its intent to consider addressing these issues through separate actions. In addition, the Council expressed its interest in taking further testimony on the issues at this meeting prior to developing a statement of purpose and need and alternatives for consideration.

This paper examines possible goals, objectives, elements, and options for removing latent License Limitation Program (LLP) licenses from Gulf of Alaska fisheries. The paper begins with a brief background description of the LLP. The background discussion is followed by a discussion of possible purposes and needs for this action. The paper goes on to describe elements and options that the Council could consider, if it elects to advance this action for analysis.

Background - The LLP

The LLP limits access to the groundfish and crab fisheries in the Bering Sea, Aleutian Islands, and Gulf of Alaska.¹ 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 have been satisfied for a management subarea for a vessel owner to have received a license. Vessels that met requirements for more than one subarea endorsement were 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 1 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 area and West Yakutat district as a single LLP endorsement area. So, catch in 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

Trawl LLP License Endorsements and Designations

Area endorsements – Each license carries one or more LLP area endorsements authorizing entry to fisheries in those LLP areas (BS, AI, CG, WG, or SEO).

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.

¹ 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).

endorsement areas.²

Table 1. General LLP license issuance criteria.

Management Area	GQP requirement (Jan. 1, 1988 – June 27, 1992)	Endorsement Area	Vessel length and operation	EQP requirement (Jan. 1, 1992 – June 17, 1995)
Bering Sea/ Aleutian Islands	One landing	Bering Sea	All vessels	One landing
		Aleutian Islands		One landing
Gulf of Alaska	One landing	Western Gulf	CVs ≥ 125' and CPs ≥ 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 ≥ 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.³

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

² 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.

³ This transition could occur one of two ways. First, a catcher processor licenses can be voluntarily (and irreversibly) converted to a catcher vessel license. In addition, a catcher processor may choose to deliver its catch to shore.

date with a reconstructed LOA over 125 feet will have an MLOA equal to the vessel's reconstructed length.

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.⁴

License operation type	Gear type used for harvests	Pacific cod harvest threshold	Pacific cod endorsement
catcher vessel	hook-and-line or jig	7.5 mt in one year from 1995 to 1999	hook-and-line catcher vessel
	pot or jig	100,000 pounds in each of any two years from 1995 to 1999	pot catcher vessel
catcher processor	hook-and-line	270 mt in any one year from 1996 to 1999	hook-and-line catcher processor
	pot	300,000 pounds in each of any two years from 1995 to 1998	pot catcher processor

In the fixed gear Pacific cod fishery in the Bering Sea and Aleutian Islands, an additional gear specific/operational endorsement applies to licenses. Various catch requirements were applied to vessels to qualify for the different endorsements. Notably, a jig catcher vessel could qualify for either a hook-and-line catcher vessel or pot catcher vessel endorsement, provided the vessel met the catch threshold for the endorsement. A few other specific aspects of the development of the endorsements are worth consideration. Since the LLP had not been implemented during the catch qualifying period the program used a vessel basis for determining qualification. Catch from a vessel that did not qualify for an LLP license could be attributed to a vessel that did qualify for an LLP license if the same person owned the history of both vessels (except that the catch of a single vessel could not be used to qualify multiple license for an endorsement). In addition, the program counted only retained catch that was landed, excluding catch used for personal bait. Any vessel under 60 feet is exempt from the endorsement requirements. The action also contained provisions allowing the owner of a sunken vessel to stack history of that vessel with the history of a replacement vessel to meet the catch threshold and a provision to address unavoidable circumstances. Although the action only limited entry to the Pacific cod fishery, the Bering Sea and Aleutian Islands catcher processor capacity reduction act (which was part of the Consolidated Appropriations Act of 2005) extended the scope of the endorsements for catcher processors to several other species, specifically Atka mackerel, flathead sole, Pacific ocean perch, rock sole, Greenland turbot, and yellowfin sole. These provisions have yet to be implemented.

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

⁴ 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.

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 allocations are unlikely to support directed fisheries for species other than Atka mackerel and yellowfin sole. 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 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 sideboards work to allow NMFS to determine what fisheries are open to directed fishing and do not limit incidental catch of species not open to directed fishing. 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 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 any action to remove latent licenses should include the removal of latent 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.

More pertinent to the fixed gear sector is the rationalization of the Bering Sea and Aleutian Islands crab fisheries. In development of that program, the Council elected to impose sideboards on only the Gulf of Alaska fisheries. Pot vessels generally participate in only crab and cod fisheries. As a result, the only perceived increase in opportunity arising from the crab rationalization program was thought to be in the Pacific cod fisheries in the Gulf that are prosecuted in January, when the Bering Sea *C. opilio* fishery is

typically prosecuted. Only recipients of initial allocations⁵ in the Bering Sea *C. opilio* fishery are subject to the sideboards. The sideboards limit vessels in the aggregate to their historic share of the retained catch from 1996 to 2000 of Gulf of Alaska Pacific cod and other Gulf of Alaska groundfish (excluding Pacific cod and fixed gear sablefish). Vessels that have limited history in the Gulf groundfish fisheries – less than 50 mt of catch from 1996 to 2000 – are prohibited from directed fishing for Pacific cod in the Gulf. Vessels that landed less than 100,000 pounds of Bering Sea *C. opilio* and more than 500 mt of Pacific cod in the Gulf from 1996 to 2000 are exempt from the sideboards.

Table 5, Table 6, and Table 7, show counts of non-trawl catcher vessel licenses by endorsement area, MLOA 60 feet and under, and trawl designation for catcher vessels, catcher processors, and all operation types. The tables show that the Central Gulf has the most LLP endorsed non-trawl licenses (most of which are limited for use on vessels 60 feet or less in length). Less than one-fourth of the over 900 Central Gulf licenses carry endorsements for the Bering Sea or the Western Gulf. The Western Gulf has in excess of 250 endorsed non-trawl licenses. More than half of these licenses are also endorsed for use in either the Bering Sea or Central Gulf. As might be expected, a large percent of the Gulf eligible catcher processor licenses carry endorsements for the Bering Sea and Aleutian Islands. And, relatively few of the catcher processor licenses in are for vessels under 60 feet.

Table 2. Non-trawl catcher vessel LLP licenses by endorsement area, MLOA 60 feet or under, and trawl designation.

Catcher vessel non-trawl licenses License endorsement area	Licenses that also have an endorsement (or designation) for						
	Aleutian Islands	Bering Sea	Central Gulf	Western Gulf	Southeast Outside	MLOA of 60 feet or under	trawl
Aleutian Islands	81	70	63	64	15	26	16
Bering Sea		296	162	159	32	112	62
Central Gulf			888	178	180	707	115
Western Gulf				268	43	158	79
Southeast Outside					712	682	9

Source: NFMS LLP license database (January 11, 2007)

Table 3. Non-trawl catcher processor LLP licenses by endorsement area, MLOA 60 feet or under, and trawl designation.

Catcher processor non-trawl licenses License endorsement area	Licenses that also have an endorsement (or designation) for						
	Aleutian Islands	Bering Sea	Central Gulf	Western Gulf	Southeast Outside	MLOA of 60 feet or under	trawl
Aleutian Islands	78	76	43	32	2	0	14
Bering Sea		84	47	33	3	1	15
Central Gulf			51	28	5	5	8
Western Gulf				33	3	1	4
Southeast Outside					7	5	0

Source: NFMS LLP license database (January 11, 2007)

⁵ Since allocations in the program are based on catch history associated with a license, the sideboard is constructed to limit catch using the license. This is done by sideboarding any vessel the catch of which led to a share allocation and any vessel named on the license that arose from the catch history of the vessel that led to that allocation.

Table 4. Non-trawl LLP licenses by endorsement area, MLOA 60 feet or under, and trawl designation.

All non-trawl licenses License endorsement area	Licenses that also have an endorsement (or designation) for						
	Aleutian Islands	Bering Sea	Central Gulf	Western Gulf	Southeast Outside	MLOA of 60 feet or under	trawl
Aleutian Islands	159	146	106	96	17	26	30
Bering Sea		380	209	192	35	113	77
Central Gulf			939	206	185	712	123
Western Gulf				301	46	159	83
Southeast Outside					719	687	9

Source: NFMS LLP license database (January 11, 2007)

Purpose and Need

As with most actions, the first step in defining appropriate alternatives is the development of a clear purpose and need statement. In this case, the purpose of the action is generally to remove the potential for latent capacity to enter the fisheries. The purpose and need statement should go beyond a simple statement of the need to remove capacity to better define the scale of the problem of latent capacity and the specific needs that would be addressed by the action. For example, the purpose could be simply to remove licenses that have shown no or very minimal activity to ensure that entry does not occur in a fully utilized fishery. Alternatively, the action could impose more rigid standards to ensure that those that have regular dependence on the fisheries are not impinged on by license holders that sporadically participate in the fisheries. The purpose and need statement should provide some guidance for the defining the level of specificity in the action. For example, a general concern that latent licenses could reenter the Gulf groundfish fisheries would suggest that the action could remove latent licenses using broad and general criteria (i.e., licenses with less than a certain number of landings would be voided). Alternatively, if the action is intended to protect newly defined sector allocations of Pacific cod, the purpose and need statement would focus efforts toward the development of a different, more specifically defined set of alternatives. These could include options that make gear designations more specific (e.g., pot or hook and line, rather than fixed) or area specific gear designations (such as “Western Gulf fixed gear”. Some provisions that could be included in purpose and need statement are:

- Gulf fisheries are fully utilized
- Current participants have long term investments and dependence on the fisheries
- Potential reentry of vessels to Gulf fisheries using latent licenses could disrupt stability, harm investments, and interfere with expectations

If the Council believes that the generality of license endorsements and designations increases potential for disruption, it could add provisions similar to the following:

- The development of gear specific sector allocations, together with the current general “fixed gear” license designation, creates the potential for participants to encroach on the allocations of another sector
- The absence of area specific gear designations allow participants with minimal participation in an area to encroach on sector allocations based primarily on the catch history of others

At its February 2007 meeting, the Council requested staff to supplement this paper by including Council problem statements for similar actions. In Amendment 67 to the Bering Sea and Aleutian Islands

groundfish Fishery Management Plan, the Council relied on the following problem statement for removing latent capacity and redefining license limitation program gear endorsements:

***Amendment 67:** The hook-and-line and pot fisheries for Pacific cod in the Bering Sea/Aleutian Islands are fully utilized. Competition for this resource has increased for a variety of reasons, including increased market value of cod products and a declining ABC/TAC.*

Longline and pot fishermen who have made significant long-term investments, have long catch histories, and are significantly dependent on the BSAI cod fisheries need protection from others who have little or limited history and wish to increase their participation in the fishery.

This requires prompt action to promote stability in the BSAI fixed gear cod fishery until comprehensive rationalization is completed.

The Council relied on the same problem statement for Amendment 64, which revised sector allocations in the Bering Sea and Aleutian Islands Pacific cod fisheries.⁶

Draft Statement of Purpose and Need

As requested by the Council, staff has prepared the following draft purpose and need statement for this action. The statement attempts to incorporate elements presented in public testimony and discussed by the Council and Advisory Panel at the February 2007 meeting.

Western Gulf and Central Gulf groundfish fisheries are subject to intense competition, particularly in the A season, when fish are aggregated and of highest value. Competition among fixed gear participants in the Western Gulf and Central Gulf fisheries has increased for a variety of reasons, including increased market value of Pacific cod products and a declining ABC/TAC. The possible future entry of latent effort would have detrimental effects on LLP holders that have exhibited participation in, and dependence on, the fixed gear groundfish fisheries. Many fixed gear vessel owners have made significant investments, have long catch histories, and are dependant on WGOA and CGOA groundfish resources. These long-term participants need protection from those who have little or no recent history and who have the ability to increase their participation in the fisheries. The intent of the proposed amendment is to prevent latent fixed gear groundfish fishing capacity that has not been utilized in recent years, from future entry or re-entry into the fisheries. This requires prompt action to promote stability in the fixed gear sectors of the GOA groundfish fisheries, and is expected to be implemented concurrently with the division of GOA Pacific cod among sectors which is currently under consideration.

Elements and Options

The elements and options under consideration for the removal of latent licenses should be developed to address the Council's purpose and need statement. So, depending on concerns raised by the purpose and need statement, the Council could choose to adopt elements and options that simply remove licenses that have no (or very limited) use in recent years or redefine the system of endorsements by developing more specific gear designations and attach gear and operational designations to area endorsements. This section

⁶ The Advisory Panel motion from the February 2007 meeting, defining a statement of purpose and need for this action is included as Appendix A to this paper.

outlines possible elements and options that the Council could adopt for analysis. To simplify the process of defining elements for consideration, this paper reviews different aspects of possible elements and options independently. In developing its suite of alternatives, the Council should consider interactive effects of the different elements and options and how those interactions might address issues identified in the purpose and need statement.

Sectors

One of the first considerations in developing a scope for this action is for the Council to define the sectors that will be affected by this action. As a starting point, the Council should assess whether the action will affect only fixed gear licenses or whether trawl licenses will be included in the action.⁷ Inclusion of trawl licenses in this action could be deemed appropriate, if the parallel action that would establish Pacific cod sector allocations is believed to exacerbate effects of latent licenses on that (or those) sector(s).

The Council should also assess whether the action will restructure the LLP, by redefining parts of the system of gear and operation designations and area endorsements. Such an action could parallel Amendment 67 in the Bering Sea and Aleutian Islands fixed gear Pacific cod fishery, which defined gear and operation specific endorsements (i.e., pot cv, pot cp, longline cv, and longline cp) for Pacific cod in the Bering Sea and Aleutian Islands. That action, however, left the non-trawl designations unaffected for both vessels that met and vessels that did not meet the threshold catch requirements for specific Pacific cod endorsements. If the Council wished to approach the issue in a simpler manner, it could choose to add more specific endorsements for fixed gear participation (i.e., distinguishing pot, hook-and-line, and jig). Additionally, the Council could use this action to link area endorsements and gear designations. This could be accomplished at the Gulf level. For example, a general requirement that a license meet a fixed gear catch or landing requirement in the Gulf could be applied for maintaining and endorsement for future fixed gear use in the Gulf. The requirement could instead be more specifically applied at the endorsement area level providing separate gear designation/area endorsements for each Gulf endorsement area (i.e., Central Gulf and Western Gulf).⁸ Under this approach, a license would have to meet specific catch or landings thresholds with fixed gear in an endorsement area to maintain its authorization to fish with that gear in the area.

The Council should also assess how this action will affect operation designations and the interaction with gear designations and area endorsements. The Council could choose to integrate gear and operation designations, establishing specific gear and operation type thresholds for maintaining license designations. For example, the Council could require a license to meet a specific threshold for catch with pot gear that was also processed on board for that license to maintain a catcher processor pot endorsement. If desired, this type of requirement could be applied on a management subarea basis, effectively creating gear/operation type/subarea endorsements. If the Council elects to distinguish operation types (using catcher vessel and catcher processor endorsements), it should clearly state whether participants in one sector will be permitted to operate in the other sector. Under the current LLP, licenses with catcher processor designations authorize a vessel to operate as either a catcher vessel or a catcher processor. If this action is developed simultaneously with history-based sector allocations of Pacific cod, historic dependence could be acknowledged by crediting catch history of a vessel to its sector (or the sector from which the catch came). So, if small catcher processors are allowed to continue to fish the inshore TAC, their dependence on that fishery would be reflected by counting their inshore catch toward

⁷ If trawl vessels are included, the Council should provide clear guidance concerning the interaction of this action with the ongoing action to remove latent trawl licenses from the fisheries it manages.

⁸ If the Council wishes to extend this action to Southeast Outside endorsements, the Council should specify that intent. Since this action evolved from the Gulf rationalization action (which excluded Southeast Outside fisheries), this paper has focused on the endorsement areas of the Central Gulf (which includes West Yakutat) and Western Gulf.

the inshore sector allocation. If small catcher processors are excluded from the inshore sector, acknowledgement of their historic dependence would require crediting that history to a catcher processor (or offshore component). Allocations cannot be fully coordinated with eligibility (if catcher processors are permitted to fish on the inshore allocation), since some catcher processors have moved between the inshore component and offshore component.

Depending on the specific problem identified in the Council purpose and need statement, the Council could also add species to the endorsement/designation requirements (similar to the Bering Sea Aleutian Islands fixed gear Pacific cod licensing). The application of a species-based endorsement could be justified, if the Council perceives a need to restrict access to only that species fishery. This approach would allow license holders to pursue opportunities for other species that are subject to less fishing effort. The application of species level endorsements could complicate management in a few ways. Since the species endorsement would limit targeting, it is possible that some participants may perceive an opportunity to use retained incidental catch to supplement their catch revenue in less lucrative target fisheries. Policing and constraining incidental catch of vessels not carrying the endorsement could be complicated, since discards above the MRA are allowed in the current limited entry fishery. This problem is likely to be more pronounced than any similar problem in the Bering Sea and Aleutian Islands fisheries, since fewer local vessels participate in those fisheries and fewer vessels participate in the parallel fisheries in those areas. The development of species endorsements also complicates license administration, particularly if those endorsements are advanced for many different species.

In summary, a starting point for developing options to remove latent licenses from Gulf fisheries is to define sectors that would be affected by the action. These sectors could be those currently identified in the LLP or could expand on the current LLP sector definitions to incorporate more specificity.

Sector definitions

Area

Western Gulf

Central Gulf (current endorsement includes West Yakutat)

Southeast Outside (closed to trawl gear)

Gear

Trawl

Fixed

Hook-and-line

Pot

Jig

Operation type

Catcher vessel

Catcher processor

Vessel length

Relevant provisions in the Gulf rationalization package

Sectors are defined as:

Trawl catcher processor

Trawl catcher vessel

Longline catcher processor

Longline catcher vessel

Pot catcher processor

Pot catcher vessel

Jig

Options could define:

Low producing longline catcher vessels – vessels with catch below the mean or 75th percentile

Low producing pot catcher vessels – vessels with catch below the mean or 75th percentile

Suboption: only vessels below the catch threshold and less than 60 feet in length would be defined as low producers

Area designations include:

Central Gulf (currently endorsement includes West Yakutat)

Western Gulf

The Council should specify the extent to which it intends to integrate area, gear, and operation type designations and endorsements. The decision to integrate these different license characteristics should be derived from the purpose and need statement and the extent to which the division of sectors defined by license designations and endorsements are necessary to effectively meet the needs identified. For example, if the intent of this action is to protect vessels using a particular gear and operation type from an influx of vessels that have historically used another gear or operation type, it may be necessary to extend limitations with specific endorsements and designations that prohibit cross over among sectors. On the other hand, if the action is only intended to insulate trawl and fixed gear vessels from the actions of each other, it may be adequate to simply define trawl and fixed gear sectors.

Qualifying period

In developing actions to remove latent capacity, the Council has typically specified a period of years during which participants would need to meet specific participation thresholds to retain eligibility. A number of factors have typically influenced the development of qualifying year options. Actions to remove latent capacity are often based on dependence on the fisheries. Dependence is often best reflected by regular participation across a period of years. Years are defined to include both historic and recent participation. Historic participation is viewed as a reflection of dependence, while recent participation is a reflection of current activity.

Administration of the program could be complicated by including the years 2000 and 2001 in the qualification period. During that time period, the vessel using an LLP license was not required to be formally designated. Since no official record of license use exists for that period, application of landing or catch requirements during that period would rely on less uniform documentation (e.g., individual affidavits). So, exclusion of 2000 and 2001 from the qualification period would simplify and increase reliability of administration.

Provisions for defining qualifying period

Identify years

Relevant provisions in the Gulf rationalization package

Qualifying periods (same for all gears in all areas) for allocations of shares or history

95-01

95-02

95-02

98-02

98-03

Catch or participation thresholds

To remove latent capacity from the fisheries, the Council will need to specify appropriate catch or participation thresholds, which must be met to maintain eligibility to participate. The original LLP thresholds were specified as landing requirements (with requirements of one landing in each of one or two calendar years). The thresholds for fixed gear Pacific cod endorsements in the Bering Sea and Aleutian Islands were catch thresholds, which required a vessel to meet a specific retained catch threshold in each of one or two calendar years. Annual catch thresholds in that action ranged from 7.5 metric tons to 270 metric tons. The trawl latency action currently under consideration by the Council contains threshold options of one or two landings. In general, higher thresholds are applied to catcher processors than to catcher vessels. If quantities of catch requirements are applied and the action includes trawl licenses, higher catch quantities might be appropriate for trawl qualification than for fixed gear. Depending on the scope of this action, and whether endorsements or designations are developed for different fixed gear types and operations, the Council could specify appropriate levels for the different gear qualifications.⁹ Usually, the Council requires participation in a subset of the qualification period to allow for unforeseen circumstances or some movement among fisheries. Alternatively, the Council could require participation during the qualifying period to meet some aggregate threshold (for all activity during the entire period).

Depending on the thresholds established by the Council and the availability of entry opportunities under the revised LLP eligibility, the Council could adopt some exemptions from this action. The exemptions could be equivalent to the current Gulf LLP exemption (which allows vessels under 26 feet to participate in the Gulf limited access fisheries without a license) or could expand on those exemptions by allowing vessels that meet certain criteria (such as length limitations) to participate without a license. The extent of any exemption should depend on the structure of the program and the extent of opportunities within the program. An alternative to simple exemptions for small vessels could be lower catch thresholds for licenses with small MLOAs. Such a structure could be appropriate, if opportunities in the parallel fisheries and State water fisheries are perceived to be adequate for an entrant that wishes to develop operations. These participants could either decide that opportunities in the parallel and State water fisheries are sufficient or move to larger scale fisheries in federal waters by purchasing a license. If participants in fisheries in State waters are to move on to federal fisheries, the availability of licenses allowing for that transition is critical. In developing this action, the Council will need to balance the interests of those wishing to limit entry to fisheries, who desire stability and protection of their investments, against potential future entrants, who wish to ensure adequate opportunity.

In considering the application of catch thresholds, the Council should specify whether those thresholds should be based on total catch (including discards) or only retained catch. Retained catch is likely a better indicator of dependence, as discards provide no direct return. Analytically, retained catch thresholds can be more precisely applied, as discards of catcher vessels are typically estimated based on extrapolations of at sea discards from observer data. In addition, the Council could consider whether catch used in meal production should count toward satisfying a threshold. The Council has excluded meal from some allocation programs based on the rationale that meal is a relatively low value product and its inclusion could disadvantage some small catcher processors that do not have meal production capacity.

The Council should also consider the catch that can be applied to meet qualifications. Clearly, catch in the federal fishery should apply toward meeting the threshold. The Council could also allow parallel fishery catch and State water fishery catch to apply toward the threshold. Since the parallel fishery is prosecuted simultaneously with the federal fishery, some vessels likely participate in both fisheries during the course of a season (and even during a fishing trip). This interaction could be argued to justify consideration of parallel fishery catch for qualification. The State water fishery is prosecuted independently from the

⁹ In the Pacific cod endorsement program in Bering Sea and Aleutian Islands jig vessel catch could be applied to meeting pot gear endorsements. If the Council wishes to allow catch with one gear type to qualify a license for use of another gear type, it should clearly outline those requirements.

federal fisheries based on its own guideline harvest level. As a result, inclusion of this catch in defining participation thresholds seems less appropriate. A possible rationale for inclusion of State water catch is that the vessels participating in those fisheries also participate in the federal fisheries.

In some past actions that require participants to meet catch thresholds to remain eligible for a fishery, the Council has asked staff to develop illustrative tables showing the distribution of catch from which thresholds can be identified. If the Council wishes, staff could produce tables from which options could be developed. A set of tables could be developed that could be used to identify options for both catch thresholds and landings thresholds.

Provisions for defining catch thresholds

Identify threshold as:

Quantity of catch (retained or total catch)

Number of landings

Define whether the threshold must be met:

In one or more of the defined qualifying years

In the aggregate during all of the qualifying years

Define qualifying catch

Federal fisheries

Parallel fisheries

State water fisheries

Define whether any gear or vessel length exemptions to meeting criteria will be created

Relevant provisions in the Gulf rationalization package

Landings based on retained catch for each species (includes weekly production report for catcher processor sector). Total pounds landed will be used as the denominator. Exclude retained catch that is used for meal production.

Qualified catch is from:

Option 1: 3-200 miles

Option 2: 3-200 miles, plus 0-3 miles parallel history

Suboption: catch history determined based on a percentage of retained catch per year

Qualifying period options in the Gulf rationalization program include provisions to drop one or two years. These provisions reflect the need to consider that unexpected circumstances can affect regular participants. In this action, the provisions could be tailored to require catch thresholds to be met on some subset of the qualifying years.

Conclusion

To proceed with this action, the Council should first establish its purpose and need statement. The Council could either develop a single purpose and need statement (encompassing both sector allocations of Pacific cod and removal of latent effort) or two purpose and need statements, one for each action. The interrelatedness of the actions could support development of a single amendment covering both issues. The purpose and need statement should be focused to identify specific problems that motivate the action, which, in turn, will serve to guide the development of specific elements for consideration. In addition, the Council could preliminarily define sectors and request further information from staff that could be used to finalize alternatives at a future meeting. This approach would likely provide the Council with the opportunity to develop its purpose, then fashion alternatives in an appropriate and predictable manner to address that purpose.

Appendix A

ADVISORY PANEL MINUTES North Pacific Fishery Management Council February 5-10, 2007, Portland, OR

C-7 GOA LLP recency only

PURPOSE AND NEED GOA LLP license limitation program

The proposed amendment would apply threshold landings criteria to fixed gear fisheries in the WGOA and CGOA. The intent of the proposed amendment is to prevent latent fixed gear groundfish fishing capacity that has not been utilized in recent years, from future entry or re-entry into fisheries that are fully utilized.

The rationale for this action is concern over the impacts that possible future entry of latent effort would have on LLP holders that have exhibited participation in, and dependence on, the fixed gear groundfish fisheries. Fixed gear vessel owners who have made significant investments, have long catch histories, and are dependant on WGOA and CGOA groundfish resources need protection from those who have little or no recent history and who have the ability to increase their participation in the fisheries.

This requires prompt action to promote stability in the fixed gear sectors of the GOA groundfish fisheries until comprehensive rationalization can be completed.

It is extremely important that this proposed action is implemented concurrently with the GOA Pcod sector splits which are currently under consideration. *Motion passed 18/0.*