

FINAL REGULATORY IMPACT REVIEW / INITIAL REGULATORY FLEXIBILITY ANALYSIS

For Amendment 45 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crabs

Revising Freezer Longline GOA Pacific Cod Sideboards

April 2015

Abstract: This action would remove Gulf of Alaska (GOA) Pacific cod sideboard limits applicable to some freezer longliners if certain conditions are met during a limited period of time. The sideboard limits were originally created by the Crab Rationalization Program and were shared by participants using all gear types in the inshore or offshore groundfish sectors. In 2012, these sideboard limits were disaggregated to create limits based on gear type and operation type, as part of the GOA Pacific cod sector splits (Amendment 83 to the FMP for Gulf of Alaska Groundfish). Given the limited catch history of the sideboarded freezer longline vessels (i.e., using hook-and-line) during the 1996 through 2000 period, the modified sideboard limits eliminated participation in the GOA Pacific cod fisheries by these vessels. This action is intended to promote cooperation among all freezer longline vessels prior to the removal of sideboards.

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EXECUTIVE SUMMARY

The purpose of this action is to remove Gulf of Alaska (GOA) Pacific cod sideboard limits for the eight hook-and-line catcher/processor, i.e. freezer longline (FLL) vessels, restricted by these sideboard limits. These sideboard limits were established by the Crab Rationalization Program (CRP) in 2005. In 2012, as part of the GOA Pacific cod sector split (Amendment 83), the Pacific cod sideboard limits were disaggregated to create gear type and operation type limits. Since the eight restricted FLL vessels had limited GOA Pacific cod history prior to crab rationalization, the resulting hook-and-line catcher/processor and pot catcher/processor sideboard limits were very small. In 2012 and 2013, National Marine Fisheries Service (NMFS) determined that the sideboard amounts were insufficient to support a directed fishery, so the fishery was not opened for the entire year, eliminating these eight sideboarded FLL vessels from the GOA Pacific cod fishery. To allow these eight FLL vessels to once again participate in the GOA Pacific cod fishery, in June 2012, the North Pacific Fishery Management Council (Council) proposed to remove the sideboard limits for these FLL vessels.

Problem Statement

In June 2012, the Council developed the following problem statement for the proposed action:

The narrowing of the sideboard limit under Amendment 83 from a non-gear sideboard to a sector specific sideboard, significantly reduced non-American Fisheries Act (AFA) Gulf of Alaska Pacific cod sideboards for sideboarded freezer longline vessels active in the Gulf of Alaska Pacific cod fishery prior to the Pacific cod sector split. A recalculation of the Pacific cod sideboards resulted in the loss of fishing opportunities, future revenues, and an ability to participate in the Gulf of Alaska cooperative fishing efforts.

Under Amendment 83, the freezer longline sector has a direct allocation of Pacific cod, and due to the harvesting capacity available to participants in the Gulf of Alaska, the freezer longline sector must establish cooperative harvest control measures in order for NMFS to make the sector TAC available for directed fishing. Therefore, the need for catcher processor hook-and-line GOA Pacific cod sideboards to limit the catch of these vessels may no longer exist.

Removal of the non-AFA GOA Pacific cod sideboards for freezer longliners would restore to the sideboarded vessels the ability to participate in the GOA Pacific cod fishery. Removing sideboard limits for the freezer longline vessels, however, may adversely impact GOA only freezer longline vessels, and to the extent practicable, there is a need to minimize the impact.

Description of Alternatives

Provided below are the alternatives and options along with a description of the proposed action.

Alternative 1: No action

Alternative 2: Remove freezer longline non-AFA GOA Pacific cod sideboards

Option: (Preferred Alternative) Permanently remove GOA Pacific cod hook-and-line sideboard limits for affected FLL vessels/Federal Fisheries Permits and LLP licenses when all GOA Pacific cod FLL endorsed LLP holders notify NMFS of an agreement to remove the sideboards. The LLP holders would have 1 year from the publishing date of the final rule to provide notification to NMFS. The

CGOA and WGOA may be taken up separately so that cooperative formation and sideboard removal can occur independently in each area.

Suboption: Sideboard limits would be suspended, rather than permanently removed. If in the future, not all FLL GOA endorsed LLP license holders agree to the removal of the GOA Pacific cod FLL sideboard limits, these sideboard limits would be reinstated.

The no action alternative would leave in place the current FLL Pacific cod sideboards in the Western GOA and Central GOA. The 8 sideboarded FFL vessels would continue to be subject to the sideboards and, given the small size of the sideboard, would likely continue to be prohibited from conducting directed fishing for Pacific cod in the Central and Western GOA. Alternative 2, as separate from the option or suboption, would remove the non-AFA hook-and-line C/P sideboard limits for Pacific cod in the Central and Western GOA. The removal of the GOA Pacific cod sideboards for the 8 FFL vessels would be a matter of regulatory notice and comment rulemaking and no agreement among GOA FFL participants would be required prior to the removal of the sideboard limits. The option under Alternative 2 would permanently remove GOA Pacific cod sideboard limits but only if all GOA FFL vessels agree to the removal of the limits.

The suboption under Alternative 2 would annually suspend the sideboard limits if all FFL participants agree to their suspension and notify NMFS of their agreement on an annual basis suspend, rather than permanently remove, the sideboard limits if all GOA FFL vessels agree to the removal of the limits. NMFS's inseason management authority (i.e., to open and close fisheries including sideboard fisheries) is established in regulation. These regulations are structured to ensure that TAC and sideboard allocations established under the harvest specification process are not exceeded. NMFS notified the Council that inseason adjustments to the final harvest specifications are highly unlikely to be implemented in timely manner, because such revisions require notice and comment rulemaking. Thus, any action to suspend or reinstate sideboards could not be implemented inseason and would need to be implemented annually through the harvest specifications process. The Council and NMFS determined that in order to implement the suboption, NMFS would need to annually receive notice from participants that an agreement among all participants to suspend the sideboards has been reached.

Potential Effects of the Alternatives

Alternative 1: No Action

Under this alternative, eight freezer longline vessels will continue to be restricted by CRP GOA Pacific cod sideboards. If the current GOA Pacific cod sideboard limit for hook-and-line C/Ps is maintained, eight freezer longline vessels restricted by this GOA Pacific cod sideboard limit will no longer be allowed to participate in the GOA Pacific cod fishery using hook-and-line gear. If recent GOA Pacific cod fishing is an indication of future lost revenue, the GOA Pacific cod sideboard restrictions could result in an approximate three percent loss of annual revenue for these vessels.¹ The additional fishing opportunities for GOA Pacific cod will likely have little impact on other cooperative vessels not restricted by sideboard limits. The no action alternative could have significant impacts on annual revenue for non-cooperative freezer longline vessels, if they increase their fishing effort.

¹ Pacific cod is an economically valuable species. Therefore, the estimated three percent reduction in annual gross receipts accruing to the operator's, cited here, will not be lost, but rather redistributed among the remaining GOA Pacific cod fishing operations. The estimates are based on releasable data.

Alternative 2: Remove GOA Sideboards (Preferred Alternative)

Alternative 2 contains three operationally distinct approaches to the removal of GOA Pacific cod sideboard limits. Alternative 2 as separate from the option and suboption would permanently remove the sideboard limits with no requirement for agreement of their removal among FFL participants. The option under Alternative 2 would permanently remove the sideboard limits but only if all FFL participants agree to their removal and notify NMFS of their agreement within the year following publication of the final rule implementing Amendment 45. The suboption under Alternative 2 would annually suspend the sideboard limits if all FFL participants agree to their suspension and notify NMFS of their agreement on an annual basis. Under either the option or the suboption, sideboards would remain in effect if all of the participants were unable to agree to their removal or suspension. As explained in section 1.3 of the analysis, while all of the action alternatives are operationally distinct from each other, the impacts to affected entities under each of the action alternatives are the same depending on whether the sideboards are in effect or are removed. Therefore, the following paragraphs examine the expected impacts that would occur to the three groups of affected entities (sideboarded cooperative FFL vessels; non-sideboarded cooperative FFL vessels; and non-sideboarded non-cooperative FFL vessels) under all of the action alternatives if sideboard limits remain in effect or if sideboard limits are removed.

Impacts to Sideboarded Vessels

Removing the GOA Pacific cod sideboard limits for the owners and operators of the eight FFL vessels that are limited by the sideboard would allow these vessels to expand their fishing effort in the GOA Pacific cod fishery. A potential cooperative agreement may constrain the harvests of sideboarded vessels to some extent, but presumably not to the extent of the current sideboards or there would be no incentive to enter into the required agreement to lift the sideboards. More likely, any cooperative imposed limit would constrain their harvest to levels observed during the 2001 through 2011 period. The cooperative could also permit the sideboarded vessels to increase their fishing effort in the GOA Pacific cod fishery beyond their 2001 through 2011 period. Although some of the eight sideboarded vessels have participated in the GOA Pacific cod fishery each year, participation varies among participants. Each of the eight FFL vessels that also participated in the Bering Sea and Aleutian Islands (BSAI) Pacific cod fishery received, on average, three percent of their total Pacific cod catch coming from the GOA fisheries. In other words, despite having the ability to lease some or all of their BSAI Pacific cod, in order to expand their effort in the GOA Pacific cod fishery, these FFL vessels have continued to focus the majority of their effort in the BSAI Pacific cod fishery.

In the future, if the cooperative no longer coordinates their activities in the GOA Pacific cod fishery, the incentive to “race for fish” increases as more freezer longline vessels chase a fixed allocation of GOA Pacific cod. In an environment with no cooperative coordination, the absence of sideboards would allow these once restricted vessels to expand their effort in the GOA Pacific cod fishery, and thereby potentially impact other freezer longline vessels participating in the GOA fishery. In addition, a “race for fish” would shorten the seasons relative to the no action alternative.

In 2014, the Secretary implemented Amendment 99 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area. Amendment 99 increases the maximum length overall (MLOA) on LLP licenses endorsed to catch and process Pacific cod with hook-and-line gear in the BSAI, including all members of the Freezer Longline Conservation Cooperative (FLCC). The Council recommended that NMFS increase the MLOA specified on eligible LLP licenses, to accommodate replacement vessels up to 220 feet (67 meters) length overall (LOA). Amendment 99 also allows vessels in this sector to exceed length, tonnage, and power limits established under the AFA. There are currently 36 LLP licenses eligible to catch and process Pacific cod with hook-and-line gear in the BSAI, but only 33 unique vessels that actively participated. Seventy-five percent of the eligible licenses also had endorsements to use hook-and-line gear to target Pacific cod in the GOA. Although Amendment 99 was

intended to relieve many of the capacity limits established by the AFA and the LLP, Amendment 99 was not intended to increase the fishing effort of C/Ps using hook-and-line in the BSAI or GOA. When it adopted Amendment 99, the Council anticipated that management constraints, such as sector allocations in the BSAI and GOA and sideboards, would limit the overall capitalization of this subsector and the potential for the subsector to disadvantage other sectors. As a potential result of the combination of sideboard removal and the ability to increase the length of replacement vessel, Alternative 2 as separate from the option and suboption could negatively impact small GOA-only FLL vessels active in the Pacific cod fishery.

Impacts to non-sideboarded cooperative member vessels

Under Alternative 2, it is likely that some of the FLL vessels currently sideboarded in the GOA Pacific cod fishery would enter this fishery, which could increase competition for a fully utilized sector allocation and negatively impact non-sideboarded FLCC member vessels. Currently, the FLCC coordinates the fishing activity of its member vessels in the GOA Pacific cod fishery, including the seven active sideboarded freezer longline vessels. Coordination of its cooperative member vessel activities in the GOA Pacific cod fishery protects FLCC member vessels that are not sideboarded subject to the terms of the agreement. The agreement also reduces the incentive for a “race for fish” within the FLL sector if the sideboards were removed, but only to the extent that the agreement constrains the currently sideboarded vessels. If the currently sideboarded vessels are not constrained, non-sideboarded cooperative member vessels could suffer either a loss of harvests or be compelled to compete in a race for fish to maintain their current share of the harvests in the GOA Pacific cod fishery.

Impacts to non-sideboarded non-member vessels

It is likely that non-member vessel owners would only agree to the permanent removal of the sideboards upon successfully negotiating the terms of an agreement that met the needs of the non-member vessel owners and the owners of FLCC member vessel. During negotiations, the owners of non-member vessels would likely recognize that cooperative coordination can maintain opportunities for the operators of non-member vessels. The owners of FLL vessels operating outside of the cooperative would also recognize that coordination of fishing with FLCC members could be used to reduce opportunities for vessels that are not in the cooperative. These efforts to preclude opportunities for non-member vessels may arise whether sideboards are removed or not. With sideboards removed, formerly sideboarded vessels could expand their effort in the GOA Pacific cod fishery, directly affecting fishing opportunities for non-member vessels. With the sideboards in place, the cooperative could coordinate fishing to increase their catches in the GOA Pacific cod fisheries.

1.0 REGULATORY IMPACT REVIEW

1.1 Introduction

The purpose of the proposed action is to remove Gulf of Alaska (GOA) sideboard limits for Pacific cod for the freezer longline (FLL) vessels² restricted by these limitations without adversely impacting the participants who are protected by the sideboards. These sideboard limits were established by the CRP in 2005. With the proper area, operation, and gear endorsements on the License Limitation Program (LLP) license named on the vessel, removal of the sideboard limits for those FLL vessels that are sideboarded would allow these vessels to participate in the GOA Pacific cod fishery for the hook-and line C/P sector and the pot C/P sector.

This proposed action has no significant effect individually or cumulatively on the quality of the human environment (as defined in Sections 5.05b and 6.03a.3(b)(1) of NAO 216-6). The only effects of this action would be potential redistribution of harvests of the GOA Pacific cod FLL sector allocation among vessels in the sector. As such, it is categorically excluded from the need to prepare an Environmental Assessment.

1.1.1 What is a Regulatory Impact Review?

This Regulatory Impact Review is required under Presidential Executive Order (E.O.) 12866 (58 FR 51735, September 30, 1993). The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement for 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 nonetheless essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

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

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

² Freezer longline vessels are also described as hook-and-line catcher/processors.

1.1.2 Statutory authority for this action

NMFS manages the U.S. groundfish fisheries in the portion of its exclusive economic zone within the GOA according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). Certain aspects of fishing for GOA groundfish by vessels and License Limitation Program (LLP) licenses that qualified for *C. opilio* (snow) crab quota share under the Crab Rationalization Program (CRP) are governed by the FMP for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP). Both FMPs were prepared by the Council and approved by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing for GOA groundfish by U.S. vessels in accordance with the Crab and GOA FMPs appear at subpart H of 50 CFR part 600, part 679, and part 680.

1.1.3 Historical background on CRP non-AFA sideboards

The king and Tanner crab fisheries in the economic exclusive zone of the BSAI are managed under the Crab FMP. Amendments 18 and 19 of the Crab FMP originally implemented the CRP. The CRP allocates BSAI crab resources among harvesters, processors, and coastal communities.

Under the CRP, only recipients of initial allocation in the Bering Sea *C. opilio* fishery are subject to GOA groundfish sideboard limits. The purpose of the GOA groundfish sideboard limits in the CRP is to prevent vessels that traditionally participated in the Bering Sea snow crab fisheries from using the flexibility of the program to increase their level of participation in the GOA groundfish fisheries, primarily the GOA Pacific cod fishery. The sideboards are intended to restrict these vessels to their historical harvests in all GOA groundfish fisheries (except the sablefish individual fishing quota (IFQ) fishery, which is subject to program harvest limits).

Historically, the Bering Sea snow crab fishery and GOA groundfish fisheries operated concurrently from January through March, meaning that crab vessel owners had to decide whether to fish for Bering Sea snow crab or GOA groundfish, but could not participate fully in both fisheries. Under the CRP, vessel owners have the flexibility to fish for snow crab whenever they want or to lease their snow crab IFQ and not fish at all or fish for other species, such as GOA Pacific cod. This increases the incentive for vessel owners to augment effort in the GOA Pacific cod fishery.

Amendment 83 to the GOA FMP implemented GOA Pacific cod sector allocations for non-AFA vessels that superseded the inshore/offshore sideboard limits established under the AFA and CRP. Under Amendment 83, the Council and NMFS implemented operational and gear-specific non-AFA sideboard limits based on vessel participation in the GOA Pacific cod fishery prior to the implementation of the CRP. Prior to taking final action on Amendment 83 in December 2009, the Council considered and rejected combining the GOA inshore and offshore non-AFA sideboards into a single Western GOA sideboard limit and a single Central GOA sideboard limit. Although this combination would have simplified the catch accounting of sideboard limits, the Council declined to recommend a combination of the inshore and offshore sideboard limits, noting the likelihood that such a combined limit is likely to result in increased competition and decrease stability in the fishery (NMFS 2011). The Council and NMFS noted at that time that several C/Ps had increased effort in the offshore sideboard fishery in recent years and concluded that combining the inshore and offshore sideboard limits into a single amount could result in one gear or operation type preempting the others in a race for the sideboards and determined that such a derby style fishery was not consistent with the purpose and need for Amendment 83.

Therefore, the Council's motion for Amendment 83 specified that NMFS recalculate the CRP non-AFA vessel sideboard limit as separate catcher vessel (CV) and C/P sideboard limits for each gear type. Moreover, the Council recommended that the participation years used to recalculate the sideboard limit

remain 1996 through 2000, and not take into account recent participation. The recalculated sideboard ratios and sideboard limits are shown in Table 1-10 . At final action, the Council recognized that many of the sideboard ratios were only a small fraction of the respective area total allowable catch amounts (TACs), and were not likely to support a directed fishery. In fact, the sideboard ratios were not likely to provide enough TAC to support directed fisheries for Pacific cod for C/Ps in aggregate, let alone for the hook-and-line C/P vessels, in these regulatory areas. In 2012, the first year with the new sideboard limits established by Amendment 83, NMFS determined that the sideboard limits for the FLL sector were insufficient to support a directed fishery, and closed the fishery for the entire year.

During its October 2011 meeting, the Council received public comment requesting that the Council reconsider the Amendment 83 non-AFA sideboard provisions. Representatives of FLLs subject to the sideboard limits asserted that the application of Pacific cod sideboard limits could constrain their ability to use longline gear in the sideboard fishery. These representatives suggested that the sideboard limits were not properly analyzed, would result in substantial economic impacts for the hook-and-line C/P sector that were not contemplated by the Council at final action, and received little or no public comment. Moreover, they stated that the set of years used to determine historical catch (1996 through 2000) were arbitrary and would result in eight licensed and endorsed hook-and-line C/P vessels not being able to participate in the Pacific cod fishery in the GOA. The industry representatives suggested that the Council should establish non-AFA vessel sideboards as separate C/P and CV sideboards, not by gear type. In response, the Council noted that the CRP non-AFA sideboard ratios were included in the analysis for Amendment 83 and were considered by the Council at final action. Moreover, the Council noted that the proposed regulations for Amendment 83 would not exclude individual vessels, only gear types. Each vessel currently restricted by non-AFA sideboard limits can continue to participate in the Western and Central GOA Pacific cod fishery at historical rates; however, each vessel must use the gear and operational type attributed to that catch history (i.e., for non-AFA sideboards, 1996 through 2000).

After considering public testimony during the October 2011 meeting, the Council did not recommend rescinding or otherwise revisiting the sideboard restrictions, LLP endorsements, or restrictions, nor did the Council recommend changing how the sideboard ratios are calculated as part of the regulations implementing Amendment 83. However, the Council did recommend that staff draft a discussion paper on the impact of GOA non-AFA sideboards on C/P vessels using hook-and-line gear to target GOA Pacific cod. The Council requested the discussion paper include alternative methods to address the non-AFA sideboard restrictions, including the impacts of removing these sideboard restrictions for the FLL fleet in recognition of the recent cooperative operations. After reviewing the discussion paper at its June 2012 meeting, the Council developed a problem statement and alternatives, and tasked staff to prepare an initial analysis of a proposed action to remove the sideboard limits.

In February 2013, the Council reviewed an initial review analysis. After reviewing the analysis, the Council released the document for public review. The Council also added a new option and suboption under Alternative 2. The new option would remove GOA Pacific cod sideboard limits for the affected FLL vessels and licenses only if all GOA FLL endorsed license holders reach an agreement to remove these sideboards limits and notify NMFS of their agreement. The new suboption would suspend the sideboard limits, which allows the reinstatement of GOA Pacific cod FLL sideboard limits at a later date if not all GOA endorsed LLP license holders agree on the removal of these sideboard limits.

In June 2013, the Council recommended to permanently remove GOA Pacific cod hook-and-line sideboard limits created under the CRP that are applicable to FLL vessels/Federal fishery permits and LLP licenses, but only if all GOA Pacific cod FLL endorsed LLP license holders notify NMFS of their agreement to remove the sideboards. The GOA Pacific cod FLL endorsed LLP license holders would have one year from the publication date of the final rule implementing this action to provide notification to NMFS. If NMFS does not receive notification during the one-year period, the sideboards would remain

in effect and the ability to permanently remove the sideboards would expire. The Council also included in its preferred alternative the flexibility to remove the sideboards for Central and Western GOA independent of each area to assist in negotiations to remove the sideboard limits. This proposed action would be Amendment 45 to the Crab FMP.

1.2 Council's problem statement

The purpose of this action is to remove GOA Pacific cod sideboard limits for the FLL vessels restricted by these sideboard limits without adversely impacting the participants who are protected by the sideboards. These sideboard limits were established by the CRP in 2005. These sideboard limits were calculated using GOA Pacific cod catch history from 1996 through 2000. Initially, the sideboard limits were aggregated across all gear types at the inshore and offshore level. Of the 82 vessels that are restricted by GOA Pacific cod sideboard limits, eight are FLL vessels.

To allow these eight FLL vessels to once again participate in the GOA Pacific cod fishery, in June 2012, the Council proposed to remove the sideboard limits for these eight FLL vessels. The following problem statement was provided:

The narrowing of the sideboard limit under Amendment 83 from a non-gear sideboard to a sector specific sideboard, significantly reduced non-AFA Gulf of Alaska Pacific cod sideboards for sideboarded freezer longline vessels active in the Gulf of Alaska Pacific cod fishery prior to the Pacific cod sector split. A recalculation of the Pacific cod sideboards resulted in the loss of fishing opportunities, future revenues, and an ability to participate in the Gulf of Alaska cooperative fishing efforts.

Under Amendment 83, the freezer longline sector has a direct allocation of Pacific cod, and due to the harvesting capacity available to participants in the Gulf of Alaska, the freezer longline sector must establish cooperative harvest control measures in order for NMFS to make the sector TAC available for directed fishing. Therefore, the need for catcher processor hook-and-line GOA Pacific cod sideboards to limit the catch of these vessels may no longer exist.

Removal of the non-AFA GOA Pacific cod sideboards for freezer longliners would restore to the sideboarded vessels the ability to participate in the GOA Pacific cod fishery. Removing sideboard limits for the freezer longline vessels, however, may adversely impact GOA only freezer longline vessels, and to the extent practicable, there is a need to minimize the impact.

Throughout this analysis, this action is described as applying to eight FLL vessels. A maximum of eight sideboarded FFL vessels have historically been used in the FLL sector in the GOA. Five of these eight vessels are also assigned to sideboarded LLP licenses that are endorsed for Pacific cod in the FLL sector in the GOA. These eight FLL vessels and five FLL endorsed LLP licenses are subject to GOA Pacific cod sideboard limits. For ease of reference, this analysis describes this action as applying to eight FLL vessels because this represents the maximum number of entities (ie., vessels) that would be directly regulated by this action and would be subject to having their sideboards removed.

1.3 Alternatives

In June 2012, the Council proposed an action alternative that would permanently remove the GOA Pacific cod sideboard limits for the FLL vessels. In February 2013, the Council added an option under Alternative 2 that would permanently remove GOA Pacific cod sideboard limits but only if all GOA FLL

vessels agree to the removal of the limits. The Council also added a suboption under Alternative 2 that would suspend, rather than permanently remove, the sideboard limits if all GOA FLL vessels agree to the removal of the limits. Suspension of the sideboard limits would allow for reinstatement of the sideboard limits if not all GOA endorsed LLP license holders agree to the removal of the sideboard limits. In June 2013, the Council selected the option under Alternative 2 as its preferred alternative. The Council modified the option slightly at the time of final action. As originally proposed, the option would have provided all GOA Pacific cod FLL endorsed LLP license holders with 3 years from the effective date of the rule to reach unanimity. During final action, the Council reduced that window to 1 year and clarified that the time starts from the publication date of the final rule implementing Amendment 45. The Council also included the ability to remove Central GOA and Western GOA sideboard limits independently of each area.

Provided below are the alternatives along with a description of how each alternative would operationally work. Bolded text indicates the Council's preferred alternative.

Alternative 1: No action

Alternative 2: Remove freezer longline non-AFA GOA Pacific cod sideboards

Option: Permanently remove GOA Pacific cod hook-and-line sideboard limits for affected FLL vessels/Federal Fisheries Permits and LLP licenses when all GOA Pacific cod FLL endorsed LLP holders notify NMFS of an agreement to remove the sideboards. The LLP holders would have 1 year from the publishing date of the final rule to provide notification to NMFS. The CGOA and WGOA may be taken up separately so that cooperative formation and sideboard removal can occur independently in each area.

Suboption: Sideboard limits would be suspended, rather than permanently removed. If in the future, not all FLL GOA endorsed LLP license holders agree to the removal of the GOA Pacific cod FLL sideboard limits, these sideboard limits would be reinstated.

The no action alternative would leave in place the current FLL Pacific cod sideboards in the Western GOA and Central GOA. The 8 sideboarded FFL vessels would continue to be subject to the sideboards and, given the small size of the sideboard, would likely continue to be prohibited from conducting directed fishing for Pacific cod in the Central and Western GOA. Alternative 2, as separate from the option or suboption, would remove the non-AFA hook-and-line C/P sideboard limits for Pacific cod in the Central and Western GOA. The removal of the GOA Pacific cod sideboards for the 8 FFL vessels would be a matter of regulatory notice and comment rulemaking and no agreement among GOA FFL participants would be required prior to the removal of the sideboard limits. The option under Alternative 2 would permanently remove GOA Pacific cod sideboard limits but only if all GOA FLL vessels agree to the removal of the limits.

Finally, the suboption under Alternative 2 would annually suspend the sideboard limits if all FFL participants agree to their suspension and notify NMFS of their agreement on an annual basis suspend, rather than permanently remove, the sideboard limits if all GOA FLL vessels agree to the removal of the limits. NMFS's inseason management authority (i.e., to open and close fisheries including sideboard fisheries) is established in regulation. These regulations are structured to ensure that TAC and sideboard allocations established under the harvest specification process are not exceeded. NMFS notified the Council that inseason adjustments to the final harvest specifications are highly unlikely to be implemented in timely manner, because such revisions require notice and comment rulemaking. Thus,

any action to suspend or reinstate sideboards could not be implemented inseason and would need to be implemented annually through the harvest specifications process. The Council and NMFS determined that in order to implement the suboption, NMFS would need to annually receive notice from participants that an agreement among all participants to suspend the sideboards has been reached.

...

The action alternatives would only remove the non-AFA hook-and-line C/P sideboard limits for Pacific cod in the Central and/or Western GOA. All other non-AFA sideboard limits for GOA Pacific cod would remain in effect, including any other sideboard limits applicable to the FLL sector. The action alternatives would require a change to the Crab FMP (Amendment 45), and the regulations implementing non-AFA sideboard limits for Pacific cod in the GOA, created under the CRP and further narrowed under Amendment 83.

Currently, Federal regulations require that the sideboard must be attached to the vessel and the LLP license that originated on the qualified FLL vessel; however, NMFS also applies the sideboard to the Federal Fisheries Permit (FFP). Unlike the LLP licenses, FFPs are permanently assigned to a vessel and must be on board the vessel at all times when the vessel is harvesting groundfish. NMFS added the sideboard language to the FFP to facilitate the enforcement of regulations during boardings.

While all of the action alternatives are operationally distinct from each other, the impacts to affected entities under each of the action alternatives are the same depending on whether the sideboards are in effect or are removed. Therefore, Section 2 of this analysis, which examines the expected effects of the alternatives, does not distinguish among the impacts of Alternative 2, the option under Alternative 2, or the suboption under Alternative 2, but rather discusses the impacts on the three groups of affected entities (sideboarded cooperative FFL vessels; non-sideboarded cooperative FFL vessels; and non-sideboarded non-cooperative FFL vessels) that are expected if sideboard limits remain in effect or if sideboard limits are removed.

1.4 Rationale for the Council's Preferred Alternative

The preferred alternative (the option under Alternative 2) seeks to encourage the participation of all historical participants in the Western and Central GOA C/P fisheries, while balancing the multiple objectives. The preferred alternative ensures that the removal of the non-AFA hook-and-line C/P sideboard limits for Pacific cod is contingent on the equitable cooperation of all historical participants. During the development of this action, the Council considered the merits of removing the GOA Pacific cod hook-and-line C/P sideboard limits for the affected FLL vessels and LLP licenses without requiring agreement among all participants before removal. Following a review of the best available science, the Council sought to strike a balance between its objective to relieve the sideboards for some vessels benefiting from allocations under the CRP, and its objective to protect the historical GOA-only participants from the impacts of the sideboarded FLL vessels that benefited from the CRP.

The preferred alternative was structured to allow the GOA Pacific cod hook-and-line C/P sideboard limits be removed permanently, but only if all historical participants in the Western and Central GOA FLL C/P fisheries agree to their removal. The Council expects that protection of GOA-only FLL vessels would be achieved through an agreement by all GOA Pacific cod FLL endorsed LLP license holders to remove the sideboards. Reaching an agreement to remove the GOA Pacific cod hook-and-line C/P sideboards would likely include measures that protect GOA-only FLL vessels and may enable all the historical participants in the GOA Pacific cod FLL fishery to participate in the fishery.

This action ensures that certain historical participants in the GOA FFL Pacific cod fisheries that also participate in the BSAI will continue to be restricted by the non-AFA sideboards unless they negotiate an agreement with other historical participants that are highly dependent on the Western and Central GOA FFL Pacific cod fisheries. The Council recognized that a legally binding agreement to mutually request the removal of the sideboard limits among the BSAI and the GOA-only FLL participants would provide the management stability necessary to remove the non-AFA sideboard from these vessels and LLPs.

In order to encourage negotiations among the FLL participants in a reasonable amount of time, the Council recommended a deadline for participants to reach an agreement on the removal of the sideboards. If participants agree to coordinate, and ask NMFS to remove the sideboards within one-year after the publication date of a final rule implementing Amendment 45, NMFS would permanently remove the sideboards. However, under the preferred alternative, if participants are unable to reach agreement and do not ask NMFS to remove the sideboards within the 1-year timeframe, the opportunity to remove the sideboard limits will expire and the sideboard limits will remain in place. The Council considered several options for a deadline, including 3 years and no deadline, when it recommended a one-year deadline. The Council recognized that one year would encourage negotiations to be actively pursued with enough time to be concluded, while not prolonging the management uncertainty about the number eligible participants in the fishery. The deadline is not intended to preclude participants from negotiating prior to publication of a final rule and notifying NMFS of an agreement. If an agreement is not reached by the deadline, the sideboarded vessels would continue to be under the sideboard limits and, given the small sideboard amounts, likely precluded from fishing in the GOA. Given that the FLCC has demonstrated the ability to negotiate the distribution of its members' catches without Council involvement, a modified agreement might be reached to provide the sideboarded vessels with additional access to BSAI Pacific cod, while other non-sideboarded FLCC member vessels direct additional effort to the GOA Pacific cod fisheries.

The Council did not recommend the suboption under Alternative 2 to suspend the sideboards as its preferred alternative. The Council determined that negotiations between GOA Pacific cod FLL endorsed LLP license holders to permanently remove the sideboards and retaining sideboard limits until an agreement has been reached protects GOA-only FLL participants, which is one of the Council's objectives of the preferred alternative. The Council also determined that suspending the sideboards, rather than permanently removing the sideboards, would add instability within the GOA Pacific cod FLL fishery. The Council also noted its concern that the suboption would increase the annual administration burden.

1.5 Background

1.5.1 Description of the Pacific cod fishery

The GOA Pacific cod resource is targeted by operators using multiple gear types, principally pot, trawl, and hook-and-line. Smaller amounts of Pacific cod are taken by other gear types, including catcher vessels using jig gear. Pacific cod is the second most dominant species in the commercial groundfish catch in the GOA, accounting for about 84,800 metric tons (mt) or 34 percent of the total 2011 commercial groundfish catch (NMFS 2012). About 28 percent of the total commercial Pacific cod catch off Alaska is harvested in the GOA, with the remaining 72 percent harvested in the BSAI (NMFS 2012).

In the GOA, trawl landings of Pacific cod have been substantially lower than the peak of 60,000 mt in 1990 and 1991. Harvests by hook-and-line gear during the same period have fluctuated between 6,000 mt and 15,000 mt per year. Vessels using pot and jig gear began to make significant landings in the early 1990s. Pot and jig landings increased substantially when the state waters Pacific cod fishery, which only allows the use of pot and jig gear, was initiated in 1997. Total catch of Pacific cod peaked in 1999, at

81,785 mt, but declined to 47,996 mt in 2005. Since 2005, total catch of Pacific cod has increased substantially. In 2010, the total catch of GOA Pacific cod was 76,361 mt. Table 1-1 provides GOA Pacific cod total catch, by gear type, from 1996 through 2012.

Table 1-1 Total catch (including discards) of Pacific cod catch by gear types in the Federal and state managed fisheries in the GOA (Western, Central, and Eastern GOA combined), and total allowable catch (TAC) in the BSAI and GOA from 1996 through 2012

Year	GOA Federal Catch (mt)				Total Federal catch (mt)	Federal TAC (mt)		GOA State Catch (mt)		Total Catch (mt)
	Trawl	Longline	Pot	Jig		BSAI	GOA	Pot	Other	
1996	45,989	10,070	11,952	53	68,064	270,000	65,000	3,690	801	72,556
1997	48,406	10,658	8,759	17	67,840	270,000	69,115	10,870	3,054	81,764
1998	41,452	9,669	10,383	16	61,520	210,000	66,060	10,829	5,317	77,666
1999	37,167	11,980	18,718	56	67,921	177,000	67,835	14,723	3,772	86,423
2000	25,442	11,501	17,274	40	54,257	193,000	58,715	10,462	5,144	69,872
2001	24,382	9,825	7,171	151	41,530	188,000	52,110	9,054	5,279	55,867
2002	19,810	14,627	7,694	176	42,307	200,000	44,230	10,690	5,878	58,875
2003	18,885	9,470	12,675	161	41,191	207,500	40,540	8,132	3,486	52,809
2004	17,593	10,327	14,889	345	43,154	215,500	48,033	10,874	2,878	56,905
2005	14,549	5,731	14,752	203	35,235	206,000	44,433	10,020	2,741	47,996
2006	13,131	10,229	14,495	118	37,973	194,000	52,264	9,648	690	48,311
2007	14,795	11,501	13,523	39	39,858	170,720	52,264	11,904 (total)		51,760
2008	20,101	12,017	11,313	62	43,493	170,720	50,269	13,396 (total)		56,890
2009	13,984	13,848	11,576	194	39,602	176,540	41,807	12,690 (total)		52,293
2010	21,791	16,423	20,114	426	58,754	168,780	59,563	17,608 (total)		76,361
2011	16,364	16,214	29,228	721	62,527	227,950	73,719	22,198 (total)		84,125
2012	20,182	14,366	21,248	723	56,519	261,000	60,600	21,447 (total)		77,330

Source: Fish tickets for 1996 through 2002, and catch accounting database for 2003 through 2012 federal catch, and ADF&G (state waters catch)

Table originates from FLL GOA Pcod Sideboard Tables file

Fishing effort for Pacific cod is widely distributed along the shelf edge in the GOA. Trawl effort is also located near Chirikof, Cape Barnabus, Cape Chiniak, and Marmot Flats. The hook-and-line fishery primarily occurs at depths of 25 fathoms to 140 fathoms, over gravel, cobble, mud, sand, and rocky bottoms.

1.5.2 Management of the GOA Pacific cod fishery

This section describes current management of the GOA Pacific cod fishery, and highlights important regulatory changes in the management of the GOA. Three separate area TACs are specified for GOA Pacific cod: Western GOA, Central GOA, and Eastern GOA. Final 2012 harvest specifications apportioned 32 percent of the GOA catch to the Western GOA (21,024 mt), 65 percent to the Central GOA (42,705 mt), and three percent to the Eastern GOA (1,971 mt). GOA Pacific cod was apportioned by inshore and offshore components prior to 2012. Inshore generally indicates catcher vessel prosecution (with provision for limited amounts of onboard processing) and offshore indicates catcher/processor prosecution. Starting in 2012, Western and Central GOA Pacific cod TACs were apportioned among gear and operation types (50 CFR 679.20(a)(12)(i)). Table 1-2 provides the apportionment and catch for the different gear and operation types for 2012. The TACs are apportioned seasonally, with 60 percent of the TACs allocated to the A season and 40 percent to the B season. The A and B seasons were implemented, starting in 2001, to protect Steller sea lions. The fishery is prosecuted as a limited access derby style

fishery, with the season closure timed to coincide with full harvest of the available seasonal TAC. The A season begins on January 1 for fixed-gear vessels, and on January 20 for trawl vessels. The A season ends on June 10, unless the season is closed earlier due to attainment of prohibited species catch (PSC) limits or the TAC being fully harvested. The B season begins on September 1 for all gear types, and ends November 1 for trawl vessels and December 31 for non-trawl vessels, unless the season is closed earlier due to attainment of PSC limits or the TAC being fully harvested.

Table 1-2 Final 2012 Pacific cod allocations, seasonal apportionments, and catch of Pacific cod TAC for the Western GOA and Central GOA by sector

Regulatory area and sector	Annual allocation (mt)	A season			B season		
		Sector % of annual non-jig TAC	Seasonal allowances (mt)	Catch (mt)	Sector % of annual non-jig TAC	Seasonal allowances (mt)	Catch (mt)
Western GOA							
Jig (1.5% of TAC)	315	N/A	189	117	N/A	126	204
Hook-and-line CV	290	0.7	145	129	0.7	145	67
Hook-and-line CP	4,100	10.9	2,257	2,029	8.9	1,843	1,054
Trawl CV	7,952	27.7	5,736	5,752	10.7	2,216	558
Trawl CP	497	0.9	186	400	1.5	311	165
All pot CV and pot CP	7,869	19.8	4,100	4,225	18.2	3,769	3,648
Total	21,024	60	12,614	12,652	40	8,410	5,696
Central GOA							
Jig (1.0% of TAC)	427	N/A	256	274	N/A	171	129
Hook-and-line <50 CV	6,174	9	3,938	4,448	5	2,235	1,838
Hook-and-line ≥50 CV	2,835	6	2,372	2,828	1	464	177
Hook-and-line CP	2,158	4	1,736	1,482	1	422	1
Trawl CV	17,581	21	8,936	9,714	20	8,645	2,809
Trawl CP	1,775	2	847	160	2	928	624
All pot CV and pot CP	11,755	18	7,538	7,820	10	4,217	5,469
Total	42,705	60	25,623	26,726	40	17,082	12,356
Source: 2012 final specifications, Table 5							
Table originates from FLL GOA Pcod Sideboard Tables file							

Any unused seasonal apportionment of a particular sector’s allocation is reallocated to the next seasonal allowance for that sector. Near the end of the year, NMFS considers whether one or more sectors will be unable to use its remaining GOA cod allocation. Federal regulations outline a system for reallocating amounts of Pacific cod that are projected to remain unused by a particular sector near the end of the year. Any reallocation by NMFS would first be to the CV sectors, followed by the combined CV and C/P pot sector. Finally, any remaining reallocation would be reallocated to all other C/P sectors, taking into account the capability of these sectors to harvest the reallocation.

Halibut PSC mortality allowances are currently apportioned separately to the GOA trawl and hook-and-line sectors, according to the regulations at 50 CFR 679.21(d). Halibut PSC mortality allowances are not apportioned by management subarea within the GOA. The 2012 and 2013 halibut PSC mortality allowances for the GOA Pacific cod trawl and hook-and-line fisheries are shown in Table 1-3. The pot and jig sectors are exempt from halibut PSC limits. The GOA halibut PSC mortality allowance is 2,000 mt for the trawl sector and 300 mt for the hook-and-line sector (including the 10 mt set aside for the demersal shelf rockfish fishery). Table 1-4 provides the apportionments and usage of the “other than demersal shelf rockfish” hook-and-line fisheries annual halibut PSC allowance between the CV and C/P sectors.

The hook-and-line halibut PSC allowance is divided into three seasons: January 1 to June 10 (the A season for Pacific cod), June 10 to September 1, and September 1 to December 31 (the B season for Pacific cod). The trawl allowance is divided not only seasonally, but also by complex. The seasons are

January 20 through April 1, April 1 through July 1, July 1 through September 1, September 1 through October 1, and October 1 through December 31. Of the 290 mt of halibut PSC allowance for the hook-and-line sectors, 117 mt are apportioned to the FLL sector. Halibut PSC limits can determine season closure dates for the hook-and-line sector. Inseason managers monitor halibut PSC in the Pacific cod fisheries and close the directed fisheries if halibut PSC limits are reached. After such a closure, the directed fisheries are typically reopened when the next seasonal apportionment of halibut PSC becomes available. Unused seasonal halibut PSC apportionments are rolled over to the following season, but not rolled over to the following year.

Table 1-3 Halibut prohibited species catch seasonal allowances in the GOA, 2012 and 2013

Trawl		Hook-and-line			
Dates	Amount (mt)	Other than Demersal Shelf Rockfish Dates	Demersal Shelf Rockfish Amount (mt)	Demersal Shelf Rockfish Dates	Demersal Shelf Rockfish Amount
Jan 20–Apr 1	550 (27.5%)	Jan 1–Jun 10	250 (86%)	Jan 1–Dec 31	10 (100%)
Apr 1–July 1	400 (20%)	Jun 10–Sep 1	5 (2%)		
July 1–Sep 1	600 (30%)	Sep 1–Dec 31	35 (12%)		
Sep 1–Oct 1	150 (7.5%)				
Oct 1–Dec 31	300 (15%)				
Total	2000		290		10

Source: NMFS 2012–2013 harvest specifications for the groundfish fisheries in the GOA.

Table 1-4 Apportionments and usage of the “Other than Demersal Shelf Rockfish” hook-and-line fisheries annual halibut PSC allowance between the hook-and-line gear catcher vessel and catcher/processor sectors

Halibut PSC allowance (mt) (excludes DSR allowance)	Hook-and-line sector	Percent of annual amount	Sector annual amount (mt)	Season	Seasonal percentage	Sector seasonal amount (mt)	Actual usage (mt)
290	Catcher Vessel	59.7	173	Jan 1 - Jun 10	86	149	70
				Jun 10 - Sep 1	2	3	0
				Sep 1 - Dec 31	12	21	79
	Catcher processor	40.3	117	Jan 1 - Jun 10	86	101	27
				Jun 10 - Sep 1	2	2	0
				Sep 1 - Dec 31	12	14	29

Table originates from FLL GOA Pcod Sideboard Tables file

Inseason managers monitor catch in the fishery, timing the closure of a directed fishery to allow full harvest of the TAC without overharvest. To meet that goal, the closure must be timed to leave only enough of the TAC to support incidental catch amounts in other fisheries during the remainder of the season. Incidental catch that occurs after a seasonal closure continues to accrue to the A season TAC until the A season ends. Any overage of the A season TAC taken between the A and the B season is deducted from the B season TAC. When the directed fishery is closed, incidental catch of that species is limited to a maximum retainable allowance (MRA). An MRA limits the amount of non-directed species catch (here Pacific cod) that may be retained, to a percentage of the retained target species catch (e.g., flatfish). For Pacific cod, the MRA with respect to most directed species is 20 percent. So, when the Pacific cod fishery is not open for directed fishing, a vessel may retain Pacific cod in an amount up to 20 percent of its catch of species that are open for directed fishing.³ Pacific cod are also an improved retention/improved utilization (IR/IU) species. All catch of IR/IU species must be retained when the fishery is open for directed fishing, and all catch up to the MRA must be retained when the fishery is closed to directed fishing.

³ Pacific cod is also retained in the halibut and sablefish IFQ program. Vessels fishing IFQs are required to retain Pacific cod up to the MRA, except if Pacific cod is on “prohibited” status, in which case, it must be discarded.

Entry to the GOA Pacific cod fisheries in Federal waters has been restricted under the License Limitation Program (LLP) since 2000. Prior to implementation of the LLP, a moratorium on new vessel entry to the groundfish fisheries was established in 1995. Several management measures have limited participation by certain sectors in the GOA. When the AFA was implemented in 1998, AFA named C/Ps were prohibited from fishing in the GOA. In addition, groundfish harvests by several other groups of vessels are sideboarded in the GOA, including AFA CVs (beginning in 2000), non-AFA crab vessels (beginning in 2006), and Amendment 80 C/Ps (beginning in 2008). The GOA sideboards for non-AFA crab vessels are described in more detail later in this chapter.

Some directed fisheries for Pacific cod in state waters (0 to 3 nautical miles) are open concurrently with the directed fisheries in Federal waters (3 nautical miles to 200 nautical miles). These fisheries in state waters (referred to as the “parallel fisheries”) are prosecuted under virtually the same rules as the Federal fisheries, with catch counted against the Federal TAC.

1.5.3 Catch history in the GOA Pacific cod fisheries

Prior to sector apportionments in 2012 under Amendment 83 to the GOA FMP, Western and Central GOA Pacific cod TACs were apportioned between the inshore (90 percent) and offshore (10 percent) sectors. As shown in Table 1-5, in some years, portions of the Pacific cod TACs were left unharvested, but during the most recent years, the GOA Pacific cod TACs have been fully harvested, with the exception of the offshore sector in the Central GOA.

Table 1-6 shows GOA Pacific cod sector allocations (mt) and catch (mt) for 2012, the year the GOA Pacific cod sector allocations were implemented. One can see from the table that the FLL sector (hook-and-line CP) did not harvest its full GOA Pacific cod allocation in 2012.

Table 1-5 Total Pacific cod catch and percent of the TAC harvested by the inshore and offshore sectors in the Western and Central GOA, 2003 through 2011

Area	Year	Inshore			Offshore		
		TAC (mt)	Catch (mt)	Percent harvested	TAC (mt)	Catch (mt)	Percent harvested
Western GOA	2003	13,905	14,029	101	1,545	2,206	143
	2004	15,261	14,333	94	1,696	1,281	76
	2005	14,118	12,046	85	1,569	424	27
	2006	18,127	13,659	75	2,014	1,095	54
	2007	18,127	12,285	68	2,014	1,132	56
	2008	17,504	13,435	77	1,945	1,467	75
	2009	14,558	14,127	97	1,618	1,073	66
	2010	18,687	18,950	101	2,077	2,038	98
	2011	20,507	20,132	98	2,279	2,153	94
Central GOA	2003	20,421	22,629	111	2,269	2,240	99
	2004	24,404	25,490	104	2,712	1,931	71
	2005	22,577	22,390	99	2,509	361	14
	2006	25,565	21,768	85	2,840	1,402	49
	2007	25,565	25,284	99	2,840	1,071	38
	2008	25,583	27,048	106	2,837	1,262	44
	2009	20,835	21,758	104	2,315	1,798	78
	2010	33,104	33,218	100	3,678	3,642	99
	2011	36,326	36,991	102	4,036	2,536	63

Source: NMFS catch accounting
Table originates from FLL GOA Pcod Sideboard Tables file

Table 1-6 Total Pacific cod catch and percent of the TAC harvested by the sectors in the Western and Central GOA, 2012

Regulatory area and sector	Annual allocation (mt)	Catch (mt)	% of allocation
Western GOA			
Jig (1.5% of TAC)	315	321	102
Hook-and-line CV	290	196	68
Hook-and-line CP	4,100	3,083	75
Trawl CV	7,952	6,309	79
Trawl CP	497	565	114
All pot CV and pot CP	7,869	7,873	100
Total	21,024	18,347	87
Central GOA			
Jig (1.0% of TAC)	427	402	94
Hook-and-line <50 CV	6,174	6,286	102
Hook-and-line ≥50 CV	2,835	3,005	106
Hook-and-line CP	2,158	1,484	69
Trawl CV	17,581	12,523	71
Trawl CP	1,775	784	44
All pot CV and pot CP	11,755	13,289	113
Total	42,705	37,593	88

Source: 2012 Final Specifications, Table 5 and catch is from NMFS catch accounting
Table originates from FLL GOA Pcod Sideboard Tables file

As shown in Table 1-7, the A and B season TACs are not utilized equally. The A season TAC, which is harvested when Pacific cod are aggregated, is typically fully harvested. During recent years, A season catches have met or exceeded A season TACs in both the Western and Central GOA. Incidental catch

between the A and B seasons is substantial, particularly by the inshore sector in the Central GOA. During recent years, B season TACs have not been fully harvested. During some years, the trawl and hook-and-line B seasons have ended before the TAC is fully harvested, due to halibut PSC limits being attained. Table 1-8 provides 2012 seasonal allocations and catch by season and area for GOA Pacific cod 2012.

Table 1-7 Total Pacific cod catch during the A and B seasons by the inshore and offshore sectors in the Western and Central GOA, 2003 through 2011 (mt)

Western GOA												
Year	Inshore						Offshore					
	A season			B season			A season			B season		
	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested
2003	8,343	10,057	121	5,562	3,972	71	927	2,040	220	618	165	27
2004	9,157	10,536	115	6,104	3,744	61	1,017	625	61	679	656	97
2005	8,471	10,293	122	5,647	1,750	31	941	123	13	628	300	48
2006	10,876	12,309	113	7,251	1,351	19	1,208	666	55	806	429	53
2007	10,876	10,836	100	7,251	1,450	20	1,208	643	53	806	489	61
2008	10,502	10,526	100	7,002	2,878	41	1,167	1,190	102	778	275	35
2009	8,735	9,365	107	5,823	4,761	82	971	545	56	647	528	82
2010	11,212	12,025	107	7,475	6,928	93	1,246	1,077	86	831	962	116
2011	12,304	13,043	106	8,203	7,089	86	1,367	1,093	80	911	1,059	116
Central GOA												
Year	Inshore						Offshore					
	A season			B season			A season			B season		
	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested
2003	12,253	15,714	128	8,168	6,915	85	1,361	1,453	107	908	788	87
2004	14,642	15,613	107	9,762	9,981	102	1,627	1,347	83	1,085	584	54
2005	13,546	12,686	94	9,031	9,704	107	1,505	91	6	1,004	270	27
2006	15,339	15,895	104	10,226	6,167	60	1,704	25	1	1,136	1,377	121
2007	15,339	15,243	99	10,226	9,922	97	1,704	43	3	1,136	1,111	98
2008	15,350	15,436	101	10,233	11,255	110	1,702	1,724	101	1,135	113	10
2009	12,501	14,254	114	8,334	7,504	90	1,389	1,322	95	926	477	51
2010	19,862	22,297	112	13,242	10,929	83	2,207	2,260	102	1,471	1,382	94
2011	21,795	20,226	93	14,530	16,766	115	2,422	1,076	44	1,614	1,459	90
Source: NMFS catch accounting												
Note: Unharvested TAC from the A season was rolled over to the B season, so the total annual TAC was not exceeded.												
Table originates from I_O_GOA_PCOD_Season(01-08) excel file and FLL GOA Pcod Sideboard Tables excel file												

Table 1-8 Seasonal GOA Pacific cod sector allocations and total catch by sectors in the Western and Central GOA, 2012

Regulatory area and sector	A Season			B Season		
	Seasonal allowance (mt)	Catch (mt)	% of allowance	Seasonal allowance (mt)	Catch (mt)	% of allowance
Western GOA						
Jig (1.5% of TAC)	189	117	62	126	204	162
Hook-and-line CV	145	129	89	154	67	44
Hook-and-line CP	2,257	2,029	90	1,843	1,054	57
Trawl CV	5,736	5,752	100	2,216	558	25
Trawl CP	186	400	215	211	165	78
All pot CV and pot CP	4,100	4,225	103	3,769	3,648	97
Total	12,614	12,652	100	8,410	5,696	68
Central GOA						
Jig (1.0% of TAC)	256	274	107	171	129	75
Hook-and-line <50 CV	3,938	4,448	113	2,235	1,838	82
Hook-and-line ≥50 CV	2,372	2,828	119	464	177	38
Hook-and-line CP	1,736	1,482	85	422	1	0
Trawl CV	8,936	9,714	109	8,645	2,809	32
Trawl CP	847	160	19	928	624	67
All pot CV and pot CP	7,538	7,820	104	4,217	5,469	130
Total	25,623	26,726	104	17,082	12,356	72
Source: 2012 Final Specifications, Table 5 and catch is from NMFS catch accounting						
Table originates from FLL GOA Pcod Sideboard Tables file						

Short season lengths are another indication that GOA Pacific cod is fully utilized. In recent years, the A season for the Central GOA inshore Pacific cod fishery has closed approximately one month after the trawl gear opening on January 20, because the TAC has been fully harvested (see Table 1-9). For the Western inshore fishery, the A season, in general, closes mid-February. The offshore fishery tends to close later in the season compared to the inshore fishery. During the B season, the inshore fishery in both the Western and Central GOA has closed short of the December 31 regulatory closure on several occasions. In the offshore fishery, the season tends to remain open for the entire regulatory period. In 2012, the first year with Pacific cod sector allocations, the Pacific cod fishery for the FLL sector closed on June 10 for the A season, and December 31 for the B season.

Table 1-9 Pacific cod A and B season closures for the hook-and-line sector in the Western and Central GOA, 2003 through 2011

Area	Year	A season				B Season			
		Inshore		Offshore		Inshore		Offshore	
		Date	Reason	Date	Reason	Date	Reason	Date	Reason
Western GOA	2003	17-Feb	TAC	20-Mar	TAC	25-Sep	TAC	not opened	TAC
	2004	24-Feb	TAC	8-Mar	TAC	2-Oct	HAL	2-Oct	HAL
	2005	24-Feb	TAC	22-Feb	TAC	31-Dec	REG	31-Dec	REG
	2006	2-Mar	TAC	19-Feb	TAC	31-Dec	REG	31-Dec	REG
	2007	8-Mar	TAC	14-Feb	TAC	31-Dec	REG	31-Dec	REG
	2008	29-Feb	TAC	4-Mar	TAC	16-Oct	HAL	16-Oct	HAL
	2009	25-Feb	TAC	10-Jun	REG	31-Dec	REG	31-Dec	REG
	2010	19-Feb	TAC	3-Mar	TAC	13-Oct	TAC	16-Oct	TAC
Central GOA	2003	9-Feb	TAC	1-Feb	TAC	3-Sep	TAC	14-Oct	TAC
	2004	31-Jan	TAC	2-Feb	TAC	2-Oct	HAL	2-Oct	HAL
	2005	26-Jan	TAC	22-Feb	TAC	31-Dec	REG	31-Dec	REG
	2006	28-Feb	TAC	19-Feb	TAC	31-Dec	REG	31-Dec	REG
	2007	27-Feb	TAC	14-Feb	TAC	31-Dec	REG	31-Dec	REG
	2008	1-Mar	TAC	9-Mar	TAC	3-Oct	TAC	16-Oct	HAL
	2009	27-Jan	TAC	19-Feb	TAC	1-Oct	TAC	31-Dec	REG
	2010	31-Jan	TAC	24-Feb	TAC	13-Sep	TAC	16-Oct	TAC
	2011	29-Jan	TAC	10-Jun	REG	9-Oct	TAC	31-Dec	REG

Source: NMFS Alaska region season closures summary. HAL=halibut PSC closure. TAC=TAC reached. REG=regulations.

1.5.4 Management of the non-AFA hook-and-line C/P sideboard limits for Pacific cod

GOA groundfish fishery sideboard limits apply to vessels that (1) are not authorized to conduct directed fishing for pollock under the American Fisheries Act of 1998 (Public Law 105-227, Title II of Division C) and (2) were used to fish for snow crab from 1996 through 2000. The GOA groundfish fishery sideboard limits also apply to any license limitation program (LLP) groundfish license derived from the “non-AFA” snow crab vessels, regardless of the gear type used by that vessel. Additionally, any vessel subsequently named on a sideboarded LLP license is then permanently subject to the sideboard endorsement regardless of that vessel’s participation during the qualifying years for the CRP or if it is no longer named on the LLP license. Vessels are permanently sideboarded if either their catch history qualified them under the CRP or if that vessel is named on a sideboarded LLP license acquired after crab rationalization was implemented. In addition, the GOA Pacific cod sideboard limits apply to any BSAI longline C/P subsector LLP license earned in whole or part by the crab fishing history of the non-AFA vessels. The non-AFA sideboard limit restrictions are inseparable from the LLP license; therefore, when an LLP license is transferred, the sideboard restriction is retained on the LLP license.

In order to effectively enforce the vessel sideboard limits, NMFS places a sideboard endorsement on the Federal Fisheries Permit (FFP) of any vessel subject to GOA sideboards. The sideboard endorsement is general on the FFP and LLP license; for example a sideboarded FFP states the vessel/FFP holder is “subject to GOA groundfish directed fisheries sideboard closures.” The purpose of putting the sideboard endorsement on the FFP is to assist with enforcement of the sideboards while fishing is occurring and to assist inseason management in determining how many vessels may be subject to those sideboards. An FFP must be on board the vessel when it is harvesting groundfish in Federal waters; therefore, NMFS Office of Law Enforcement can easily confirm that a vessel is sideboarded in the event that the vessel is no longer named on an LLP license that has a sideboard endorsement. NMFS Restricted Access Management division also keeps a list of vessels that are sideboarded in case the vessel owner or operators do not renew the FFP, or choose to not fish in Federal waters.

A sideboard endorsement on an FFP or LLP license is not gear specific and applies generally to any gear type endorsed on the license. In addition to adding the sideboard endorsement to LLP licenses and FFPs, and because sideboard limits are allocations, NMFS implements sideboards through the harvest specification process. The sideboard limit is specified as an amount, in metric tons, of fish. Sideboard limits are established annually through the harvest specification process. Non-AFA sideboard limits are calculated by adding up the catches of vessels subject to sideboards during 1996 through 2000 and dividing that by the catches of all vessels in that fishery to yield a sideboard ratio (e.g., 0.10 or 10 percent of the Western GOA pollock fishery). The sideboard allocation ratio is multiplied by the TAC for that year; the sideboard allocation is also divided into seasons. NMFS determines whether to open the sideboard fishery to directed fishing based on the size of sideboard allocation and the potential harvest rate of participating vessels. NMFS publishes proposed and final sideboard limits in the *Federal Register* as part of the annual harvest specifications.⁴ Once these sideboard limits are published, NMFS reviews the number of vessels that are subject to the sideboard limit and compares that to the annual sideboard limit harvest amount. If the annual sideboard limit is too small for a fishery and the potential harvest rate of the sideboard vessels is high, NMFS may choose not to open directed fishing for a sideboard fishery. If NMFS determines that the sideboard limit would not be exceeded, a sideboard fishery may be opened by NMFS.

Of the 227 non-AFA vessels that made a landing of Bering Sea snow crab during the 1996 through 2000 period, 82 vessels are allowed to target GOA Pacific cod, but are subject to the GOA Pacific cod sideboard limits. Of those 82 non-AFA vessels subject to GOA Pacific cod sideboard limits, eight are FLL vessels. LLP licenses that originated on a qualified non-AFA vessel are also subject to the GOA Pacific cod sideboard limits. Of the 37 LLP licenses that are subject to GOA Pacific cod sideboard limits, five are FLL licenses. Currently, all five of these LLP licenses are on FLL vessels that are also subject to Pacific cod sideboard limits. In cases where vessels are subject to one sideboard (e.g., GOA Pacific cod sideboard) and the LLP license used on that vessel is not, the more restrictive measure applies.

Prior to implementation of GOA Pacific cod sector allocations in 2012, NMFS managed the sideboard limits for GOA Pacific cod by setting an inshore sideboard limit and an offshore sideboard limit. These sideboard limits were calculated by adding up the catches of vessels subject to the sideboard limits during the 1996 through 2000 period and dividing that by the catches of all vessels in the fishery to yield a sideboard ratio. The sideboard ratio was multiplied by the TAC for that year; the sideboard limit was also divided into seasons. Those amounts were then made available to all vessels in the respective sector subject to the sideboard limit, on a seasonal basis, at the beginning of the year. All targeted or incidental catch of the sideboard species made by the non-AFA vessels subject to the sideboard was applied to the applicable sideboard limit. See Table 1-10 for the 2011 sideboard limits for Western and Central GOA Pacific cod.

As part of the GOA Pacific cod sector allocation in 2012, the Council recommended operation type and gear type sideboard limits based on participation in the GOA Pacific cod from 1996 through 2000. The recalculated sideboard ratios and annual limit for 2012 are provided in Table 1-11. Since 2012, with the exception of the pot CV sideboard limit, NMFS determined that the all other non-AFA sideboard limits for GOA Pacific cod were insufficient to support a directed fishery, so these fisheries were closed for the entire year.

⁴ See http://alaskafisheries.noaa.gov/sustainablefisheries/specs13_14 for the specific harvest specifications.

Table 1-10 2011 non-AFA sideboard limits for Western and Central GOA Pacific cod

Season	Area/component	Ratio of 1996-2000 non-AFA crab vessel catch to 1996-2000 total harvest	2011 TAC (mt)	2011 non-AFA crab vessel sideboard limit (mt)
A season January 1 - June 10	W inshore	0.0902	13,877	1,252
	W offshore	0.2046	1,542	315
	C inshore	0.0383	24,583	942
	C offshore	0.2074	2,731	566
B season September 1 - December 31	W inshore	0.0902	9,252	835
	W offshore	0.2046	1,028	210
	C inshore	0.0383	16,389	628
	C offshore	0.2074	1,821	378

Source: Final specifications 2011

Table 1-11 2012 non-AFA sideboard limits for Western and Central GOA Pacific cod freezer longliner sector

Season	Area/Gear/Component	Ratio of 1996-2000 non-AFA crab vessel catch to 1996-2000 total harvest	2012 TAC (mt)	Final 2012 non-AFA crab vessel sideboard limit (mt)
A season January 1 - June 10	W Hook and line C/P	0.0018	12,614	23
	C Hook and line C/P	0.0012	25,623	31
B season June 10 - December 31	W Hook and line C/P	0.0018	8,410	15
	C Hook and line C/P	0.0012	17,082	20

Source: Final specifications 2012

1.6 Description of the freezer longline sector

The FLL sector currently consists of 36 vessels. As reported in Table 1-12, 33 of these vessels are members of the freezer longline conservation cooperative (FLCC), which was first incorporated in 2004. Eight of the 33 FLCC vessels are restricted by the CRP non-AFA hook-and-line C/P sideboard limits in the GOA. Of these 8 vessels, 4 currently have LLP licenses with Central GOA Pacific cod endorsements and 5 have LLP licenses with Western GOA Pacific cod endorsements. One of the restricted FLCC vessels has a Western GOA pot endorsement. Of the remaining 25 FLCC vessels, 17 vessels are named on LLP licenses endorsed for Central GOA Pacific cod and 11 vessels are named on LLP licenses endorsed for Western GOA Pacific cod. The three remaining FLL vessels in the FFL sector are not members of the FLCC and only have LLP licenses endorsed for the GOA: one vessel with a Central GOA Pacific cod endorsement and 2 vessels with a Western GOA Pacific cod endorsement.

Table 1-12 Freezer longline vessels and the number LLP licenses with Pacific cod area endorsements

FLL Vessel Groups (number of FLL vessels)	Number of Pcod area endorsements			
	BS	AI	CG	WG
Sideboarded Cooperative Vessels (8)	8	8	4	5
Non-Sideboarded Cooperative vessels (25)	26	25	17	11
Non-sideboarded Non-Cooperative vessels (3)	0	0	1	2
Table originated from GOA Pcod sideboard Tables excel file with info from April 17, 2014 RAMLLP file, and LLP Worksheet file				

The freezer longline vessels range in length from 107 ft. to 180 ft., and use longline gear to target Pacific cod and other species in the BSAI and GOA. The primary groundfish species targeted by the freezer longline vessels are Pacific cod, sablefish, and Greenland turbot. In addition, longline vessels also may retain incidentally caught species, such as skates, rockfish, arrowtooth flounder, and pollock.

Most vessels in this sector were converted to this class from some other use, and were not necessarily fishing vessels before being converted. Only a small number of vessels have a long history in this class, and they tend to be smaller. The vessels that entered the class most recently tend, generally, to be larger, and were configured to specifically target Pacific cod in the BSAI. Larger vessels in this class can operate in the BSAI and GOA during most weather conditions.

Longline gear is set on the sea floor, with baited hooks on gangions attached. Each longline can be several miles in length, and have thousands of hooks. A longline vessel typically sets several lines for varying amounts of time. The lines are retrieved with hydraulic power over a roller, mounted on the side of the vessel. Fishing trips tend to range in length from 2 weeks to 3 weeks.

Only 10 percent of the vessels bait hooks by hand; the others use an automatic baiting system. Vessels with an automatic baiter travel about 7 miles per hour when setting gear, which is roughly the speed at which the baiting machine can keep up. The amount of gear set depends on sea conditions and how long the operators want to fish before they pick up the gear. The length of set varies from 3 miles to 30 miles.

Vessels pick up gear more slowly than when they set it, with the pickup rate governed by how fast they can handle the catch. Fish hauled on board are immediately shaken loose and placed into a trough. A crewmember bleeds the fish as soon as possible. Fish are then headed and gutted by hand or by machine. Fish are sorted by size/weight, packed, and frozen. Product is offloaded to cold storage, in port, or onto a tramper at sea. The majority of the FLL product is marketed overseas, with price determining where product is sold.

With the implementation of the restructured observer program on January 1, 2013, all FLL vessels are required to have an observer on board at all times. Prior to implementation of the new program, vessels less than 125 feet (38.1 m) length overall (LOA) were required to have an observer on board for only 30 percent of fishing days, by quarter. Vessels of 125 feet (38.1 m) LOA or larger were required to have an observer on board 100 percent of the time.

Table 1-13 provides an annual vessel count and wholesale value of harvest in the BSAI and GOA hook-and-line and pot Pacific cod fisheries, as well as total revenue of harvested BSAI crab for the eight GOA Pacific cod sideboarded FLL vessels, from 1996 through 2012. The table also includes annual total revenue for these eight sideboarded vessels in all fisheries. As can be seen from the table, during the 1996 through 2000 period the vessels focused their effort primarily on the BSAI hook-and-line Pacific cod

fishery and the crab fishery. Of the total revenue during this period, over 53 percent came from the BSAI hook-and-line Pacific cod fishery and 22 percent was from the crab fishery. Very little GOA hook-and-line Pacific cod revenue (2 percent) contributed towards the total revenue for these vessels during this 1996 through 2000 period.

During 2001 through 2004, these vessels continued to focus on the BSAI hook-and-line Pacific cod fishery and the crab fishery, while effort in the GOA hook-and-line Pacific cod fishery began to increase. All totaled during this period, 76 percent of the total revenue for the GOA Pacific cod sideboarded vessels was from the BSAI hook-and-line Pacific cod fishery, while 4 percent was from GOA hook-and-line Pacific cod fishery. The crab fishery contributed 8 percent towards total revenue.

In the years since the implementation of the CRP (2005 through 2011) but prior to implementation of Amendment 83, 73 percent of the total revenue was from the BSAI hook-and-line Pacific cod fishery, 2 percent was from the GOA hook-and-line Pacific cod fishery. The crab fishery accounted for 8 percent of total revenue. Finally, the table indicates that throughout the 1996 through 2011 period, few of the vessels ever utilized pot gear to harvest Pacific cod in either the BSAI or GOA.

Since implementation of Amendment 83 GOA Pacific cod sector allocations in 2012, the percentage of total revenue from BSAI hook-and-line Pacific cod fishery increased to 77 percent. None of the eight sideboarded vessels participated in the GOA hook-and-line Pacific cod fishery in 2012 given the sideboard fishery was closed to directed fishing due to sideboard limits insufficient to permit a directed fishery.

Table 1-13 Annual vessel count and wholesale revenue from 1996 through 2012 in BSAI and GOA hook-and-line and pot fisheries for Pacific cod, crab, and all fisheries combined for FLL vessels restricted by the non-AFA hook-and-line C/P sideboard limits.

Year	BSAI HAL Pcod		BSAI Pot Pcod		GOA HAL Pcod		GOA Pot Pcod		Crab		Total	
	Count	Wholesale value (millions \$)	Count	Wholesale value (millions \$)	Count	Wholesale value (millions \$)	Count	Wholesale value (millions \$)	Count	Total Revenue (millions \$)**	Count	Total Revenue (millions \$)
<i>Years used to calculate the sideboard limit</i>												
1996	3	3.07	3	1.73	0	0.00	0	0.00	4	3.40	4	11.12
1997	6	4.18	1	*	1	*	0	0.00	5	3.15	6	9.64
1998	6	6.86	2	*	1	*	0	0.00	4	3.59	6	16.19
1999	7	13.17	3	0.42	3	0.26	3	2.42	4	5.90	7	24.05
2000	7	16.21	0	0.00	1	*	1	*	4	1.71	7	21.30
<i>Years leading up to implementation of crab rationalization program</i>												
2001	7	19.24	0	0.00	5	0.42	2	*	5	2.65	7	24.56
2002	7	15.34	0	0.00	4	0.91	0	0.00	5	1.89	7	20.87
2003	7	19.58	0	0.00	5	1.76	0	0.00	3	1.66	7	26.40
2004	8	22.18	1	*	3	0.45	0	0.00	4	1.67	8	28.74
<i>Years since implementation of crab rationalization program</i>												
2005	8	29.18	0	0.00	3	0.24	0	0.00	1	*	8	36.89
2006	8	30.87	1	*	2	*	0	0.00	1	*	8	43.11
2007	8	35.35	0	0.00	3	0.17	0	0.00	1	*	8	47.61
2008	8	43.19	0	0.00	3	1.25	1	*	2	*	8	55.48
2009	8	29.11	0	0.00	4	1.13	1	*	2	*	8	42.50
2010	8	31.74	1	*	4	1.15	0	0.00	1	*	8	46.26
2011	8	53.10	1	*	3	2.36	1	*	1	*	8	74.24
<i>Years since implementation of Pacific cod sector allocations</i>												
2012	8	51.89	1	*	0	0.00	1	*	1	*	8	67.48

Source: ADFG fish tickets and catch accounting database

Table originates from FLL GOA Pcod Sideboard Tables file and FLL_Div(04-21) file

* denotes confidential data

** denotes combined exvessel and wholesale revenue

Table 1-14 provides vessel counts and catch value in the BSAI and GOA hook-and-line and pot Pacific cod fisheries, in addition to the crab and halibut fisheries from 1996 through 2012 for the cooperative vessels that are not restricted by GOA Pacific cod sideboard limits. As shown in the table, the primary fishery for this fleet was the BSAI hook-and-line Pacific cod fishery. During the 1996 through 2012 period, the BSAI hook-and-line Pacific cod fishery in aggregate contributed to 76 percent of the total revenue for non-sideboarded cooperative vessels. Other fisheries include the GOA hook-and-line Pacific cod fishery at 4 percent, and the halibut IFQ fishery, which was less than 1 percent of total revenue. Very few of these vessels have participated in the BSAI or GOA pot Pacific cod fisheries and the crab fishery during the 1996 through the 2012 period.

Table 1-14 Annual vessel count and wholesale revenue from 1996 through 2012 for BSAI and GOA hook-and-line and pot Pacific cod fisheries, vessel count and total revenue for crab fisheries, vessel count and exvessel revenue for halibut IFQ fishery, and total count and total revenue of all fisheries for non-sideboard FLCC cooperative vessels

Year	BSAI HAL Pcod		BSAI Pot Pcod		GOA HAL Pcod		GOA Pot Pcod		Crab		Halibut IFQ		Total	
	Count	Wholesale value (millions \$)	Count	Wholesale value (millions \$)	Count	Wholesale value (millions \$)	Count	Wholesale value (millions \$)	Count	Total Revenue (millions \$)**	Count	Exvessel Revenue (millions \$)	Count	Total Revenue (millions \$)
<i>Years used to calculate the sideboard limit</i>														
1996	19	42.99	0	0.00	8	2.53	0	0.00	0	0.00	6	0.02	19	61.50
1997	19	48.87	1	*	8	2.05	0	0.00	0	0.00	6	0.22	19	73.50
1998	19	54.73	1	*	6	1.76	0	0.00	1	*	6	0.03	20	74.28
1999	20	67.75	4	0.29	12	4.22	2	*	1	*	10	0.64	21	85.04
2000	20	71.56	2	*	10	3.74	1	*	1	*	13	1.10	21	91.63
<i>Years leading up to implementation of crab rationalization program</i>														
2001	20	70.58	0	0.00	8	3.02	0	0.00	0	0.00	12	0.85	20	83.52
2002	22	59.52	0	0.00	11	5.11	0	0.00	0	0.00	10	1.23	22	77.26
2003	22	77.66	0	0.00	12	3.41	0	0.00	0	0.00	13	2.38	22	114.17
2004	22	80.29	0	0.00	9	3.10	0	0.00	0	0.00	12	1.84	22	102.10
<i>Years since implementation of crab rationalization program</i>														
2005	22	97.62	0	0.00	5	0.24	0	0.00	0	0.00	11	1.53	22	124.44
2006	23	108.56	0	0.00	12	4.40	0	0.00	0	0.00	10	1.43	23	138.10
2007	24	109.35	0	0.00	13	7.94	0	0.00	0	0.00	10	0.63	24	142.96
2008	24	125.34	2	*	11	7.83	0	0.00	0	0.00	9	0.29	24	161.55
2009	24	84.67	1	*	13	3.51	0	0.00	0	0.00	20	0.54	24	112.41
2010	24	94.60	1	*	12	8.55	0	0.00	0	0.00	24	0.34	24	130.87
2011	21	140.40	0	0.00	9	8.22	0	0.00	0	0.00	21	0.28	21	184.35
<i>Years since implementation of Pacific cod sector allocations</i>														
2012	22	141.91	0	0.00	7	4.76	0	0.00	0	0.00	22	0.00	22	172.46

Source: ADFG fish tickets and catch accounting database

Table originates from FLL GOA Pcod Sideboard Tables file and fill_div(04-21)

* denotes confidential data

Table 1-15 provides vessel counts and value of the catch in the BSAI and GOA hook-and-line and pot Pacific cod fisheries in addition to the crab and halibut fisheries from 1996 through 2012 for the non-cooperative vessels that are not restricted by GOA Pacific cod sideboards. Unlike the other two FLL groups, this group is composed of 3 vessels, so most of the value data were confidential. From the limited value data that can be provided, it is apparent that these vessels focus primarily on GOA hook-and-line Pacific cod and halibut IFQ. One vessel did participate in the BSAI and GOA pot Pacific cod fishery and crab fishery from 2002 through 2005.

Table 1-15 Annual vessel count and wholesale revenue from 1996 through 2012 for BSAI and GOA hook-and-line and pot Pacific cod fisheries, vessel count and total revenue for crab fisheries, vessel count and exvessel revenue for halibut IFQ fishery, and total count and total revenue of all fisheries for non-sideboard non-cooperative FLL vessels

Year	BSAI HAL Pcod		BSAI Pot Pcod		GOA HAL Pcod		GOA Pot Pcod		Crab		Halibut IFQ		Total	
	Count	Wholesale value (millions \$)	Count	Wholesale value (millions \$)	Count	Wholesale value (millions \$)	Count	Wholesale value (millions \$)	Count	Total Revenue (millions \$)	Count	Exvessel Revenue (millions \$)	Count	Total Revenue (millions \$)
<i>Years used to calculate the sideboard limit</i>														
1996	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
1997	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
1998	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
1999	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
2000	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<i>Years leading up to implementation of crab rationalization program</i>														
2001	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
2002	0	0.00	1	*	0	0.00	1	*	1	*	1	*	1	*
2003	0	0.00	1	*	0	0.00	1	*	1	*	0	0.00	1	*
2004	1	*	1	*	1	*	1	*	1	*	2	*	2	*
<i>Years since implementation of crab rationalization program</i>														
2005	1	*	1	*	1	*	1	*	0	0.00	1	*	2	*
2006	1	*	0	0.00	1	*	0	0.00	0	0.00	1	*	1	*
2007	0	0.00	0	0.00	1	*	1	*	0	0.00	1	*	2	*
2008	3	0.11	0	0.00	3	1.24	0	0.00	0	0.00	3	*	3	2.63
2009	1	*	0	0.00	3	1.50	0	0.00	0	0.00	1	*	3	2.62
2010	2	*	0	0.00	3	1.36	0	0.00	0	0.00	2	*	3	1.80
2011	1	*	0	0.00	2	*	0	0.00	0	0.00	2	*	2	*
<i>Years since implementation of Pacific cod sector allocations</i>														
2012	1	*	0	0.00	2	*	0	0.00	0	0.00	2	*	2	*

Source: ADFG fish tickets and catch accounting database

Table originates from FLL GOA Pcod Sideboard Tables file and fl_div(04-21) file

* denotes confidential data

1.6.1 Freezer Longline Conservation Cooperative (FLCC)

The FLCC was incorporated on February 26, 2004. Since 2006, most of the holders of LLP licenses endorsed to target Pacific cod in the Bering Sea and Aleutian Islands with hook-and-line gear have been members of the FLCC. In June 2010, the remaining LLP license holders joined the cooperative. The cooperative apportions the sector's share of the available Pacific cod TAC among its members to eliminate the race for fish that arises under limited access management. Each year, an allocation of BSAI Pacific cod is made to the freezer longline catcher/processor sector through the annual harvest specifications process. FLCC members subdivide the TAC with each receiving a share for harvest; shares are issued in proportion to historical BSAI Pacific cod fishing activity. FLCC members are free to exchange their shares among themselves, and to stack shares on individual vessels. Compliance with the agreement is monitored by SeaState, Inc., and the contract, signed by the members, imposes heavy financial penalties for non-compliance. Under its terms, dissolution of the cooperative requires the agreement of an 85 percent supermajority of LLP license holders.

In the GOA, the allocation of Pacific cod, and apportionment of halibut PSC available to the longline catcher/processor sector, is at times too small to allow NMFS to open the fishery in the absence of some control on harvest by members of the sector. So, for several years, FLCC members have organized their GOA Pacific cod harvests, although not all participants in the GOA Pacific cod fishery are cooperative members. This coordination has resulted in sufficient commitments regarding Pacific cod harvests and halibut PSC avoidance to allow NMFS to open the fishery (NMFS 2011b). Over the longer term, allocations of the Western and Central GOA Pacific cod TACs to the GOA FLL sector, and provisions that limit entry to the directed GOA longline Pacific cod fishery, may provide additional opportunities for a GOA harvest cooperative to form.

1.6.2 Freezer longline fishing in the GOA Pacific cod fishery

Several member vessels in the FLCC participate in the GOA Pacific cod fisheries using hook-and-line gear. Table 1-16 shows the annual vessel count from 1996 through 2012, and Table 1-17 shows catch of GOA Pacific cod from 1996 through 2012. Catch data at the subarea level was not provided since most of the catch data was confidential at that level of detail. To provide catch and vessel count information for the different hook-and-line C/P groups active in the GOA Pacific cod fishery, the vessels were grouped into three categories based first on whether the vessel is a member of the FLCC, and second whether an FLCC vessel is restricted by GOA Pacific cod sideboards. The groups are: sideboarded cooperative vessels, non-sideboarded non-cooperative vessels, and non-sideboarded cooperative vessels. The vessel count and catch data were grouped into four distinct periods to contrast changes in participation.

As seen from Table 1-17, during the 1996 through 2000 period, activity in the GOA Pacific cod fishery was from sideboarded cooperative vessels and non-sideboarded cooperative vessels. However, the catch of the sideboarded cooperative vessels was extremely limited. During the years leading up to the implementation of the CRP (2001 through 2004), all of the cooperative vessels continued to be active in the GOA Pacific cod fishery and one non-sideboarded non-cooperative vessel entered the fishery in 2004. Fishing activity by the sideboarded cooperative vessels increased during this period.

During the years following CRP implementation but prior to implementation of GOA Pacific cod sector allocations (2005 to 2011), cooperative vessels continued to participate in the GOA Pacific cod fishery, and all three non-sideboarded non-cooperative vessels participated in the GOA Pacific cod fishery. During this period, the number of FLCC vessels (non-sideboarded FLCC and sideboarded FLCC vessels) active in the GOA Pacific cod fishery ranged from a low of nine in 2005, to a high of 16 in 2009 and 2010. Their GOA Pacific cod catch ranged from a low of 379 mt in 2005, to a high of 6,617 mt in 2010. The number of non-sideboarded non-cooperative vessels active in the GOA Pacific cod fishery ranged from one in 2005, 2006, and 2007, to a high of three vessels in 2008, 2009, and 2010. Given that the number of these vessels fell below three in several years, catch data could only be reported for 2008, 2009, and 2010, due to confidentiality limitations. For those years, the three vessels were active in the GOA Pacific cod fishery and their catch ranged from 555 mt in 2008 to 1,154 mt in 2009. In 2012, the year GOA Pacific cod sector allocations were implemented, the sideboarded cooperative vessels could not fish in the GOA Pacific cod fishery with hook-and-line gear, while seven non-sideboarded cooperative vessels and two non-sideboarded non-cooperative vessels were active in the GOA.

Table 1-18 provides the first wholesale revenue for GOA Pacific cod by the three freezer longline groups active in the GOA from 1996 through 2012.

Table 1-16 Vessel count by freezer longline vessel category in the GOA Pacific cod fishery by area from 1996 through 2012

Year	Sideboarded cooperative vessels		Non-sideboarded non-cooperative vessels		Non-sideboarded cooperative vessels	
	CGOA	WGOA	CGOA	WGOA	CGOA	WGOA
	<i>Years used to calculate the sideboard limit</i>					
1996	0	0	0	0	3	8
1997	0	1	0	0	1	8
1998	1	0	0	0	4	5
1999	1	2	0	0	6	11
2000	0	1	0	0	5	9
	<i>Years leading up to implementation of crab rationalization program</i>					
2001	0	5	0	0	2	8
2002	1	3	0	0	6	9
2003	1	5	0	0	5	11
2004	0	3	1	0	3	8
	<i>Years since implementation of crab rationalization program</i>					
2005	2	3	1	0	3	5
2006	2	1	1	1	6	10
2007	1	2	1	0	6	9
2008	3	1	1	2	6	7
2009	1	3	2	2	6	8
2010	2	3	1	3	6	8
2011	2	3	1	2	8	7
	<i>Years since implementation of Pacific cod sector allocations</i>					
2012	0	0	1	2	4	5

Source: AKFIN report from weekly production reports

Table originates from FLL_GOA(04-22) excel file and FLL Pcod Sideboard Tables excel file

Table 1-17 Activity for sideboarded FLL cooperative vessels, non-sideboarded non-cooperative FLL vessels, and non-sideboarded cooperative FLL vessels in GOA Pacific cod from 1996 through 2012 using hook-and-line gear

Year	Sideboarded cooperative vessels		Non-sideboarded non-cooperative vessels		Non-sideboard cooperative vessels	
	Catch (mt)	Vessel count	Catch (mt)	Vessel count	Catch (mt)	Vessel count
<i>Years used to calculate the sideboard limit</i>						
1996	0	0	0	0	3,561	8
1997	*	1	0	0	2,604	8
1998	*	1	0	0	2,193	6
1999	205	3	0	0	3,287	12
2000	*	1	0	0	2,951	10
<i>Years leading up to implementation of crab rationalization program</i>						
2001	348	5	0	0	2,528	8
2002	865	4	0	0	4,878	11
2003	1,510	5	0	0	2,920	12
2004	375	3	*	1	2,577	9
<i>Years since implementation of crab rationalization program</i>						
2005	189	3	*	1	190	5
2006	*	2	*	1	2,600	12
2007	85	3	*	1	4,051	13
2008	542	3	555	3	3,410	11
2009	872	4	1,154	3	2,718	13
2010	786	4	915	3	5,831	12
2011	1,357	3	*	2	4,729	9
<i>Years since implementation of Pacific cod sector allocations</i>						
2012	0	0	*	2	2,714	7

Source: AKFIN report from weekly production reports

* denotes confidential data

Table originates from FLL_GOA(04-22) file and FLL GOA Pcod Sideboard Tables excel file

Table 1-18 First wholesale revenue for sideboarded FLL cooperative vessels, non-sideboarded non-cooperative FLL vessels, and non-sideboarded cooperative FLL vessels in GOA Pacific cod from 1996 through 2012

Year	Sideboarded cooperative vessels		Non-sideboarded non-cooperative vessels		Non-sideboard cooperative vessels	
	First wholesale value (millions \$)	Vessel count	First wholesale value (millions \$)	Vessel count	First wholesale value (millions \$)	Vessel count
<i>Years used to calculate the sideboard limit</i>						
1996	0.00	0	0.00	0	2.53	8
1997	*	1	0.00	0	2.05	8
1998	*	1	0.00	0	1.76	6
1999	1.16	3	0.00	0	4.22	12
2000	*	1	0.00	0	3.74	10
<i>Years leading up to implementation of crab rationalization program</i>						
2001	0.42	5	0.00	0	3.02	8
2002	0.91	4	0.00	0	5.11	11
2003	1.76	5	0.00	0	3.41	12
2004	0.45	3	*	1	3.10	9
<i>Years since implementation of crab rationalization program</i>						
2005	0.24	3	*	1	0.24	5
2006	*	2	*	1	4.40	12
2007	0.94	3	*	1	7.94	13
2008	0.17	3	1.24	3	7.83	11
2009	1.25	4	1.50	3	3.51	13
2010	1.13	4	1.36	3	8.55	12
2011	1.15	3	*	2	8.22	9
<i>Years since implementation of Pacific cod sector allocations</i>						
2012	0.00	0	*	2	4.76	7

Source: AKFIN report from comprehensive blend catch accounting

* denotes confidential data

Table originates from FLL_WV(04-21) file and FLL GOA Pcod Sideboard Tables excel file

1.6.3 Markets

Pacific cod produced by the FLL sector is ultimately sold in a wide variety of places (e.g., white tablecloth restaurants, fast food restaurants, food service operations, school, hospitals, and retail grocery stores) in the United States or in foreign countries. Pacific cod is sold in a wide variety of product forms, including fillets, sticks, portions, breaded or non-breaded, and salt cod.

The FLL vessels primarily produce trays of frozen headed and gutted Pacific cod. This product is reprocessed, once it leaves the catcher/processor. Additional value-added processing may take place in the United States. However, much of the reprocessing takes place overseas. Following value-added processing, Pacific cod may be exported to third countries or re-exported to the United States for consumption.

1.6.4 Vessels and LLP licenses Impacted

The Regulatory Impact Review/Initial Regulatory Flexibility Analysis reviewed by the Council at the time of final action specified that Amendment 45 would apply to 6 vessels and 5 LLP licenses subject to CRP GOA Pacific cod sideboard limits. During development of the proposed rule to implement Amendment 45, NMFS determined that 2 additional vessels are currently subject to CRP GOA Pacific cod sideboard limits. During its April 2014 meeting, NMFS notified the Council and the public that if Amendment 45 is approved and implemented, the CRP GOA Pacific cod sideboards limits could be removed for 8 vessels and 5 LLP licenses. This analysis has been revised to include the impacts of the additional vessels. NMFS believes this clarification to the number of affected vessels does not modify the impacts of Amendment 45 on the Central and Western GOA Pacific cod fisheries or fishery participants that were analyzed at the time the Council recommended Amendment 45. However, in April 2014, NMFS advised the Council and the public of this clarification, and provided an opportunity for input from the Council. No additional input was provided by the Council or by the public at the April 2014 meeting. The following paragraph provides additional detail.

NMFS has identified the following list of 8 hook-and-line catcher/processor vessels subject to CRP GOA Pacific cod sideboard limits: ALEUTIAN LADY; BARANOF; BEAUTY BAY; BERING PROWLER; BLUE ATTU; COURAGEOUS; SIBERIAN SEA; and US LIBERATOR. Only 6 of these vessels have targeted Pacific cod in the GOA since 2003. Although the ALEUTIAN LADY and the SIBERIAN SEA have not participated in the GOA Pacific cod fisheries since 2003, if Amendment 45 is approved and implemented, and the CRP GOA Pacific cod sideboard limits are removed, these two additional vessels could target Pacific cod in the Central or Western GOA. However, participation of hook-and-line catcher/processor vessels in the Central and Western GOA Pacific cod fisheries would continue to be limited by LLP requirements that the vessel be named on an LLP license that authorizes the vessel to catch and process Pacific cod using hook-and-line gear in the Central or Western GOA. Moreover, all of the holders of hook-and-line catcher/processor Pacific cod endorsed LLP licenses in either the Central or Western GOA would need to agree to request the sideboard removal from NMFS. If these LLP license holders are unable, or unwilling, to agree to the sideboard removal, the CRP GOA sideboard limits would not be removed and, given the small amount of the sideboard limits, hook-and-line catcher/processor vessels subject to the Pacific cod sideboard limits would continue to be unable to participate in the Central and Western GOA Pacific cod fisheries.

2.0 EXPECTED EFFECTS OF THE ALTERNATIVES

This section provides an analysis of the two alternatives. Assessing the effects of the alternatives involves some degree of speculation. In general, the effects arise from the actions of individual participants in the fisheries, under the incentives and disincentives created by each alternative. Predicting these individual actions and their effects is constrained by incomplete information concerning the fisheries, including the absence of complete economic information and well-tested models that predict behavior under different institutional structures. In addition, exogenous factors, such as stock fluctuations, market dynamics, and macro condition in the global economy, will influence the response of the participants under each of the alternatives.

2.1 Alternative 1: No Action

Prior to the 2012 season, six of the eight sideboarded vessels capitalized on the aggregate inshore/offshore GOA Pacific cod sideboard limits to increase their catch of GOA Pacific cod fishery using hook-and-line gear, relative to their modest fishing effort using this same gear during the 1996 through 2000 period. Following the implementation of the CRP non-AFA sideboards in 2005, additional catches by the sideboarded vessels arose from increasing their harvests relative to other sideboarded vessels in the offshore sector, such as trawl catcher/processors and pot catcher/processors. However, this increased catch history is not reflected in the operational type and gear specific sideboards established under Amendment 83 that were set based on the historical catches of the eight sideboarded vessels using hook-and-line gear during 1996 through 2000.

Given that sideboarded FLL vessels will, in all likelihood, be precluded from using hook-and-line gear in the GOA Pacific cod fishery, these vessels could shift fishing effort into other fisheries to make up for lost GOA Pacific cod revenue. However, the ability of these sideboarded vessels to recoup lost GOA hook-and-line Pacific cod revenue in other GOA and Bering Sea and Aleutian Islands (BSAI) fisheries is limited. In the BSAI Pacific cod fishery, the cooperative members assign their allocations based on their historical BSAI Pacific cod fishing activity and the cooperative calculation is fixed. Cooperative members assert that no potential exists for renegotiation in the future to compensate for loss of revenues to sideboard vessels in the GOA Pacific cod fishery.

It is unclear whether the cooperative could choose to recognize the history of these sideboarded vessels in the GOA, regardless of whether the sideboard limit is removed. Under such an arrangement, the sideboarded vessel could trade the cooperative recognized GOA Pacific cod history with non-sideboarded cooperative vessels, active in the GOA, for additional harvests in the Bering Sea. Sideboarded vessels would be precluded from fishing in the GOA, but would realize additional harvests in the Bering Sea. Given that the cooperative has demonstrated the ability to negotiate the distribution of its members' catches in the Bering Sea and GOA Pacific cod fisheries without Council involvement, a modified agreement might be reached to provide the sideboarded vessels with additional access to Bering Sea Pacific cod, while other cooperative vessels direct additional effort to the GOA Pacific cod fishery.

Fishing opportunities other than Pacific cod appear limited for the sideboarded vessels. Likely, the only opportunity would be Bering Sea and Aleutian Islands Greenland turbot, but FLL vessels assert that they have difficulty generating profits in that fishery.⁵

For the non-sideboarded vessels that are members of the FLCC, the additional GOA Pacific cod catch is relatively modest compared to their BSAI Pacific cod catch. In addition, to the extent that the cooperative has defined the available catch in the GOA Pacific cod fishery for its members, the additional harvests

⁵ Personal communication, Kenny Down, BSAI Freezer Longline Conservation Cooperative January, 2013.

available may be limited. However, from the perspective of the non-cooperative non-sideboarded vessels, the hook-and-line C/P sideboard limits provide more opportunities for these vessels to expand their fishing effort in the GOA Pacific cod fishery.

For non-cooperative non-sideboarded FLL vessels, this increased opportunity in the GOA Pacific cod fishery could be significant. The additional fishing opportunities for GOA Pacific cod will likely have little impact on other cooperative vessels, not restricted by sideboard limits, but could be significant for non-cooperative non-sideboarded FLL vessels if they are able to increase their fishing effort in response to continued coordination in the GOA among FLCC members. Overall, if the current GOA Pacific cod sideboard limit for hook-and-line C/Ps is maintained, eight FLL vessels and five LLP licenses restricted by this GOA Pacific cod sideboard limit will not be able to participate in the GOA Pacific cod fishery using hook-and-line gear given the extremely small sideboard amount. If recent GOA Pacific cod fishing patterns are indicative, lost revenue attributable to the GOA Pacific cod sideboard restrictions could result in an approximate three percent reduction in annual gross revenue for these vessels.

2.2 Alternative 2: Permanent or Temporary Removal of GOA sideboards by regulation or participant agreement

The Council defined non-AFA sideboard limits for Pacific cod in the GOA as a part of the CRP, to limit the ability of vessels receiving crab allocations from using the economic and operational security of those allocations to increase their GOA Pacific cod harvests above historical levels. Under crab rationalization, vessel owners have the flexibility to fish for snow crab whenever they want or lease their crab IFQ and not fish crab at all. This increases the incentive for vessel owners to augment effort in alternative fisheries, and in particular, the GOA groundfish fisheries. The Council recognized such a fishing behavior change could negatively affect other participants in those fisheries, for example, participants that target GOA Pacific cod with hook-and-line gear.

In the years after the non-AFA sideboards were implemented, most sideboarded FFL vessels changed their fishing behavior and began to increase their effort in the GOA Pacific cod fishery. This was possible because the sideboard amounts were not apportioned by gear or operational mode, beyond the inshore/offshore split. With the implementation of gear type and operation type sideboards for GOA Pacific cod, the sideboarded FFL vessels have been limited to the share of the GOA Pacific cod harvested prior to crab rationalization, effectively removing those vessels from the GOA fisheries in which they have recently increased participation given the small sideboard limits.

Alternative 2 contains three operationally distinct approaches to the removal of GOA Pacific cod sideboard limits. Alternative 2 as separate from the option and suboption would permanently remove the sideboard limits with no requirement for agreement of their removal among FFL participants. The option under Alternative 2 would permanently remove the sideboard limits but only if all FFL participants agree to their removal and notify NMFS of their agreement within the year following publication of the final rule implementing Amendment 45. The suboption under Alternative 2 would annually suspend the sideboard limits if all FFL participants agree to their suspension and notify NMFS of their agreement on an annual basis. Under either the option or the suboption, sideboards would remain in effect if all of the participants were unable to agree to their removal or suspension. As explained in section 1.3 of the analysis, while all of the action alternatives are operationally distinct from each other, the impacts to affected entities under each of the action alternatives are the same depending on whether the sideboards are in effect or are removed. Therefore, the following paragraphs examine the expected impacts that would occur to the three groups of affected entities (sideboarded cooperative FFL vessels; non-sideboarded cooperative FFL vessels; and non-sideboarded non-cooperative FFL vessels) under all of the action alternatives if sideboard limits remain in effect or if sideboard limits are removed.

Impacts to Sideboarded Cooperative FFL Vessels

As indicated in Section 1.6.2, there are eight FLL vessels and five hook-and-line catcher/processor LLP licenses that are limited by non-AFA hook-and-line C/P sideboard limits for Pacific cod in the GOA. Table 2-1 shows that five sideboarded vessels were active in the BSAI snow crab fishery during 1996 through 2004. Since implementation of the sideboards in 2005, only two of the sideboarded vessels have participated in the BSAI snow crab fishery, although seven of the eight vessels still retain a crab endorsed LLP license. Of those two sideboarded vessels participating in the BSAI snow crab since 2005, only one vessel has been active in the GOA Pacific cod fishery during this period. Sideboarded vessels generally decreased their participation in the crab fisheries, while increasing their dependence on both BSAI and GOA Pacific cod following the 1996 through 2000 Crab Rationalization Program qualifying period.

Table 2-1 Vessel count and catch of BSAI snow crab for GOA sideboarded freezer longline vessels, 2001 through 2012

Year	Count	Catch (mt)
1996	4	942
1997	5	1,688
1998	4	2,557
1999	4	1,766
2000	4	360
2001	5	565
2002	5	370
2003	3	149
2004	4	207
2005	1	*
2006	1	*
2007	1	*
2008	2	*
2009	2	*
2010	1	*
2011	1	*
2012	1	*

Source: AKFIN report which is from ADFG fish tickets

Table originates from FLL GOA Pcod Sideboard Tables file and fl_div(04-21) file

* denotes confidential data

Table 2-2 shows that during 1996 through 2012, the number of sideboarded FLL vessels active in the GOA Pacific cod fishery on an annual basis ranged from zero vessels in 1996 and 2012, to a high of five in 2001 and 2003. Aggregated across the entire period, a total of seven sideboarded FLL vessels were active in the GOA Pacific cod fishery. All eight of the GOA Pacific cod sideboarded vessels have participated in the BSAI Pacific cod fishery since 2006. Nearly all Pacific cod catch activity is from hook-and-line gear; see Table 2-2 or Section 1.6 for more details.

Removal of the GOA Pacific cod sideboard limits for the sideboarded FLL vessels would allow these vessels to expand their effort in the GOA Pacific cod fishery. Under the option and suboption, a potential cooperative agreement may constrain the harvests of sideboarded vessels to some extent, but not to the extent of the current sideboards. More likely, any agreement among GOA FLL participants would constrain the harvest of sideboarded FLL vessels to levels observed during the 2001 through 2011 period. The cooperative could also permit the sideboarded vessels to increase their fishing effort in the GOA Pacific cod fishery beyond their 2001 through 2011 period. As indicated in Table 2-2, the participation of the eight sideboarded vessels in the GOA Pacific cod fishery is not consistent annually; however, these

vessels have consistently participated in the BSAI Pacific cod fishery since 2006. Their consistent and significant participation in the BSAI Pacific cod fishery, relative to the GOA Pacific cod fishery, is reflected in their GOA Pacific cod catch being, on average, only three percent of their total catch of BSAI and GOA Pacific cod. In other words, despite having the ability to lease some or all of their BSAI Pacific cod to expand their effort in the GOA Pacific cod fishery, these vessels have continued to focus the majority of their effort in the BSAI Pacific cod fishery. This pattern has likely arisen from the profitability of the BSAI Pacific cod fishery, relative to both the GOA Pacific cod fishery and the potential revenue received from leasing BSAI Pacific cod.

Table 2-2 TAC, catch, first wholesale value, and vessel count in the BSAI and GOA Pacific cod fisheries for the GOA sideboarded FLCC vessels along with percent of GOA Pacific cod catch and first wholesale revenue relative to total Pacific cod catch and first wholesale revenue, 1996 through 2012

Year	BSAI					GOA					% of GOA catch relative to total BSAI and GOA	% of GOA first wholesale revenue relative to total BSAI and GOA Pcod first
	TAC (mt)	Catch (mt)	% of TAC	First wholesale value (\$)	Vessel count	TAC (mt)	Catch (mt)	% of TAC	First wholesale value (\$)	Vessel count		
<i>Years used to calculate the sideboard limit</i>												
1996	270,000	4,204	1.56	3,070,686	3	65,000	0	0.00	0	0	0.00	0.00
1997	270,000	7,072	2.62	4,184,737	6	69,115	*	*	*	1	*	*
1998	210,000	7,471	3.56	6,580,624	5	66,060	*	*	*	1	*	*
1999	177,000	8,255	4.66	9,818,434	6	67,835	205	0.30	262,795	3	2.42	2.61
2000	193,000	10,928	5.66	13,334,623	6	58,715	*	*	*	1	*	*
<i>Years leading up to implementation of crab rationalization program</i>												
2001	188,000	13,753	7.32	15,499,372	6	52,110	348	0.67	415,849	5	2.47	2.61
2002	200,000	12,547	6.27	12,271,347	6	44,230	865	1.96	905,467	4	6.45	6.87
2003	207,500	14,323	6.90	16,606,877	6	40,540	1,510	3.72	1,764,328	5	9.54	9.60
2004	215,500	16,097	7.47	18,866,967	7	48,033	375	0.78	450,511	3	2.27	2.33
<i>Years since implementation of crab rationalization program</i>												
2005	206,000	18,275	8.87	25,364,022	7	44,433	189	0.42	241,062	3	1.02	0.94
2006	194,000	17,598	9.07	30,850,500	8	52,264	*	*	*	2	*	*
2007	170,720	18,226	10.68	37,419,946	8	52,264	86	0.16	167,658	3	0.47	0.45
2008	170,720	21,611	12.66	44,545,782	8	50,269	542	1.08	1,245,698	3	2.45	2.72
2009	176,540	23,015	13.04	28,787,233	8	41,807	872	2.09	1,128,240	4	3.65	3.77
2010	168,780	23,162	13.72	34,886,117	8	59,563	786	1.32	1,152,826	4	3.28	3.20
2011	227,950	33,492	14.69	56,332,716	8	73,719	1,357	1.84	2,357,437	3	3.89	4.02
<i>Years since implementation of Pacific cod sector allocations</i>												
2012	261,000	36,244	13.89	54,345,194	8	60,600	0	0.00	0	0	0.00	0.00

Source: AKFIN report which is from ADFG fish tickets

Table originates from FLL GOA Pcod Sideboard Tables file and FLL_WV(04-21) file

* denotes confidential data

In the future, if the existing cooperative no longer coordinates its activities in the GOA Pacific cod fishery, the incentive to “race for fish” increases as more FLL vessels chase a fixed allocation of GOA Pacific cod. In an environment with no additional cooperative coordination, the absence of sideboards would allow these once restricted vessels to expand their effort in the GOA Pacific cod fishery, and thereby potentially impact other FLL vessels participating in the GOA fishery. In addition, a “race for fish” environment could shorten the seasons relative to the no action alternative. A truncated fishing season could impact other FLL vessels participating in the fishery by reducing profits from the fishery.

In 2014, the Secretary implemented Amendment 99 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area. Amendment 99 increases the maximum length overall (MLOA) on LLP licenses endorsed to catch and process Pacific cod with hook-and-line gear in the BSAI, including all members of the FLCC. The Council recommended that NMFS increase the MLOA specified on eligible LLP licenses, to accommodate replacement vessels up to 220 feet (67 meters) length overall (LOA). Amendment 99 also allows vessels in this sector to exceed length, tonnage, and power limits established under the AFA. There are currently 36 LLP licenses eligible to catch and process Pacific cod with hook-and-line gear in the BSAI, but only 33 unique vessels that actively

participated. Seventy-five percent of the eligible licenses also had endorsements to use hook-and-line gear to target Pacific cod in the GOA. Although Amendment 99 was intended to relieve many of the capacity limits established by the AFA and the LLP, Amendment 99 was not intended to increase the fishing effort of C/Ps using hook-and-line in the BSAI or GOA. When it adopted Amendment 99, the Council anticipated that management constraints, such as sector allocations in the BSAI and GOA and sideboards, would limit the overall capitalization of this subsector and the potential for the subsector to disadvantage other sectors. As a potential result of the combination of sideboard removal and the ability to increase the length of replacement vessel, Alternative 2 as separate from the option and suboption could negatively impact small GOA-only FLL vessels active in the Pacific cod fishery.

Impacts to non-sideboarded cooperative FFL vessels

Under the action alternatives, it is likely some of the FLL vessels currently sideboarded in the GOA Pacific cod fishery would enter this fishery, which could increase competition for a fully utilized sector allocation and negatively impact non-sideboarded cooperative member vessels. As seen in Table 2-3, the number of non-sideboarded cooperative vessels active in the GOA Pacific cod fishery has ranged from a low of five in 2005, to a high of 13 in 2007 and 2009.

Currently, the FLCC cooperative coordinates the fishing activity of its member vessels in the GOA Pacific cod fishery, including the eight sideboarded FLL vessels. Coordination of its cooperative member vessel activities in the GOA Pacific cod fishery protects cooperative vessels that are not sideboarded, subject to the terms of the agreement. The agreement should reduce the incentive to “race for fish” within the FLL sector, if the sideboards are removed, but only to the extent that the agreement constrains the currently sideboard vessels. If the currently sideboarded vessels are not constrained, non-sideboarded cooperative member vessels could suffer either a loss of harvest or be compelled to race to maintain their current share of the harvest in the GOA Pacific cod fishery. The latter seems unlikely, as this would make continued cooperation among these operators in the BSAI fisheries exceedingly difficult. The demise of the FLCC cooperative management structure would come at considerable cost to the current participants.

Table 2-3 BSAI and GOA Pacific cod catch, first wholesale value, and vessel count for the non-sideboarded FLCC vessels active in the GOA, 1996 through 2012

Year	BSAI					GOA					% of GOA catch relative to total BSAI and GOA Pcod catch	% of GOA first wholesale revenue relative to total BSAI and GOA Pcod first wholesale revenue
	TAC (mt)	Catch (mt)	% of TAC	First wholesale value (\$)	Vessel count	TAC (mt)	Catch (mt)	% of TAC	First wholesale value (\$)	Vessel count		
<i>Years used to calculate the sideboard limit</i>												
1996	270,000	58,853	21.80	42,991,956	19	65,000	3,561	5.48	2,528,416	8	5.71	5.55
1997	270,000	82,578	30.58	48,866,126	19	69,115	2,604	3.77	2,047,005	8	3.06	4.02
1998	210,000	62,142	29.59	54,734,233	20	66,060	2,193	3.32	1,755,450	6	3.41	3.11
1999	177,000	56,961	32.18	67,752,369	21	67,835	3,287	4.85	4,216,738	12	5.46	5.86
2000	193,000	58,646	30.39	71,563,051	21	58,715	2,951	5.03	3,737,669	10	4.79	4.96
<i>Years leading up to implementation of crab rationalization program</i>												
2001	188,000	62,627	33.31	70,580,404	20	52,110	2,528	4.85	3,023,488	8	3.88	4.11
2002	200,000	60,859	30.43	59,520,239	22	44,230	4,878	11.03	5,107,727	11	7.42	7.90
2003	207,500	66,980	32.28	77,662,114	22	40,540	2,920	7.20	3,412,519	12	4.18	4.21
2004	215,500	68,504	31.79	80,292,303	22	48,033	2,577	5.36	3,098,058	9	3.62	3.72
<i>Years since implementation of crab rationalization program</i>												
2005	206,000	70,335	34.14	97,618,496	22	44,433	190	0.43	242,680	5	0.27	0.25
2006	194,000	62,339	32.13	109,285,415	23	52,264	2,600	4.97	4,401,116	12	4.00	3.87
2007	170,720	53,261	31.20	109,349,057	24	52,264	4,051	7.75	7,940,488	13	7.07	6.77
2008	170,720	60,845	35.64	125,344,256	24	50,269	3,410	6.78	7,834,438	11	5.31	5.88
2009	176,540	67,700	38.35	84,678,552	24	41,807	2,718	6.50	3,514,958	13	3.86	3.99
2010	168,780	62,839	37.23	94,646,010	24	59,563	5,831	9.79	8,550,387	12	8.49	8.29
2011	227,950	83,474	36.62	140,402,696	21	73,719	4,729	6.41	8,216,045	9	5.36	5.53
<i>Years since implementation of Pacific cod sector allocations</i>												
2012	261,000	94,645	36.26	141,912,682	22	60,600	2,714	4.48	4,764,607	7	2.79	3.25

Source: AKFIN report which is from ADFG fish tickets

Table originates from FLL GOA Pcod Sideboard Tables file and FLL_WV(04-21) file

Impacts to non-sideboarded non-cooperative FLL vessels

As seen in Table 2-4, the number of non-sideboarded non-cooperative FLL vessels that have participated in the GOA Pacific cod fishery has ranged from zero prior to 2004, to a high of three vessels in 2008, 2009, and 2010. These vessels also participated in the halibut IFQ program in the GOA and BSAI.

Under the option and suboption, it is likely that the non-sideboarded non-cooperative FLL vessel owners would only agree to the removal of the sideboards upon successfully negotiating the terms of an agreement that met the needs of these vessels. During negotiations, non-sideboarded non-cooperative FFL vessel owners would likely recognize that cooperative coordination can maintain opportunities for non-member vessels, but they would also recognize that coordination of fishing among cooperative members could also be used to reduce opportunities for vessels that are not in the cooperative. These efforts to preclude opportunities for non-member vessels may arise whether sideboards are removed or not. With sideboards removed, formerly sideboarded vessels could expand their effort in the GOA Pacific cod fishery, directly affecting fishing opportunities for non-member vessels. With the sideboards in place, the cooperative could coordinate fishing to increase their catches in the GOA Pacific cod fisheries. It is likely that any agreement between non-member vessels and FLCC vessel owners would have to address the cooperative's ability to preclude fishing opportunities of non-members if the sideboards are removed.

Table 2-4 Catch, first wholesale value, and vessel count in the GOA Pacific cod fisheries for the non-sideboarded, non-cooperative freezer longline vessels active in the GOA, 1996 through 2012

Year	GOA catch (mt)	GOA first wholesale value (\$)	GOA vessel count
<i>Years used to calculate the sideboard limit</i>			
1996	0	0	0
1997	0	0	0
1998	0	0	0
1999	0	0	0
2000	0	0	0
<i>Years leading up to implementation of crab rationalization program</i>			
2001	0	0	0
2002	0	0	0
2003	0	0	0
2004	*	*	1
<i>Years since implementation of crab rationalization program</i>			
2005	*	*	1
2006	*	*	1
2007	*	*	1
2008	555	1,239,720	3
2009	1,155	1,498,337	3
2010	941	1,318,779	3
2011	*	*	2
<i>Years since implementation of Pacific cod sector allocations</i>			
2012	*	*	2

Source: AKFIN report from comprehensive blend catch accounting

* denotes confidential data

Table originates from FLL_WV(04-21) file and FLL GOA Pcod Sideboard Tables excel file

During contract negotiations, the non-member vessel owners would likely take into consideration the potential for fishing effort of the sideboarded vessels from the BSAI Pacific cod fishery to the GOA Pacific cod fishery due to reduced TACs in the BSAI. Such a potential shift in effort could negatively impact non-member FLL vessels active in the GOA Pacific cod fishery. Vessels that are not FLCC members are more vulnerable to increases in GOA Pacific cod fishing effort by formerly sideboarded vessels. Thus, obtaining FLCC membership would promote coordinated fishing effort in the BSAI and GOA Pacific cod fisheries and would reduce the harm to all member vessels from reduced TACs in one or both areas. Therefore, the terms of an agreement to remove the GOA Pacific cod sideboards will likely include some cooperative coordination to limit the effects of reduced TACs.

Finally, removing the non-AFA hook-and-line C/P sideboard limits for Pacific cod in the GOA under Alternative 2 as separate from the option and suboption, combined with Amendment 99, which increases the MLOA specified on the LLP licenses, could enable sideboard restricted FLL vessels to negatively affect the three non-member FLL vessels active in the GOA Pacific cod fishery. Amendment 99 could increase the incentive for the eight eligible FLCC vessels to increase the length of their vessels and disadvantage other participants in the fishery. Larger vessels can incorporate larger freezer holds, thus,

allowing a vessel to stay at sea for longer periods, while smaller vessels generally require more trips to and from fishing grounds to offload product. Fewer trips could increase vessel efficiency by reducing fuel consumption and minimizing transit time, which would allow vessel owners to reduce the time required to harvest their allocation. With this larger vessel advantage combined with cooperative fishing, BSAI-endorsed LLP license holders could consolidate BSAI harvests within the cooperative, and use their increased processing capacity to harvest a greater proportion of the GOA Pacific cod sector allocation, relative to their 2001 through 2011 historical catch. Since this has the potential to negatively impact the three non-member GOA Pacific cod vessels, any successful agreement to remove the sideboards under the option or the suboption would likely address this potential issue to the satisfaction of the non-member vessel owners.

Sideboard removal negotiations under the option or suboption

Although the option and suboption under Alternative 2 only require “all GOA Pacific cod FLL endorsed LLP holders” to negotiate an agreement to remove the sideboards, negotiating the terms of any agreement to remove the GOA Pacific cod hook-and-line C/P sideboards will likely involve non-sideboarded and sideboarded FLCC members operating as one voice, and the non-member vessel owners representing their individual interests. Currently there are 29 GOA FLL endorsed LLP license holders who hold 36 LLP FLL Pacific cod endorsed LLP licenses. Of those 29 LLP license holders, 27 are members of the FLCC and are authorized to target Pacific cod in the GOA and BSAI. Five of these LLP license holders are sideboard restricted in the Pacific cod fishery in the GOA. The remaining two GOA FLL endorsed LLP license holders (that hold three unique GOA-only LLP licenses) are not members of the FLCC.

The negotiation leverage between the two groups varies, in part, on whether the sideboards are permanently removed or temporarily suspended. In both cases, the negotiation leverage tends to be held by the two owners who are not members of the vessel cooperative (i.e., GOA-only). The degree to which sideboarded and non-sideboarded FLL vessels that are FLCC members want the sideboards removed is obviously a factor in the negotiating an agreement. If removal of the non-AFA hook-and-line C/P sideboard limits for Pacific cod in the GOA is a lesser priority for the FLCC, then the potential negotiation leverage held by either of the two non-member vessel owners is substantially diminished. The reverse is likely true.

As noted above, any negotiating leverage that exists, *ex ante*, would be eliminated once unanimous agreement is reached and sideboards are permanently removed. Because a “one-time only” decision to agree to remove sideboards carries a high level of uncertainty as to the future prospects for the non-member vessel operators in the GOA Pacific cod fishery, attainment of unanimity could be very difficult to negotiate and achieve. The ability to remove the sideboards for one subarea, independently of the other subarea, will likely reduce the difficulties in achieving an agreement, since it reduces the number of parties negotiating. As noted in Table 1-12, four sideboard FLL vessels have Central GOA endorsements and five FLL vessels have Western GOA endorsements. Among the non-sideboard non-member vessels, only one has a Central GOA endorsement, while the remaining two vessels have only a Western GOA endorsement.

Alternatively, agreeing to suspend GOA Pacific cod hook-and-line C/P sideboards subject to the prospect of a future reversal, should the fishery develop in a way that disadvantageous any signatory to the agreement to suspend the sideboards, alleviates most of the uncertainty. This approach also lowers the transaction costs of negotiating concurrence, and increases the probability of achieving unanimity of the parties to the negotiation. Furthermore, recognizing that the sideboards could be reinstated in the following year and beyond should provide a substantial economic incentive to maintain a copasetic operating environment within the GOA FLL sector.

Relative to a permanent removal of sideboards, the temporary suspension of sideboards would maintain the potentiality of negotiation leverage on behalf of those that are not, under status quo, restricted by GOA Pacific cod hook-and-line C/P sideboards. This would include the three non-member vessels, but it also could include FLCC vessels that are not restricted by these sideboards. If in the future, the loss of FLCC coordination in the GOA Pacific cod hook-and-line C/P fishery results, the non-sideboard FLCC vessels would also likely have some negotiation leverage with the sideboarded FLCC vessels in both BSAI and GOA Pacific cod fisheries.

Implementation

Under any option within Alternative 2, the FLL non-AFA GOA Pacific cod sideboards (CR Program GOA Pacific cod sideboard limits) would, or could be, removed or suspended. As noted in Section 1.5.41.5.4, sideboarded vessels are identified by endorsements placed on their FFP and/or their LLP license. Currently, NMFS establishes the CR Program GOA Pacific cod sideboard limits by gear and operational type, as specified under Amendment 83, through the harvest specification process and notice and comment rulemaking. NMFS Office of Law Enforcement then enforces the sideboard allocation harvests during the fishing year. Therefore, NMFS would only remove or suspend the hook-and-line CR Program GOA Pacific cod sideboard limits for the Central GOA and/or Western GOA through the annual harvest specifications process. NMFS would not promulgate regulations to modify or remove the CR Program GOA Pacific cod sideboard language from the FFPs or LLP licenses and sideboarded vessels would remain subject to all other sideboard restrictions applicable to the harvest of groundfish in the GOA.

The removal or suspension of the CR Program GOA Pacific cod sideboard limits would not be immediately effective and would instead be implemented during the next TAC setting and harvest specifications cycle. Although the removal or suspension of the CR Program GOA Pacific cod sideboard limits would not require a regulatory change directly, NMFS would have to modify regulations that authorize the harvest specifications process to establish the conditions for removal or suspension of the CR Program GOA Pacific cod sideboard limits and (potentially) a deadline to complete on that process. To implement Alternative 2 with no options NMFS would modify the regulations establishing the harvest specification process to remove the requirement to establish the specific CR Program GOA Pacific cod sideboard limits requirement, without requiring a process.

To implement the preferred alternative, NMFS would modify regulations to establish a temporary process for permanent removal of the CR Program GOA Pacific cod sideboard limits. The option under Alternative 2(b) NMFS would modify the annual harvest specification process by requiring participants to notify NMFS that an agreement to remove the CR Program GOA Pacific cod sideboard limits has been reached prior to removing the CR Program GOA Pacific cod sideboard limits. To implement this option, NMFS would promulgate regulations to establish that the CR Program GOA Pacific cod sideboard limits would remain in effect, unless NMFS receives notification from all required participants to permanently remove the CR Program GOA Pacific cod sideboard limits from the harvest specifications.

The second part of the preferred alternative would establish a 1-year deadline for participants to provide the necessary notification to NMFS that an agreement has been reached. Prior to final action in June, the deadline period for this option was 3-years. However, NMFS determined that a request for sideboard removal approaching a 3-year deadline would trigger a new or supplemental impact analysis. The dynamic nature of these fisheries may alter the impacts of CR Program GOA Pacific cod sideboard limits removal such that the implementation of a measure in subsequent years may no longer meet the purpose and need for this action. It was determined that a more immediate deadline that coincides with the annual harvest specifications process would be more likely to be implemented without further impact analysis.

Recognizing the difficulties of a 3-year deadline, the Council in June 2013 reduced the time to 1-year (365 days), and clarified that the starting time is from the publishing date of the final rule.

As an example of the preferred alternative, all of the holders of the LLP licenses with Central GOA endorsement would need to sign an affidavit affirming that all required participants have agreed to coordinate harvest. That affidavit would need to be submitted to NMFS within 365 days to permanently remove the CR Program GOA Pacific cod sideboard limits in the Central GOA. Similarly all of the holder of the LLP licenses with Western GOA endorsements would need to sign an affidavit, and that affidavit would need to be submitted to NMFS within 365 days to permanently remove the CR Program GOA Pacific cod sideboard limits in the Western GOA. The removal of the sideboard limits could be implemented separately and are independent of each other.

For clarification, NMFS has added a table to this analysis that identifies the LLP license numbers that authorize the owners and operators of catcher/processors to directed fish for Pacific cod with hook-and-line gear in the Central Gulf of Alaska Regulatory Area and in the Western Gulf of Alaska Regulatory Area. Table 2-5 identifies the LLP license holders that would need to negotiate a legally binding agreement to request the permanent removal of the CRP GOA Pacific cod sideboard limits in the Central GOA, Western GOA, or both.

Table 2-5 License limitation program license numbers that authorize the owners and operators of catcher/processors to directed fish for Pacific cod with hook-and-line gear in the Central Gulf of Alaska Regulatory Area (Column A) and in the Western Gulf of Alaska Regulatory Area (Column B).

Column A:	Column B:
LLG1125	LLG1400
LLG1128	LLG1401
LLG1400	LLG1576
LLG1576	LLG1578
LLG1713	LLG1785
LLG1785	LLG1916
LLG1916	LLG1917
LLG1917	LLG2026
LLG1989	LLG2081
LLG2081	LLG2112
LLG2112	LLG2892
LLG2238	LLG2935
LLG2705	LLG3090
LLG2783	LLG3602
LLG2892	LLG3617
LLG2958	LLG3676
LLG3609	LLG4004
LLG3616	LLG4823
LLG3617	
LLG3676	
LLG3681	
LLG3973	
LLG4823	

The Council recommended that holders of FLL LLP licenses with a Pacific cod endorsement be signatories to the affidavits. The Council determined that LLP license holders best represent the eligible participants in the Central and Western GOA hook-and-line catcher/processor sectors. An LLP license is required to deploy a vessel to conduct directed fishing for Pacific cod in the Central and Western GOA Pacific as a Pacific cod FLL vessel. Therefore, the holders of FLL LLP licenses endorsed for Pacific cod in the Central and Western GOA represent the complete range or all eligible participants. Owners of FLL vessels currently used in the Central and Western GOA can become active in other fisheries, removed from the fishery, or replaced by other vessels. Therefore, the owners of these vessels do not adequately represent the complete range of eligible fishery participants in the FLL sector.

NMFS anticipates that all LLP license holders that are authorized to deploy vessels to catch and process Pacific cod using hook-and-line gear in the Central or Western GOA would form or join a voluntary cooperative (like the FLCC) to coordinate fishing practices within that regulatory area prior to NMFS removing a GOA Pacific cod sideboard limit. Voluntary cooperatives have consistently proven to be effective at coordinating fishing practices and resolving conflicts among fishery participants in numerous

fisheries throughout the BSAI and GOA. Such coordination could be part of any agreement to request the removal of the sideboards; however, other agreements could satisfy the purpose and need for this action.

2.3 Potential Effects on Net Benefits to the Nation

Cost data for the eight GOA sideboarded vessels are not currently available. For this reason, a quantitative cost/benefit examination of the alternatives or comparative net benefits conclusions concerning the alternatives are not possible.

Under the no action alternative, the eight FLL vessels and five hook-and-line catcher/processor LLP licenses will continue to be restricted by GOA Pacific cod sideboards. Maintaining these sideboard restrictions for the eight FLL vessels has the potential to reduce gains in efficiency if the BSAI FLCC cannot utilize these sideboarded vessels in that fishery. It is possible that some of these eight vessels are more efficient at harvesting GOA Pacific cod compared with other FLCC vessels. However, the no action alternative does likely reduce the chance of a future “race for fish” in the GOA Pacific cod fishery, if the FLCC no longer coordinates its activities in that fishery.

Under the proposed action, the eight FLL vessels that are restricted by CRP non-AFA hook-and-line C/P sideboard limits for Pacific cod in the GOA would be free to participate in the GOA Pacific cod fishery contingent on the equitable cooperative of all historical participants. Net benefits to the Nation are likely greater if GOA FLL endorsed LLP license holders all agree to remove the sideboards as is proposed in the option the Council added in April 2013. Reaching such an agreement between the FLCC vessels and non-member vessels would likely reduce the potential for a “race for fish,” which would increase the net benefits to the Nation. In addition, if the FLCC continues to coordinate its fishing activities in the GOA Pacific cod, there is some potential efficiency advantage if these eight vessels harvest GOA Pacific cod are more efficient than other cooperative vessels participating in this fishery.

3.0 CONSISTENCY WITH APPLICABLE LAW AND POLICY

This section evaluates this action against the Regulatory Flexibility Act, National Standards and Fishery Impact Statement requirements in the Magnuson-Stevens Act, and Section 303(a)(9) – Fisheries Impact Statement.

3.1 Initial Regulatory Flexibility Analysis

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 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;
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.

3.1.1 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 United States, including fish harvesting and fish processing businesses. Effective July 14, 2014, a business involved in *finfish* harvesting is a small business if it is independently owned and operated, not dominant in its field of operation (including its affiliates), and if it has combined annual gross receipts not in excess of \$20.5 million for all its affiliated operations worldwide.⁶ A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, 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 *finfish* into seafood products is a small business if it meets the \$ 19.0 million criterion for *finfish* harvesting operations. Finally, 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

⁶ SBA updated the Gross Annual Receipts thresholds for determining “small entity” status under the RFA to \$19 million, as pertaining to “commercial *finfish* fishing” operations. The revised SBA threshold for other commercial fishing, in particular, “*shellfish fishing*” is revised to \$5.0 million, much lower than the finfish fishing threshold. However, as significant numbers of crab fishing entities also fish finfish (and vice versa) off Alaska, NMFS is working with SBA to clarify how these potentially conflicting criteria may be appropriately applied to future actions. While a final determination is anticipated, at present, NMFS is proceeding with the \$19 million annual gross receipts, from all sources of economic activity, including affiliates, worldwide, as the threshold for determining “small commercial *finfish* fishing” entities under this action.

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 percent 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 has the power to control less than 50 percent 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 venturers 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.

3.1.2 Reason for Considering the Proposed Action

The purpose of this action is to remove GOA Pacific cod sideboard limits for the FLL vessels restricted by these sideboard limits without adversely impacting the participants who are protected by the sideboards. These sideboard limits were established by the CRP in 2005. These sideboard limits were calculated using GOA Pacific cod catch history from 1996 through 2000. The sideboard limits were aggregated across all gear types at the inshore and offshore level. Of the 82 vessels that are restricted by GOA Pacific cod sideboard limits, eight are FLL vessels.

With non-AFA sideboard limits for Pacific cod in the GOA aggregated across all gear types, the sideboard limits provided an opportunity for sideboard restricted vessels to participate in the GOA Pacific cod fishery, even if the vessel had limited history in the fishery in the past. During the 2005 through 2011 period, half of the eight FLL sideboard restricted vessels participated in the GOA Pacific cod sideboard fishery. Collectively, the FLL vessels that participated in the GOA Pacific cod during the 2005 through 2011, harvested a greater share of TAC annually relative to their catch history in this fishery during the 1996 through 2000 period.

In 2012, as part of the GOA Pacific cod sector split (Amendment 83), the Pacific cod sideboard limits were disaggregated to create gear type and operation type limits. Since the eight restricted FLL vessels had limited GOA Pacific cod history, the hook-and-line C/P and pot C/P sideboard limits were very small. In 2012, 2013, and 2014 NMFS determined that the sideboard limits were insufficient to support a direct fishery, so the fishery was closed for the entire year, thus eliminating these eight sideboarded FLL vessels from the GOA Pacific cod fishery. To allow these eight FLL vessels to once again participate in

the GOA Pacific cod fishery, in June 2012, the Council proposed to remove the sideboard limits for these eight FLL vessels. The following problem statement was provided:

The narrowing of the sideboard limit under Amendment 83 from a non-gear sideboard to a sector specific sideboard, significantly reduced non-AFA Gulf of Alaska Pacific cod sideboards for sideboarded freezer longline vessels active in the Gulf of Alaska Pacific cod fishery prior to the Pacific cod sector split. A recalculation of the Pacific cod sideboards resulted in the loss of fishing opportunities, future revenues, and an ability to participate in the Gulf of Alaska cooperative fishing efforts.

Under Amendment 83, the freezer longline sector has a direct allocation of Pacific cod, and due to the harvesting capacity available to participants in the Gulf of Alaska, the freezer longline sector must establish cooperative harvest control measures in order for NMFS to make the sector TAC available for directed fishing. Therefore, the need for catcher processor hook-and-line GOA Pacific cod sideboards to limit the catch of these vessels may no longer exist.

Removal of the non-AFA GOA Pacific cod sideboards for freezer longliners would restore to the sideboarded vessels the ability to participate in the GOA Pacific cod fishery. Removing sideboard limits for the freezer longline vessels, however, may adversely impact GOA only freezer longline vessels, and to the extent practicable, there is a need to minimize the impact.

3.1.3 Objectives of, and the Legal Basis for, the Proposed Rule

The objective of the proposed action is to remove the non-AFA hook-and-line C/P sideboard limits for Pacific cod in the GOA from the affected vessel and LLP license holders without adversely impacting the participants who are protected by the sideboards. This objective is encompassed by authorities contained in the Magnuson-Stevens Act. Under the Magnuson-Stevens Act, the United States has exclusive management authority over all living marine resources found within the exclusive economic zone (EEZ). The management of marine fishery resources is vested in the Secretary of Commerce, with advice from the Regional Fishery Management Councils. The non-AFA sideboard limits for Pacific cod in the GOA created under the CRP are managed under the Crab FMP.

Statutory authority for measures designed to consider efficiency in the use of fishery resources is specifically addressed in Section 301 of the Magnuson-Stevens Act. That section establishes National Standard 5, which directs the Regional Fishery Management Councils to “consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocations as its sole purpose.”

The Magnuson-Stevens Act is the legal umbrella under which the non-AFA sideboard limits for Pacific cod in the GOA are managed. In the Alaska region, the Council is responsible for preparing management plans for marine fishery resources requiring conservation and management. NMFS, under the U.S. Department of Commerce, is charged with carrying out the Federal mandates with regard to marine fish, once they are approved by the Secretary of Commerce. NMFS Alaska Regional Office reviews the management actions recommended by the Council.

3.1.4 Number and Description of Small Entities Directly Regulated by the Proposed Action

The RFA requires a consideration of affiliations between entities for the purpose of assessing if an entity is small. There is not a strict one-to-one correlation between vessels and entities; many persons and firms

are known to have ownership interests in more than one vessel, and many of these vessels with different ownership, are otherwise affiliated with each other.

Eight entities are directly regulated by this action. These are catcher/processors that operate in the EEZ of the GOA, using hook-and-line gear. All of these are members of the BSAI Freezer Longline Conservation Cooperative (FLCC). These eight FLCC vessels are restricted by the non-AFA hook-and-line catcher/processor sideboard limits for Pacific cod in the GOA that were established as part of the CR Program in 2005. Of these eight vessels, four are assigned LLP licenses that have Central GOA Pacific cod endorsements and five are assigned LLP licenses that have Western GOA Pacific cod endorsements. Earnings from all fisheries in and off Alaska for 2011 were matched with the hook-and-line catcher/processors that are restricted by GOA Pacific cod sideboards. All eight of these vessels are affiliated through the FLCC. The FLCC has consistently had revenues that exceed \$19 million per year (see Table 1-14) and, as such, the FLCC and its affiliated vessels are not considered small entities for the purpose of the RFA. However, at the time this proposed action was being considered, it was not certain if there were any small entities directly regulated by this action. As a result, an IRFA was prepared.

Three entities hold LLP licenses and own vessels that operate only in the GOA as hook-and-line catcher/processors. These three entities are not directly regulated by the CR Program GOA Pacific cod sideboard limits, and are not members of the FLCC. One entity owns a vessel named on an LLP license with Central GOA Pacific cod hook-and-line catcher/processor endorsements; the other two entities each own a vessel named on LLP licenses with Western GOA Pacific cod hook-and-line catcher/processor endorsements. These three entities are not directly regulated by this action because this action would not impose regulations on these vessels or the associated LLP licenses, or relieve them from regulation. These three entities may voluntarily choose to submit a request for removal of the sideboard limits under this action, but are not required to do so.

3.1.5 Recordkeeping and Reporting Requirements

The reporting, recordkeeping, and other compliance requirements could be only increased under the preferred alternative if parties agree to notify NMFS. Otherwise, the action under consideration requires no additional reporting, recordkeeping, or other compliance requirements that differ from the status quo.

3.1.6 An Identification, to the Extent Practicable, of all Relevant Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rule

No relevant Federal rules were identified as duplicating, overlapping, or conflicting with the proposed action under consideration herein. Some current Federal regulations would need modification to implement the proposed action.

3.1.7 Description of Significant Alternatives

An IRFA should include “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 (implicitly adverse) economic impact of the proposed action on small entities.

The Council considered two alternatives for this action. Alternative 1 is the status quo, which does not meet the objectives of the action. Alternative 2 would remove the CR Program GOA Pacific cod sideboard limits in either the Central GOA, Western GOA, or both regulatory areas. As part of Alternative 2, the Council and NMFS also considered an option and a suboption for removing the CR Program GOA Pacific cod sideboard limits. The option (i.e., proposed action) would remove CR

Program GOA Pacific cod sideboard limits for the hook-and-line catcher/processor sector permanently if certain conditions are met by a specified date. The suboption would suspend the CR Program GOA Pacific cod sideboard limits for the hook-and-line catcher/processor sector on an annual basis if certain conditions are met annually.

The option would require all hook-and-line catcher/processor LLP license holders that are authorized to target Pacific cod in the Central or Western GOA (i.e., eligible participants) to submit a form to NMFS requesting the permanent removal of the GOA Pacific cod sideboard limit in that regulatory area on a one-time basis. The option would also require the request to be submitted within one year of the date of publication in the *Federal Register* of the final rule implementing Amendment 45, if approved by the Secretary.

The suboption would require all eligible participants to annually submit a form to NMFS requesting removal of the GOA Pacific cod sideboard limit in that regulatory area for the upcoming fishing year. Under the suboption, if the annual form is not received by NMFS, the sideboard limits would not be removed for the following fishing year (i.e., January 1 through December 31).

This proposed action would implement Alternative 2 with the option to permanently remove the CR Program GOA sideboard limits if all eligible participants in a regulatory area submit to NMFS a form requesting removal and provide that form to NMFS within the required timeline. The Council rejected the suboption because the annual suspension of sideboards could create uncertainty for participants, result in additional administrative burden and costs, and potentially create management instability.

Although this proposed action does not directly regulate small entities, the preferred alternative is the only alternative in the suite of options and alternatives considered that reduces the burden on directly regulated entities and best meets the purpose and need for this proposed action.

3.2 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 affect overfishing of groundfish in the BSAI or GOA since the action will continue to be managed under the current harvest specifications process. The alternatives would also not affect, on a continuing basis, the ability to achieve the optimum yield from each groundfish fishery for the same reasons.

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

This analysis is based on the most current, comprehensive data available, recognizing that some information (such as operating costs) is unavailable.

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 GOA groundfish TACs are established on an annual basis during the harvest specifications process. NMFS conducts the stock assessments for these species and makes allowable biological catch recommendations to the Council. The Council sets the TAC for these species based on the most recent stock assessment and survey information. The GOA stocks will continue to be managed as individual stocks under the alternatives in this analysis.

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.

Nothing in the alternatives considers residency as a criterion for the Council's decision, therefore the proposed alternatives treat all vessel owners the same regardless of residency. The proposed alternatives would be implemented without discrimination among participants and are intended to promote conservation of the groundfish resources in the BSAI and GOA.

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 improve efficiency in utilization of the fishery resource. The action does not allocate shares, but simply removes non-AFA hook-and-line C/P sideboard limits for Pacific cod in the GOA for freezer longline vessels thereby allowing these vessels to participate in the sector's GOA Pacific cod fishery.

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

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

Since this proposed action would remove non-AFA hook-and-line C/P sideboard limits for Pacific cod in the GOA for those freezer longline vessels restricted by this limitation, this action would not impose additional costs for compliance, and 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.

Since the freezer longline fleet does not have a large impact on coastal communities, this action is not expected to have an adverse effect 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.

Since the proposed action would only remove non-AFA hook-and-line C/P sideboard limits for Pacific cod in the GOA for those freezer longline vessels restricted by the CRP limitation, this action is not expected to impact bycatch.

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

The alternatives proposed in this action are not expected to affect safety of human life at sea.

3.3 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 freezer longline groundfish fisheries in the BSAI and GOA have been discussed in previous sections of this document (see Chapter 2). The proposed action is not anticipated to have effects on participants in other fisheries.

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6.0 REFERENCES

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