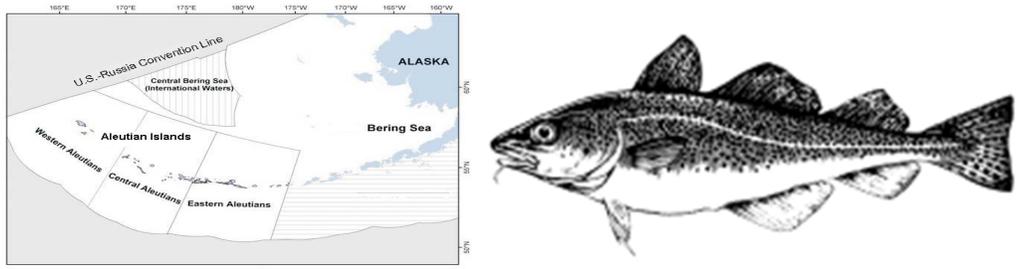


FINAL

**Regulatory Impact Review for a Regulatory Amendment
to
Limit Access by all Federally Permitted Vessels to the BSAI Pacific Cod
Parallel State Waters Fishery**

November 2020



Lead Agency: National Marine Fisheries Service, Alaska Region
National Oceanic and Atmospheric Administration

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Abstract: This regulatory amendment prohibits Federally-permitted hook-and-line (HAL), pot, and trawl gear vessels from participating in the Bering Sea (BS) and Aleutian Island (AI) Pacific cod parallel fisheries unless they have a License Limitation Program (LLP) license with the correct LLP endorsements and a Federal Fisheries Permit (FFP) with the correct endorsements. The amendment requires the above Federally-permitted and licensed vessels that fish in the parallel fishery to adhere to federal sector and seasonal BSAI Pacific cod closures. The amendment also restricts those vessels from surrendering and later reapplying for the FFP within a specified time period or modifying the endorsements on an FFP after issuance by NMFS. The amendment is intended to ensure robust catch accounting and to prevent all HAL, pot, and trawl gear vessels from circumventing the intent of previous Council decisions regarding license limitation and sector allocations when participating in the BS and AI Pacific cod parallel fisheries, while also recognizing that the parallel fishery is available to jig vessels and new entrants who do not have Federal fishery permits but wish to participate in the parallel fishery.

List of Acronyms and Abbreviations

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

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Executive Summary

The regulatory amendments described herein prohibit Federal hook-and-line (HAL), pot, and trawl gear vessels from participating in the Bering Sea (BS) and Aleutian Island (AI) Pacific cod parallel fisheries unless they have a License Limitation Program (LLP) license with the correct LLP endorsements and a Federal Fisheries Permit (FFP) with the correct endorsements. The amendments also require the above Federally-permitted or licensed vessels to adhere to federal sector and seasonal BSAI Pacific cod closures when fishing in the parallel fishery. Finally, the amendments restrict those vessels from surrendering and later reapplying for the FFP for up to three years following the date of surrender and would prohibit those vessels from amending their FFP during its effective period. The amendments intend to ensure robust catch accounting while preventing all HAL, pot, and trawl gear vessels from circumventing the intent of previous Council decisions regarding license limitation and sector allocations when participating in the BS and AI Pacific cod parallel fisheries while also recognizing that the parallel fishery is available to jig vessels¹ and new entrants who do not have Federal fishery permits but wish to participate in the parallel fishery.

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

The State has established regulations that govern the parallel fisheries and affect which vessels can participate in the State's parallel Pacific cod fishery. In addition, NMFS has regulations that impose conditions on Federally-permitted HAL and pot C/P that regulate the participation by these vessels in the State's parallel Pacific cod fishery in state waters adjacent to the BSAI. Specifically, Federal regulations prohibit these vessels from participating in the parallel BSAI Pacific cod fisheries unless the vessel has an FFP and an LLP license with the required endorsements and prohibit these Federally-permitted vessels from fishing for Pacific cod in both Federal and state waters once NMFS closes their sector to directed fishing for Pacific cod in Federal waters, even though the parallel fishery may not be closed to these vessels. These regulations, which are conditions of having a Federal FFP or LLP license, prevent Federally-permitted HAL and pot C/Ps from participating in the BSAI Pacific cod parallel fishery once Federal waters are closed to those sectors. Similarly, NMFS has regulations that any Federally-permitted vessel in the GOA directed fishing for Pacific cod must have the corresponding LLP and stop fishing in state waters during the parallel fishery when their sector closes. In the GOA, this applies to all Pacific cod sectors. This prevents all vessels in the GOA with FFPs and LLP licenses from circumventing Federal sector fishery closures and taking advantage of this parallel fishery opportunity.

Currently, in the BSAI, none of the fishery sectors except the C/P pot and C/P HAL sectors² have restrictions with their FFPs or LLP licenses that regulate participation in the BSAI Pacific cod parallel fishery. In general, the BSAI parallel fishery has mostly been prosecuted by small CVs delivering to shoreside processors. This parallel fishery activity may be circumventing the intent of previous decisions

¹ A jig vessel is defined as no more than 5 jig machines, one line per machine, and 15 hooks per line.

² Effective January 1, 2012, NMFS issued regulations that prohibit Federally-permitted pot and HAL C/Ps from participating in the Pacific cod parallel fishery in State waters in the BS and AI unless the vessels have FFPs and LLP licenses with the correct endorsements (see 76 FR 73513).

made by the Council regarding license limitation and endorsements, sector allocations, and catch reporting. While this parallel fishery activity could occur in several sectors, it has generally occurred in the BSAI Pacific cod fishery with the HAL/pot CV < 60 ft sector. This sector has an annual Pacific cod allocation that is available in its entirety when the Pacific cod fishery opens for this sector on January 1. This contrasts with all other BSAI Pacific cod sectors which have two or three seasonal allocations spread over the year. In the HAL/pot CV < 60 ft sector, when the allocation is fully harvested, NMFS closes the sector to directed fishing. However, since the State is legally prevented from differentiating between a C/P and a CV during its parallel fisheries and the BSAI Pacific cod fishery in Federal waters remains open year round for the HAL C/P sector, the HAL CV < 60 ft vessels can continue to fish for Pacific cod in the parallel fishery even though their Federal sector has already harvested its Federal allocation and been closed to fishing by NMFS. The HAL C/P sector remains open year round because it has a large allocation of BSAI Pacific cod and is managed under a voluntary cooperative, which allows the sector to coordinate its harvest over a long season, as opposed to vessels competing among themselves for a share of the allocation. When less than 60 ft HAL CVs have participated in the BSAI parallel fishery after their sector is closed to fishing, then NMFS must reallocate Pacific cod from other sectors later in the year in order to first cover any amount of harvest by these vessels before a consideration can be made to re-open the entire Federal BSAI HAL/pot CV < 60 ft sector.

Purpose and Need

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

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

Alternatives

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

Alternative 1: Status quo

Alternative 2: (Preferred Alternative) Limit access³ to the parallel fishery for Federal fishery participants.

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

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

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

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

Regulatory Impact Review ⁴

Alternative 1: No Action

Under Alternative 1, the no action alternative, all Federally-permitted vessels, except pot and HAL C/Ps that have an FFP or LLP, could continue to participate in the BSAI Pacific cod parallel state waters fishery without having an FFP and an LLP license with the required endorsements.⁵ In addition, these vessels could continue to fish in the BSAI Pacific cod parallel state waters fishery after their sector's allocation has been fully harvested, as long as another sector that matches their vessel's gear is still open in Federal waters. Finally, there would be no restrictions to prevent surrendering and reapplying for the FFP in the same year or amending the endorsements on an FFP at any time.

In total, there were 30 Federal vessels that had no LLP license, an incorrect LLP license endorsement, no FFP, or that continued to fish in the parallel fishery after their sector closed to fishing in Federal waters. It is likely some of these 30 vessels with an FFP or LLP license would continue to fish in the parallel fishery under Alternative 1. Amongst these 30 vessels are 15 HAL CVs < 60 ft that participated in the parallel fishery after their sector closed to fishing in the Federal waters since 2010. If these vessels continue to fish in the parallel fishery after the sector closes in the Federal waters, Pacific cod reallocations by NMFS will continue to first cover any overages harvested in the parallel fishery by these HAL CVs < 60 ft before a consideration can be made to re-open the entire Federal waters BSAI HAL/pot CVs < 60 ft sector to fishing.

In addition, under Alternative 1, the trawl CV sector could fish in the parallel fishery after their sector closes to fishing in Federal waters since the Amendment 80 sector remains open year-round. All vessels in the Amendment 80 sector currently are managed in a cooperative, so NMFS does not issue directed fishing closures specific to the Amendment 80 allocated species, which includes BSAI Pacific cod. Since

³ Although the Council uses the term "limit access," the Council did not create or modify a limited access system under MSA section 303(b)(6) or create a limited access privilege program under MSA section 303A with this regulatory amendment. Alternative 2 would create Federal permit conditions that must be complied with by the holder of those Federal permits in order to achieve the goals and objectives of the FMP in the EEZ.

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

⁵ For this action, the Council's use of the term "designation" in Alternative 2 has the same meaning as the term "endorsement."

2010, no trawl CVs have fished in the parallel fishery after the sector closed to fishing in Federal waters. If under Alternative 1, trawl CVs utilize the opportunity to continue fishing in the parallel fishery after the sector closes to fishing, depending upon the level of effort, there is the potential that the trawl CV B and C season allocations could be utilized to cover any overages in the parallel fishery. This could further negatively impact reallocations from the trawl CV sector to the HAL/pot CVs < 60 ft sector in the fall fishery.

Alternative 2: (Preferred Alternative) Federal Permit Conditions on Participation in BSAI Pacific cod Parallel Fisheries

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

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

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

Alternative 2 also would provide protection for vessels that have a non-trawl Pacific cod endorsement on their LLP license by preventing the erosion of catch via the entry of participants into the BSAI Pacific cod parallel fishery. The Council established Pacific cod endorsements to limit access to the pot and HAL allocations to those participants who had catch history in the BSAI Pacific cod fishery. Pot and HAL CVs participating in the parallel fishery that do not have an LLP license with a Pacific cod endorsement reduces the amount of TAC available to participants who hold endorsed LLP licenses. This action prevents those Federal permit holders without the Pacific cod endorsement on their LLP license from participating in the parallel fishery, but would not preclude vessels that do not have an FFP or LLP license from entering the parallel fishery.

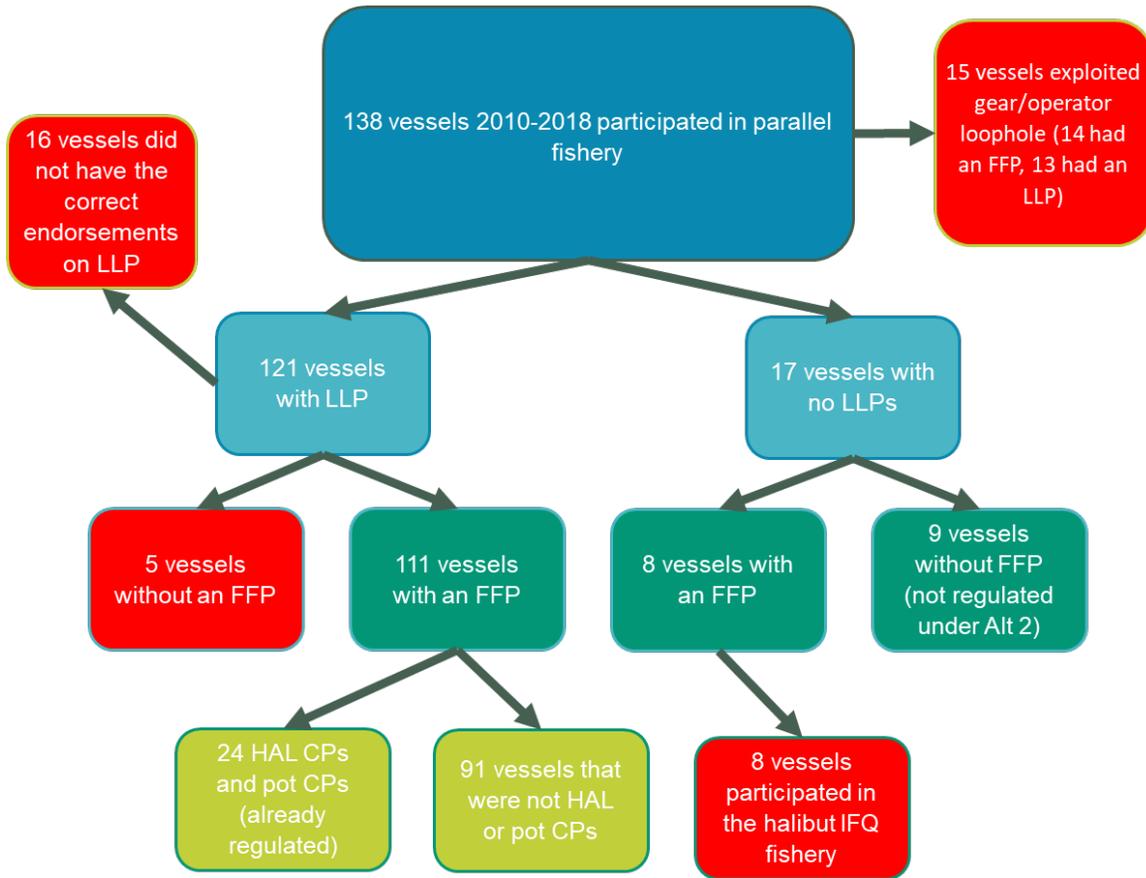
Alternative 2 would negatively impact those Federally-permitted vessels (vessels that had either an LLP license or an FFP) but that do not have an LLP license and FFP with the correct endorsements. Table ES-

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

Alternative 2 would also prevent NMFS from reissuing a surrendered FFP to these vessels until three years from the date of surrender and would prevent FFP holders from amending the endorsements on an FFP for these vessels during the effective period of the FFP. These provision of the alternative make it more difficult for FFP holders to circumvent other provisions in Alternative 2 by temporarily surrendering or amending the FFP. However, the requirement to have an FFP to participate in the parallel fisheries would also mean these vessels must comply with groundfish observer program regulations and NMFS recordkeeping and reporting requirements. In addition, these vessels that have an FFP must carry a VMS if they participate in the Atka mackerel, Pacific cod, or pollock directed fisheries in Federal waters of the BSAI or GOA.

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

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



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

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

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

⁶ Revenue data is available only through 2018.

2. Introduction

The regulatory amendments prohibit Federally-permitted hook-and-line (HAL), pot, and trawl gear vessels from participating in the Bering Sea (BS) and Aleutian Island (AI) Pacific cod parallel fisheries unless they have a License Limitation Program (LLP) license with the correct LLP endorsements and a Federal Fisheries Permit (FFP) with the correct endorsements. The amendments also require the above Federally-permitted and licensed vessels that fish in the parallel fishery to adhere to federal sector and seasonal BSAI Pacific cod closures. The amendment also restricts those vessels from surrendering and later reapplying for the FFP within a specified time period or modifying the endorsements on an FFP after issuance by NMFS. These amendments are intended to ensure robust catch accounting and to prevent all HAL, pot, and trawl gear vessels from circumventing the intent of previous Council decisions regarding license limitation and sector allocations when participating in the BS and AI Pacific cod parallel fisheries while also recognizing that the parallel fishery is available to jig vessels⁷ and new entrants who do not have Federal fishery permits but wish to participate in the parallel fishery.

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

⁷ A jig vessel is defined as no more than 5 jig machines, one line per machine, and 15 hooks per line.

3. Regulatory Impact Review

This Regulatory Impact Review (RIR)⁸ examines the benefits and costs of a proposed regulatory amendment to establish certain conditions under which Federally-permitted HAL, pot, and trawl gear vessels may participate in the Bering Sea and Aleutian Island (BSAI) Pacific cod parallel state waters fishery, and to restrict the ability of FFP permit holders to surrender, re-apply for, and modify endorsements on an FFP.

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

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

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

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

3.1. Statutory Authority

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

⁸ Analysts have consulted with NMFS Alaska Region and preliminarily determined that none of the alternatives have the potential to have an effect individually or cumulatively on the human environment. This determination is subject to further review and public comment. If this determination is confirmed when a proposed rule is prepared, the proposed action will be categorically excluded from the need to prepare an Environmental Assessment.

The groundfish fisheries in the EEZ off Alaska are managed under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP). This analysis uses the term “Federal waters” to mean the EEZ off Alaska.

This action will amend the Federal regulations at 50 CFR part 679. Actions taken to amend FMPs or implement regulations governing these fisheries must meet the requirements of applicable Federal laws, regulations, and Executive Orders.

3.2. History of this Action

In the BS and AI, and during the Federal Pacific cod fishery in Federal waters, the State conducts a fishery for Pacific cod in state waters that is concurrent with the Federal fishery. This is called a parallel fishery and catch of Pacific cod in state waters during the parallel fishery accrues to the Federal Pacific cod TAC. Currently, in the BS and AI, with the exception of the hook-and-line (HAL) and pot C/Ps, Federally-permitted vessels can participate in a parallel fishery with or without an FFP or LLP license with their harvest deducted from TACs (which for Pacific cod are allocated between vessel length, gear type, and C/Ps vs CVs). During the parallel fishery, the State does not differentiate between CVs and C/Ps, so Federally-permitted vessels can participate in the parallel fishery if either the C/P or CV sector is open for the gear type and vessel length.

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

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

There are several NMFS regulations that impose Federal permit conditions that prohibit the holders of those Federal permits from participating in the parallel fisheries. NMFS has regulations that prohibit Federally-permitted HAL and pot C/Ps from participating in the BSAI Pacific cod parallel fisheries unless the vessels have an FFP and an LLP license with the required endorsements and that prohibit these

vessels from fishing in the parallel fishery when their sector has been closed in Federal waters. These regulations prevent Federally-permitted HAL and pot C/Ps from participating in the BSAI Pacific cod parallel fishery once Federal waters are closed to those sectors. Similarly, NMFS has regulations that any Federally-permitted vessel in the GOA fishing for Pacific cod in the parallel fishery must have an FFP and an LLP license with the correct endorsements and stop fishing in state waters during the parallel fishery when their sector closes in federal waters. In the GOA, this applies to all Pacific cod sectors. This prevents all vessels in the GOA with FFPs or LLP licenses from taking advantage of this parallel fishery opportunity.

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

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

To address the concerns of impacts that increased participation in parallel fisheries might have on the BSAI Pacific cod TAC, the Council in April 2019 developed a purpose and need statement and requested that staff develop an analysis that would impose Federal permit conditions that would prohibit Federally-permitted vessels from participating in the parallel fishery unless the vessels have both an FFP and an LLP license with the appropriate endorsements.

In October 2019, the Council adopted a revised purpose and need statement and selected a preliminary preferred alternative. The Council's preliminary preferred alternative would prohibit hook-and-line, pot, and trawl gear vessels from participating in the BS and AI Pacific cod parallel fisheries unless they have an FFP and an LLP license with the correct endorsements. The preliminary preferred alternative would also require the above Federally-permitted or licensed vessels that fish in the parallel fishery to adhere to federal sector and seasonal BSAI Pacific cod closures. Finally, the preliminary preferred alternative would restrict those vessels from reapplying for a surrendered FFP within a three-year time period following surrender or modifying the endorsements on an FFP after issuance by NMFS.

In December 2019, the Council took final action by adopting Alternative 2 as its preferred alternative and recommending that it be submitted as a regulatory amendment to the Secretary of Commerce for review and approval. The Council clarified that jig vessels are not included in the recommendations.

3.3. Purpose and Need for Action

The purpose of this action is to hold certain Federally-permitted vessels to the same requirements in both state and Federal waters when directed fishing for Pacific cod occurs in the concurrent BSAI Federal and

state parallel fisheries. This action is needed to address two primary concerns. First, some Federally-permitted vessels are circumventing fishery sector closures in Federal waters by moving to state waters that remain open to fishing by that gear type. State of Alaska attorneys have advised that regulations in State waters cannot differentiate allocations between CVs and C/Ps that fish the same gear type in the same administrative area⁹; therefore, in State waters, there is currently a fishing opportunity that allows some Federally-permitted vessels to continue to participate in the parallel fishery even though their sector has been closed to fishing in Federal waters (i.e., the EEZ). The State will allow, for example, a CV to continue to fish for Pacific cod in the parallel fishery if a C/P sector of the same gear type and vessel size allowance is open in Federal waters. Second, this action addresses concerns that current and increased participation in the parallel fishery by vessels that have an FFP or an LLP license, but do not have both an FFP and LLP license with the required endorsements, may have adverse effects on long-term participants in the BSAI Pacific cod fishery. Current and increased parallel fishery participation by Federally-permitted vessels that do not have all of the Federal permits and endorsements needed to conduct directed fishing for Pacific cod in Federal waters has the potential to erode harvests by those participants who contribute catch history to the Amendment 85 sector allocations and depend on the BSAI Pacific cod resource. Specifically, this regulatory amendment is intended to provide protection for pot and HAL CVs that have FFPs and LLP licenses with Pacific cod endorsements and BSAI area endorsements, and trawl CVs and C/Ps that have FFPs and LLP licenses with BSAI area endorsements from vessels entering the parallel fishery that do not have FFPs or LLP licenses and endorsements for the BSAI area or Pacific cod.

The scope of this regulatory amendment is limited to Federally-permitted trawl CVs and C/Ps, and pot and HAL CVs. If these vessels are Federally permitted but do not have an FFP and an LLP license with the correct endorsements for the BSAI Pacific cod fishery, they will be prohibited from participating in the parallel fishery. This regulatory amendment will not affect current regulatory restrictions for Federally-permitted pot and HAL C/Ps. To participate in the parallel fishery, these pot and HAL C/P vessels are already required by regulations in 50 CFR part 679 to operate with an FFP and a LLP license that has the correct area and Pacific cod endorsements. Additionally, these vessels are already required by regulation to stop fishing in both Federal and parallel fisheries once NMFS closes their sector in Federal waters. It is important to note that this regulatory amendment applies only to trawl CVs and C/Ps, and HAL and pot CVs; if a vessel does not have an FFP or an LLP license, this regulatory amendment will not apply to that vessel or preclude the vessel from being used in the parallel fishery under Federal regulations.

During the April 2019 meeting, the Council adopted a purpose and need statement for the proposed action. At the October 2019 meeting, the Council, while conducting initial review of the amendment package adjusted the purpose and need statement to better reflect the proposed action. The revisions to the purpose and need statement were clarifications to better reflect the Council's intent to prohibit federally-permitted vessels from participating in the parallel Pacific cod fishery unless the vessel has an FFP and an LLP license with the correct endorsements. The revisions did not change the purpose of the action identified by the Council or affect how the analysis of the alternatives meet the revised statement. Provided below is the Council's revised purpose and need statement:

Currently, there are no limits on entry by federally permitted catcher vessels into the Bering Sea/Aleutian Islands (BSAI) parallel waters groundfish fisheries, and no limits on the proportion of BSAI Pacific cod TAC that may be harvested in parallel waters. Currently management inadvertently

⁹ State v. Grunert, 139 P.2d 1226 (Alaska 2006); Grunert v. State, 109 P.2d 924 (Alaska 2005). In the 2005 case, the Alaska Supreme Court ruled that the Board of Fisheries could not allocate within a single fishery. 109 P.2d at 931-32. In the 2006 case, the Court held that 'fisheries' could only be distinguished by differences in the gear that is actually used to harvest the fish. 139 P.2d at 1235-39. As a result, the Alaska Department of Law has advised the Alaska Board of Fisheries that the statutory allocation criteria applies to allocations among use categories (e.g., personal use, sport, guided sport, commercial) as well among subgroups of those categories (e.g. drift and set gillnet commercial fisheries). However, the Board may not allocate "within" a particular fishery (same gear and same administrative area). Alaska Dept. of Law to Jim Marcotte, Alaska Board of Fisheries; November 30, 2009.

allows fishing in BSAI parallel waters off a federal Pacific cod TAC even when a sector's federal Pacific cod allocation has been achieved. There is concern that harvests of Pacific cod in the parallel waters fishery by vessels that do not hold BSAI groundfish LLP licenses or the appropriate Pacific cod endorsement may continue to increase. This complicates conservation and management measures which hold sectors to their allocations and circumvents the intent of previous Council decisions regarding license limitation, sector allocations, and catch reporting. The Council, in consideration of options and recommendations for federal catcher vessels that participate in the parallel fishery, intends to ensure robust catch accounting while considering participation in and reliance on the Pacific cod fisheries while recognizing that new entrants who do not hold Federal fishery permits may participate in the parallel fishery.

3.4. Alternatives

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

Alternative 1: Status quo

Alternative 2: (Preferred Alternative) Limit access¹⁰ to the parallel fishery for Federal fishery participants.

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

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

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

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

3.5. Preferred Alternative

The Council first addressed the BSAI Pacific cod parallel fishery issue in April 2019. At that time, the issue was identified by the Council as a clear priority. The issue was tasked immediately as an Initial Review analysis of both the status quo (i.e., no action) and an action alternative, and the Council reviewed that analysis in October 2019. The analysis clearly and accurately documented both the need for and the impacts of the preferred alternative. By selecting the preferred alternative, the Council has effectively resolved an issue that was inadvertently created when the Council developed BSAI Pacific cod sector allocations with Amendment 85 to the BSAI groundfish FMP and implemented in 2008.

¹⁰ Although the Council uses the term "limit access," the Council did not create or modify a limited access system under MSA section 303(b)(6) or create a limited access privilege program under MSA section 303A with this regulatory amendment. Alternative 2 would create Federal permit conditions that must be complied with by the holder of those Federal permits in order to achieve the goals and objectives of the FMP in the EEZ.

The Council determined that Alternative 2, the preferred alternative, will:

- 1) More closely capture the Council's intent under Amendment 85 by ensuring that sectors conform to their initial allocations and any reallocations assigned to that sector by inseason management actions.
- 2) More closely align state and federal regulations for the parallel fisheries. The preferred action uses the authority established under Federal Fishing Permits to prevent vessels from taking advantage of this misalignment of state and federal rules.
- 3) Address management concerns by establishing a clearer means of catch accounting and ensuring effective management of Pacific cod. Alternative 2 will enhance the management of the fisheries by reducing uncertainty for the manner in which a sector's allocation is accounted for under the TAC.
- 4) Address potential implications to conservation by preventing overharvests. Under the status quo, when the federal allocation (seasonal or annual) of a vessel's sector is fully harvested during the Federal fishery, some of the Federally-permitted vessels in that sector continue to fish in State waters during the parallel fishery because the State cannot close its fishery on the basis of vessel operation type. Thus far, NMFS inseason managers have addressed this by assigning reallocations of Pacific cod from various sources to ensure that the parallel fishery harvests do not present conservation or management overages of the Federal Pacific cod TAC. Under the status quo, there is no certainty that additional sector harvests in the parallel fishery can be effectively accounted for by the agency in the future. Alternative 2 will effectively end this uncertainty.¹¹
- 5) Help preserve the historical patterns of catcher vessel Pacific cod deliveries by limiting federal vessels from circumventing fishery sector closures in Federal waters by moving to state waters that remain open to fishing by that gear type. From the community and processor perspective, CV landings from the BSAI parallel fishery are primarily delivered to shoreside processors in Unalaska/ Dutch Harbor and other Alaska communities. This action is not expected to directly impact the distribution of those landings.

Finally, this action will not regulate jig vessels,¹² vessels that do not have federal permits, or vessels that fish solely in state waters.

3.6. Methods Used for the Impact Analysis

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

This analysis was prepared using data from the NMFS catch accounting system, which are the best available data to estimate total catch in the groundfish fisheries off Alaska. Total catch estimates are

¹² A jig vessel is defined as no more than 5 jig machines, one line per machine, and 15 hooks per line.

generated from information provided through a variety of required industry reports of harvest and offshore discard, and data collected through an extensive fishery observer program.

3.7. Description of Fisheries

The parallel groundfish fisheries occur in State waters (0 nm to 3 nm) adjacent to the BSAI and the Gulf of Alaska (GOA) management areas. Each year, the Alaska Department of Fish and Game (ADFG) commissioner opens and closes, by emergency order, the fishing seasons for the parallel fisheries in State waters adjacent to the BSAI and GOA to coincide with the fishing seasons in the EEZ, or Federal waters (3 nm to 200 nm), of the BSAI and GOA. The State permits the same gear types that may be used in the Federal BSAI and GOA fisheries in the parallel fisheries, unless specifically prohibited under State regulations. Groundfish harvests in State waters during the parallel fisheries and in Federal waters accrue to the Federal groundfish TACs. The State manages the parallel fisheries separately from the State's Guideline Harvest Level (GHL) fisheries. The State GHL fisheries occur during distinct fishing seasons that generally do not overlap with the fishing seasons for the parallel and Federal fisheries, catch in the GHL fisheries accrues to the State-established GHL, and a distinct set of regulations apply to participants fishing in the GHL fisheries. The AI State GHL Pacific cod fishery and the BS State GHL Pacific cod fishery regulations are described in Section 2.7.5.3. The remainder of this document addresses management of the parallel fisheries.

Currently, Federally-permitted vessels in all sectors except for Federally-permitted vessels in the pot C/P and HAL C/P sectors¹³ may participate in the BSAI parallel fisheries without having an FFP, an LLP license, and all of the endorsements necessary to participate in the Federal fisheries. While Federally-permitted vessels in these sectors could participate in several parallel groundfish fisheries, Federally-permitted vessel participation has generally occurred in the BSAI parallel Pacific cod fishery by the HAL/pot CV < 60 ft sector. Under Federal regulations, the HAL/pot CV < 60 ft sector receives an annual allocation of Pacific cod that is available for harvest on January 1. The entire annual Pacific cod allocation for this sector is available on January 1 and is not divided among several seasons throughout the fishing year. This single-season approach contrasts with all other BSAI Pacific cod sectors which have two or three seasonal allocations spread over the year. In the HAL/pot CV < 60 ft sector, when the allocation is fully harvested, NMFS closes the sector to directed fishing for Pacific cod in Federal waters for the remainder of the year. However, NMFS has not needed to close the HAL C/P sector and it remains open to directed fishing for BSAI Pacific cod year round because it has a larger BSAI Pacific cod allocation, which takes more time for the sector to harvest, and participants in the sector have formed a voluntary harvesting cooperative, which has removed the "race for fish" and provides participants with more time to harvest their portion of the sector's allocation. Since the State is not authorized to differentiate between a C/P and a CV during its parallel fishery and the HAL C/P sector remains open year round in Federal waters, HAL CV < 60 ft vessels can continue to participate in the BSAI parallel fishery even though NMFS has closed their Federal sector to directed fishing for Pacific cod in the EEZ. When less than 60 ft HAL CVs have participated in the BSAI parallel fishery after their sector is closed to fishing, Pacific cod available for reallocation from other sectors later in the year must first be used by NMFS to cover any amount of harvest by these vessels in the parallel fishery before NMFS can consider re-opening the entire Federal BSAI HAL/pot CV < 60 ft sector.

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

The process for establishing Pacific cod catch limits and sector allocations is illustrated in Figure 2-1. Each year, the Council's BSAI groundfish Plan Team and Scientific and Statistical Committee (SSC) establish an overfishing level (OFL) and acceptable biological catch (ABC) for Pacific cod for the BS

¹³ Effective January 1, 2012, NMFS issued regulations to limit access of Federally permitted pot and HAL C/Ps to the Pacific cod fishery in State waters in the BS and AI (see 76 FR 73513).

subarea of the BSAI, and a separate OFL and ABC for the AI subarea of the BSAI. Before the AI and BS Pacific cod TACs are established, typically at a level that is lower than the ABCs, the Council and NMFS consider social and economic factors, and management uncertainty, as well as two factors that are particularly relevant to BSAI Pacific cod: 1) Pacific cod guideline harvest level (GHL) fisheries that occur in the state waters adjacent to the BSAI, and 2) an overall 2 million mt limit on the maximum amount of TAC that can be specified for all BSAI groundfish.

Pacific cod TACs are specified at reduced levels from the ABCs to take into account the State GHL fisheries so that the combined harvest limits from State GHL fisheries and the TACs do not exceed the ABCs specified for the BS or AI. In state waters adjacent to the BSAI, the State manages three GHL fisheries for Pacific cod, two that occur within state waters adjacent to the BS and one that occurs within state waters adjacent to the AI. Under current state regulations for the two GHL fisheries in state waters adjacent to the BS, the Dutch Harbor Subarea (DHS) GHL fishery for pot gear is set at 8 percent of the BS ABC with an annual 1 percent increase in that allocation, if 90 percent of the allocation is harvested, until it reaches 15 percent of the BS ABC. The second BS GHL fishery started in 2019 allocating approximately 45 mt (100,000 lbs.) to jig vessels. In state waters adjacent to the AI, the GHL fishery was set at 27 percent of the 2018 ABC specified for AI Pacific cod, with annual “step-up” provisions that would increase the amount of the GHL fishery if it was harvested up to at least 90 percent in the previous year. The 2019 AI GHL was increased to 31 percent of the AI Pacific cod ABC. If the AI GHL fishery continues to be nearly fully harvested it can continue to increase annually by 4 percent up to a maximum of 39 percent of the AI ABC or to a maximum of 6,804 mt (15 million lbs.), whichever is less.

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

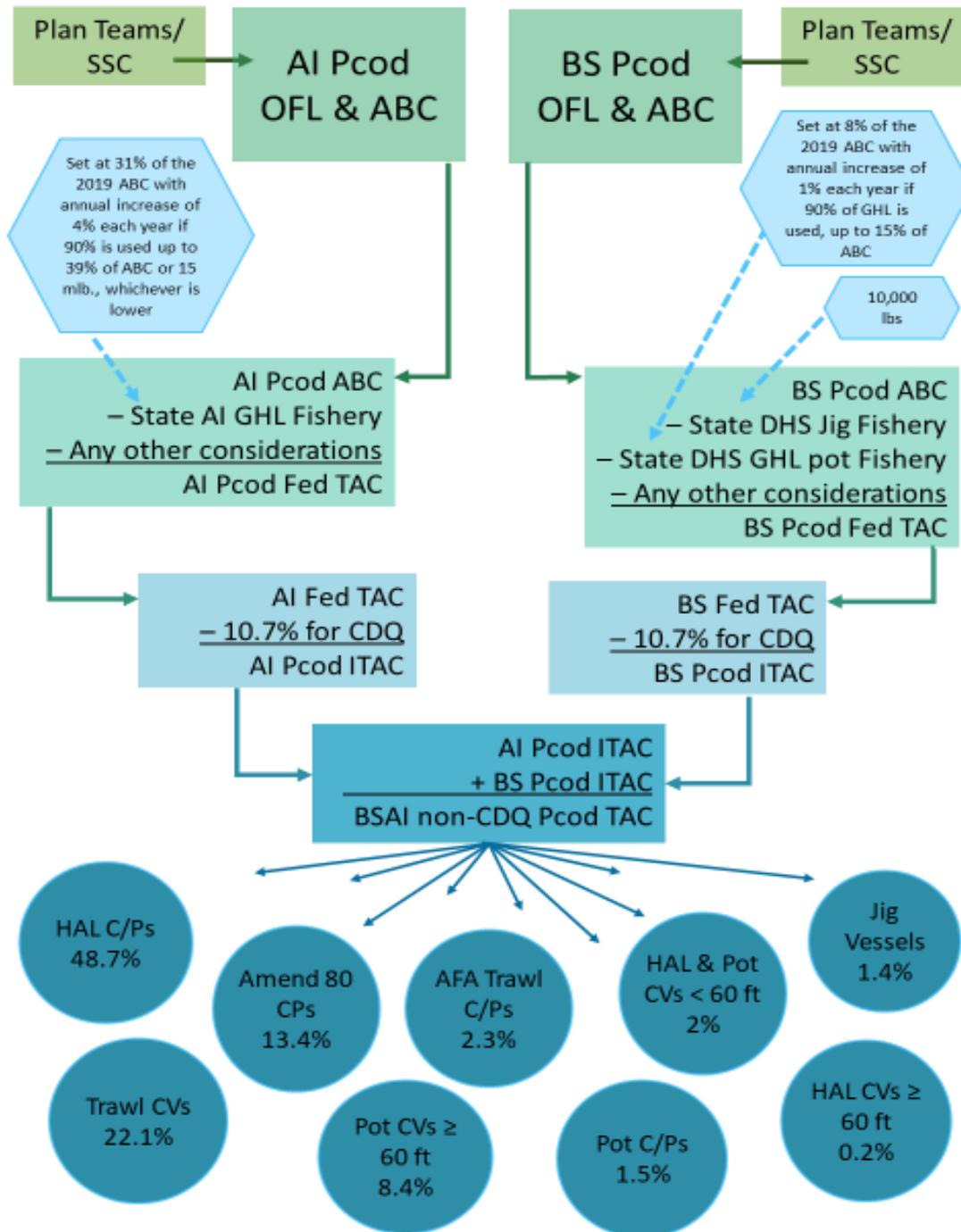
Table 2-1 provides ABCs, TACs, and ITACs of BSAI Pacific cod from 2003 through 2013, and ABCs, TACs, and ITACs for BS Pacific cod and AI Pacific cod from 2014 through 2019. Since the BS and AI were split in 2014, the BS ABC and TAC have declined, and the AI ABC and TAC increased initially and have remained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

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

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

NMFS combines the remaining BS and AI ITACs into one BSAI non-CDQ TAC, which is available for harvest by nine non-CDQ fishery sectors. Regulations implemented under BSAI groundfish FMP Amendment 85 at § 679.20(a)(7)(ii)(A) define the nine Pacific cod non-CDQ fishery sectors in the BSAI and specify the percentage allocated to each. The non-CDQ fishery sectors are defined by a combination of gear type (e.g., trawl, hook-and-line), operation type (i.e., catcher vessel or catcher/processor), and vessel size categories (e.g., vessels \geq to 60 ft in length overall). Through the annual harvest specifications process, NMFS allocates an amount of the combined BSAI non-CDQ TAC to each of these nine non-CDQ fishery sectors. The nine non-CDQ fishery sectors and the percentage of the combined BSAI non-CDQ TAC allocated to each sector are shown in Figure 2-1 below.

Figure 2-1 BSAI Pacific cod specifications and sector allocations



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

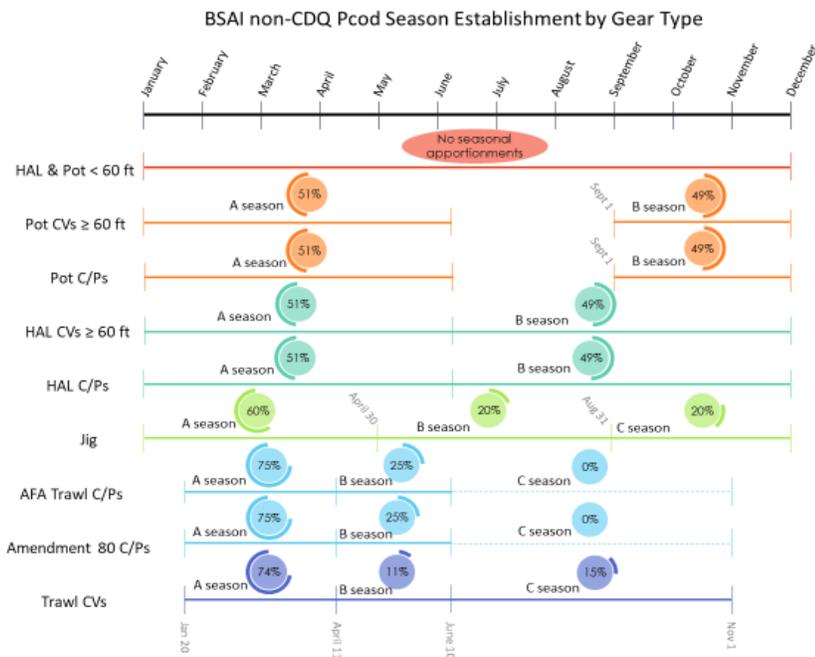
NMFS manages each of the non-CDQ fishery sectors to ensure harvest of Pacific cod does not exceed the overall annual allocation made to each of the non-CDQ fishery sectors. NMFS monitors harvests that occur while vessels are directed fishing for Pacific cod (specifically targeting and retaining Pacific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

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

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

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

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



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

3.7.2. License Limitation Program (LLP) management

As of January 1, 2000, a Federal LLP license has been required for most vessels engaged in directed fishing for LLP groundfish species in Federal waters of the BSAI or Gulf of Alaska (GOA).¹⁴ LLP licenses come with a combination of endorsements that specify the type of participation that can occur. Unless exempt, in order to harvest Pacific cod in the BS or AI (including CDQ and non-CDQ), a vessel must have a valid groundfish LLP license that specifies a maximum length overall (MLOA) that is equal to or greater than the length overall of the vessel named on the LLP license. In addition to an MLOA, the LLP license specifies:

- An endorsement(s) for the sub-area(s) that vessel is authorized to fish (e.g., BS or AI or both)
- An endorsement for mode of operation (i.e. catcher vessel or catcher/processor). Vessels with a CV license may harvest, but not process fish onboard. Vessels with a C/P endorsed license may harvest and process fish onboard. A vessel with a C/P LLP license may deliver their catch shoreside as well.
- An endorsement for trawl, non-trawl, or both gear types.
 - If the vessel’s LLP license has a trawl endorsement, that vessel is also automatically authorized for directed fishing for Pacific cod.

¹⁴ There are a few exceptions for LLP license requirements in the BSAI. This includes vessels that do not exceed 32 ft LOA; vessels that are at least 32 ft LOA but that do not exceed 46 ft LOA that are registered with their CDQ group to harvest CDQ groundfish; vessels that do not exceed 60 ft LOA and are using jig gear (but no more than 5 jig machines, one line per machine, and 15 hooks per line); and certain vessels constructed for and used exclusively in the CDQ fisheries.

- If the vessel’s LLP license has a non-trawl endorsement, the license also must have a Pacific cod endorsement authorizing that vessel to be used to conduct directed fishing for Pacific cod and with hook-and-line or pot gear. CVs less than 60 ft are exempt from the requirement to have a Pacific cod endorsement on their LLP.
- LLP groundfish licenses also identify whether the LLP license is associated with the Amendment 80, AFA, and GOA Rockfish Program.
- LLP groundfish licenses also specify whether the vessel named on the license is sideboarded in other fisheries.

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

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

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

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

3.7.3. Federal fisheries permit requirements

All vessels used to fish for groundfish in Federal waters of the Bering Sea, Aleutian Islands, and Gulf of Alaska are required to have an FFP. Also, any vessel that is used to fish in Federal waters of the BSAI or GOA for any non-groundfish species (e.g., IFQ halibut, crab, salmon, scallops, herring), and that is required to retain any bycatch of groundfish must have an FFP (50 CFR section 679.4). FFPs are valid for three years and, unless revoked, suspended, or surrendered, are in effect from the date of issuance through the end of the 3-year cycle. The current cycle of FFPs issued for vessels that operate in Alaska waters is January 1, 2018, through December 31, 2020. With the exception of BSAI hook-and-line C/Ps and pot C/Ps, vessel operators can surrender an FFP at any time and have NMFS reissue the FFP any number of times within the 3-year cycle

Owners and operators of vessels that have an FFP must comply with Federal groundfish observer program regulations and with NMFS recordkeeping and reporting requirements. In addition, vessels that have FFPs must carry a Vessel Monitoring System (VMS) if they participate in directed fishing for Atka mackerel, Pacific cod, or pollock in Federal waters of the BSAI or GOA. Vessels that are used in these directed fisheries must also have an endorsement on their FFPs that indicates the use of pot, trawl, or hook-and-line gear in these fisheries.

The catch reporting, observer, and VMS requirements apply to vessels that have FFPs as a condition of permit issuance and apply regardless of whether they are being used to fish in Federal waters or State of Alaska waters. However, vessels that fish exclusively in state waters during the State's parallel or GHL fisheries do not need an FFP, and vessels that do not have FFPs are not subject to NMFS recordkeeping and reporting requirements, Federal observer coverage, or VMS requirements. However, the State of Alaska has its own regulations and does require the use of VMS in all parallel groundfish fisheries west of 144 degrees West Longitude unless the vessel is using jig gear. An FFP issued by NMFS is valid for 3 years and is in effect from the date of issuance through the end of the 3-year cycle.

3.7.4. Federal regulatory authority over vessels with Federal permits and licenses

NMFS has broad authority over vessels that have Federal permits and licenses. Vessels that have FFPs or LLP licenses are subject to Federal groundfish regulations, even while fishing in state waters adjacent to the BSAI or GOA in order to achieve the goals and objectives of Federal management of Federal fisheries. For example, most vessels that have FFPs must comply with Federal recordkeeping and reporting, observer,¹⁵ and VMS requirements while fishing in Federal, parallel, or State GHL fisheries as a condition of the Federal permits and licenses. NMFS has regulations in the BSAI that prohibit any Federally-permitted HAL or pot C/P from participating in the State's parallel Pacific cod fisheries unless the vessel has an FFP and an LLP license with the required endorsements and that require Federally-permitted HAL or pot C/Ps to stop fishing in both Federal and parallel fisheries once their sector closes to directed fishing for Pacific cod in Federal waters. This prevents any Federally-permitted HAL or pot C/P from participating in the parallel fishery once the Federal Pacific cod directed fishery is closed to the sector.

Under current regulations, a vessel (other than HAL and pot C/Ps) can surrender its FFP to circumvent the Federal recordkeeping and reporting, observer, and VMS requirements while fishing in the State's parallel Pacific cod fisheries, and later have NMFS re-issue the FFP to the same vessel so that it can be used in the Federal fisheries again. There is currently no restriction on the number of times a holder of a catcher vessel FFP can surrender the FFP and have it reissued. Note, however, that regulations prevent the reissuance of a BSAI HAL or pot C/P FFP within the 3-year cycle if the permit is surrendered. In

¹⁵ There are some exceptions for CPs in State GHL fisheries.

addition, the HAL and pot C/P regulations for the parallel Pacific cod fishery are written such that they apply to vessels with either an FFP or LLP, so HAL and pot C/Ps that have LLP licenses will have to surrender these licenses or transfer them to another vessel in order to circumvent the parallel fishery limitation.

The Council could extend the same parallel fishing regulations required for Federally-permitted H&L C/Ps and pot C/Ps operating in the BSAI to other Federally-permitted vessels participating in the parallel Pacific cod fisheries, as long as the action has an adequate conservation or management rationale. This action extends the FFP, LLP license, and their associated endorsement requirements to Federally-permitted trawl CVs and C/Ps, and to pot and HAL CVs fishing in state waters during the BSAI Pacific cod parallel fishery. The requirements only apply to vessels with an FFP or an LLP.

3.7.5. Interactions with State management measures

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

The State of Alaska manages the parallel fishery, and each year adopts by emergency order Federal groundfish seasons, bycatch limits, and authorized gear types. However, the State does not recognize sector allocations based on processing activity (CV versus C/P).¹⁶ As a result, the State cannot specifically restrict C/Ps from participating in the parallel fisheries. The State can, however, limit participation on the basis of vessel length. In 2009, the State limited the size of HAL vessels allowed to participate in the BSAI Pacific cod parallel fishery to 58 ft LOA or less. Most HAL C/Ps are longer than 58 ft LOA, and this management measure has prevented an increase in fishing effort in the parallel fishery by large HAL C/Ps. The BSAI Pacific cod parallel fishery has mostly been prosecuted by small CVs delivering to shoreside processors. Although the State regulation restricting HAL vessels over 58 ft LOA from participating in the parallel fishery does not apply to vessels using pot gear, the Federal regulation prohibiting Federally-permitted pot C/Ps from participating in the parallel fishery when the pot C/P sector is closed to directed fishing in Federal waters prevents pot C/Ps from taking advantage of the parallel fishery opportunity once their sector is closed to fishing in Federal waters. This regulatory action expands the group of Federally-permitted vessels that will be prohibited from taking advantage of the parallel fishery opportunity once their sector is closed to fishing in Federal waters.

3.7.5.2. Seasonal sector allocation closures

A management issue that has arisen is that vessels are fishing for Pacific cod in state waters during the State's BSAI Pacific cod parallel fishery after NMFS determines the Pacific cod TAC for their respective sector has been harvested and closes Federal waters to directed fishing for Pacific cod by that sector. Again, the State recognizes sector allocations by gear type, but does not recognize the separate Federal CP and CV allocations. If the State's Pacific cod parallel fishery is open to some gear type, and a sector with that gear type is open for Pacific cod directed fishing in Federal waters, any vessel, CV or C/P, using that gear type and meeting any applicable State vessel length restrictions is eligible to participate in the State's parallel state waters fishery.

For example, HAL/pot CVs < 60 ft may fish for Pacific cod in state waters during the State's parallel fishery when adjacent Federal waters Pacific cod directed fishing is closed for their sector, but Pacific cod directed fishing is open to the HAL C/P and pot C/P sectors in Federal waters. In practice, NMFS

¹⁶ State v. Grunert, 139 P.2d 1226 (Alaska 2006); Grunert v. State, 109 P.2d 924 (Alaska 2005). In the 2005 case, the Alaska Supreme Court ruled that the Board of Fisheries could not allocate within a single fishery. 109 P.2d at 931-32. In the 2006 case, the Court held that 'fisheries' could only be distinguished by differences in the gear that is actually used to harvest the fish. 139 P.2d at 1235-39. As a result, the Alaska Department of Law has advised the Alaska Board of Fisheries that the statutory allocation criteria applies to allocations among use categories (e.g., personal use, sport, guided sport, commercial) as well among subgroups of those categories (e.g. drift and set gillnet commercial fisheries). However, the Board may not allocate "within" a particular fishery (same gear and same administrative area). Alaska Dept. of Law to Jim Marcotte, Alaska Board of Fisheries; November 30, 2009.

inseason management accounts for catch in the parallel fishery by gear and operation type. In the BSAI Pacific cod fishery, NMFS deducts catch of Pacific cod in state waters during the parallel fishery from the appropriate sector allocation based on the gear and operation type of the harvesting vessel. However, if one sector's season is closed in Federal waters and vessels in that sector continue to fish in the parallel fishery, NMFS must account for that sector's catch, which interferes with the Federal allocations. If the catch is counted against another sector's allocation, this would effectively result in a reallocation of the TAC.

3.7.5.3. Overview of State water GHL fisheries

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

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

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

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

Note: CF = Confidential

^a In metric tons

^b Price per pound of landed weight.

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

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

^e Some vessels participated in both seasons.

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

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

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

During October 2013, the BOF created a Pacific cod fishery management plan for state waters of the Bering Sea near Unalaska/Dutch Harbor.¹⁷ A summary of the State's regulations is provided in Table 2-4. The DHS GHL pot fishery for Pacific cod occurred in state waters between 164 degrees and 167 degrees

¹⁷ https://www.psmfc.org/tsc-drafts/2017/ADFG_2017_AK_TSC_Alaska_FINAL.pdf

west longitude from 2014-2015. The boundaries expanded to state waters between 164 degrees to 170 degrees west longitude in 2016. At its October 2018 meeting, the BOF expanded the area again to include waters between 162.30 and 170 degrees west longitude. The fishery is open to vessels 58 feet or less overall length using pot gear, with a limit of 60 pots per vessel. The season opens seven days after the Federal BSAI < 60 ft pot/HAL CV sector's closure and may close and re-open as needed to coordinate with Federal fishery openings.¹⁸

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

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

¹⁸ The 2018 season opened on January 30 and was closed on March 1 because the GHL was projected to be taken.

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

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

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

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

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

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

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

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

The BOF also created a 100,000 lb. (45 mt) GHL jig fishery for Pacific cod in the DHS. That fishery started May 1, 2019. The DHS jig gear fishery is a nonexclusive fishery, so persons may register and fish that fishery and other nonexclusive or exclusive state fisheries for Pacific cod. Because the fishery opened for the first time in 2019, no information is available on past participation or harvest.

Pacific cod may only be harvested with pot gear in one DHS GHL fishery and jig gear in the other. Because they are pot or jig gear fisheries, the primary direct impact to the BS trawl CV Pacific cod fishery is through the percent of the ABC used for the GHL prior to setting trawl CV TAC.¹⁹ Once the DHS GHL for pot gear reaches 15% of the BS ABC it equates to a 134% increase in the GHL allocation, in GHL percent allocation, relative to 2018. In poundage terms, the 2018 (6.4 percent) GHL was 28.36 million lbs. (12,864 mt).

3.7.6. Affected sectors

The following sections identify and describe the processing and harvesting sectors that will potentially be directly affected by this action. A brief description of each of the processing sectors and harvesting sectors are provided below during the allocation review period of 2005 through 2018. For further description on the sectors, the Council’s “BSAI Pacific Cod Allocation Review” provides descriptions of the different sectors noted in this section that participate in the BSAI Pacific cod fisheries (NPFMC 2019).

3.7.6.1. Trawl CV²⁰

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

For the AFA trawl CVs, most vessels rely almost exclusively on pollock harvested in the BS, while Pacific cod is the second most important species in terms of volume for these vessels. While nearly all the groundfish harvested by the larger vessels is delivered to shoreside processors, many of the smaller vessels deliver their catch to motherships or C/Ps operating as motherships. The AFA trawl CVs have a sideboard limit of 86.09 percent of the seasonal allocations of BSAI Trawl CV Pacific cod. The Pacific cod harvest limits, like other groundfish and PSC bycatch limits for AFA CVs, are managed using directed fishing closures according to the procedures set out at 50 CFR § 679.20(d)(1)(iv), § 679.21(d)(8), and § 679.21(e)(3)(v). There are nine AFA trawl CVs that are exempt from the AFA CV Pacific cod sideboard limits. Nineteen additional CVs have a mothership endorsement and are exempt from the

¹⁹ After October 1, if a substantial portion of the state-waters GHL remains unharvested and the GHL is unlikely to be achieved by December 31, gear limits, vessel size restrictions, and exclusive registration requirements may be removed. All inseason management actions will be announced by ADF&G news release.

²⁰ For more details on the trawl CV sector, see pages 33 – 36 and pages 64 - 65 of the BSAI Pacific Cod Allocation Review, June 22, 2019.

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

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

In 2018, there were a total of 114 LLP licenses with a trawl CV endorsement for the BS. Of those 114 LLP licenses, 42 licenses also had an AI trawl endorsement. One LLP license was endorsed only for the AI and that license had an AI HAL endorsement. The 12 AI trawl area endorsements that were created under Amendment 92 (74 FR 41080, August 14, 2009) were also included in these LLP license totals.

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

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

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

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

3.7.6.2. HAL CV \geq 60 ft²¹

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

In 2018, there were a total of eight LLP licenses with a Pacific cod HAL CV endorsement for the BS. Of those eight LLP licenses, seven licenses also had an AI HAL CV endorsement, while one license has a BS pot C/P endorsement and one license has an AI pot C/P endorsement.

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

As noted above, very little of the BSAI Pacific cod harvested by the sector is from directed fishing for Pacific cod. Of the BSAI Pacific cod harvested since 2005, approximately 52 percent is from the AI, of which most is incidental to the sector's IFQ sablefish fishery. Under current State regulation, HAL CV \geq 60 ft vessels are prohibited from participating in the parallel Pacific cod fisheries adjacent to the BSAI. The State has a prohibition on all HAL vessels over 58 ft from participating in parallel Pacific cod fisheries.

The exvessel value of the BSAI Pacific cod fishery has ranged from a low of slightly less than \$4 thousand in 2014 to a high of \$79 thousand in 2006. Gross first wholesale value has ranged from a low of \$9 thousand in 2014 to a high of \$135 thousand in 2006. Looking at that value of the BSAI Pacific cod fishery for the HAL CV \geq 60 ft sector relative to the total gross revenue of the sector, BSAI Pacific cod accounted for less than zero percent of the total revenue on average from 2005 to 2017. The largest contributor to the sector's total gross revenue was the IFQ sablefish fishery.

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

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

²¹ For more details on the HAL CV \geq 60 ft sector, see pages 37 – 39 and pages 66 - 67 of the BSAI Pacific Cod Allocation Review, June 22, 2019.

3.7.6.3. Pot CV \geq 60 ft²²

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

In 2018, there were a total of 49 LLP licenses with a Pacific cod pot CV endorsement for the BS. Of those 49 LLP licenses, two licenses also had an AI endorsement and one license has BS CV HAL endorsement.

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

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

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

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

3.7.6.4. HAL/pot CV < 60 ft²³

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

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

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

²³ For more details on the HAL/pot CV < 60 ft sector, see pages 43 – 45 and pages 70 - 71 of the BSAI Pacific Cod Allocation Review, June 22, 2019.

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

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

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

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

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

The HAL/Pot CV < 60 ft sector does not have seasonal allowances so all of the sector's annual allocation is available for harvest at the beginning of the year. However, NMFS typically reallocates Pacific cod to this sector several times during the year. There appears to be a gradual shortening of the initial fishing period when the sector harvests its allocation. In 2005 and 2006, NMFS did not close the sector before April. Between 2007 and 2011, NMFS closed the sector in March. Since 2014, NMFS has closed the sector in early February. Once the sector has harvested its allocation, reallocations of Pacific cod from other sectors can allow the sector to re-open as early as late April or early May. Another typical period of reallocation that can allow the sector to re-open is mid-August to early September. Typically, the fall reallocation is sufficient to allow the fishery to remain open for the sector during the remainder of the year.

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

3.7.6.5. AFA trawl C/P²⁴

The AFA trawl C/P sector includes 20 vessels listed by name in the AFA as eligible to harvest BSAI pollock in the directed fishery.²⁵ The Consolidated Appropriations Act of 2005 (Section 219(a)(1)) defines eligibility in the AFA trawl C/P sector as the owners of each C/P listed in paragraphs (1) through (20) of Section 208(e) of the AFA. On January 21, 1999, the owners of these vessels formed the Pollock Conservation Cooperative (PCC) to coordinate pollock harvest under the AFA.

These large factory trawlers have the processing equipment to produce surimi and/or fillets from pollock, Pacific cod, and other groundfish. Some of these vessels also have room for equipment to produce fishmeal, minced product, and other product forms. This sector operates in a pollock cooperative under the AFA, which allows them to modify operations in terms of when they fish and what they process to account for changing weather, markets, and management restrictions. Pollock is the primary species harvested by this sector, but only one vessel specifically targets Pacific cod on a regular basis, while several vessels have targeted yellowfin sole. The Amendment 85 final rule removed the sideboard limit for BSAI Pacific cod for the AFA trawl C/Ps. The establishment of a separate BSAI Pacific cod allocation to this sector negates the need for the BSAI Pacific cod sideboard which protects the historical share of the non-AFA trawl C/P sector from being eroded by the AFA trawl C/P vessels.

In 2018, there were a total of 27 AFA derived LLP licenses with a trawl C/P endorsement for the BS. Of those 27 AFA derived LLP licenses, 25 licenses had an AI endorsement. Prior to the implementation of Amendment 85 in 2008, the AFA C/P sector shared a 23.5 percent BSAI Pacific cod allocation with the Amendment 80 sector, so initial and final allocations and the associated percent of harvested allocation for the AFA C/P sector is not available. Upon implementation of Amendment 85, the PCC coordinates the harvest of its 2.3 percent allocation of the BSAI non-CDQ Pacific cod TAC.

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

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

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

There are three BSAI Pacific cod seasons for the AFA C/P sector: A-season, which is January 20 to April 1, B-season which is April 1 to June 10, and C-season June 10 – November 1. Since the implementation of Amendment 85 in 2008, the AFA C/P sector allocation of Pacific cod is apportioned only to the A and

²⁴ For more details on the AFA C/P sector, see pages 48 – 50 and pages 75 - 76 of the BSAI Pacific Cod Allocation Review, June 22, 2019.

²⁵ One additional trawl C/P qualifies under 208(e)(21) of the AFA and is limited to a small percentage of the AFA C/P allocation of pollock and is not sideboarded in other fisheries. However, only the 20 listed AFA C/Ps are considered part of this sector for purposes of this review. The additional trawl C/P that qualifies under 208(e)(21) would be considered part of the Amendment 80 sector for purposes of this review.

B seasons and not to the C season. With regards to directed fishing closures for the sector, in general, directed fishing has closed prior to the sector's regulated closure date. For example, during the A-season, the BSAI Pacific cod fishery tended to close between mid-February to mid-March, while the B-season for most the years was only open for one day. Starting in 2014, the fishery for the sector was generally open for the entire regulated period in the BS, while the AI tended closed in February and March for all non-CDQ Pacific cod sectors due to reaching the directed fishing allowance.

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

3.7.6.6. Amendment 80²⁶

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

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

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

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

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

²⁶ For more details on the Amendment 80 sector, see pages 51 – 54 and pages 77 - 78 of the BSAI Pacific Cod Allocation Review, June 22, 2019.

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

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

3.7.7. Product composition and flow of Pacific cod

The following information on production composition and flow of Pacific cod originates from the 2013 Economic Status of the Groundfish Fisheries of Alaska (NMFS 2018). That information has been updated with more recent data on the production by product and its reported value.

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

Pacific cod are processed as either headed and gutted (H&G), fillet blocks, or individually frozen fillets, which are either individually quick-frozen or processed into shatterpack (layered frozen fillets that separate individually when struck upon a hard surface) or layer pack. These product forms account for over 80 percent of total production annually. The other product forms produced includes whole fish, roe, milt, and other products. The final markets include fine or "white tablecloth" restaurants, institutional food service, quick-service restaurants, retail fish markets, grocery stores, and overseas markets.

Wholesale prices are highest for fillet products, but H&G accounts for the largest share of Alaska Pacific cod production. The H&G production was significant in the mid-90's at roughly 50 percent. Since then H&G's share of production increased, reaching 79 percent in 2004 and then declining to just over 70 percent in recent years. Fillet production since 2009 has ranged between 18 percent and 13 percent.

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

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

The wholesale prices for H&G Pacific cod caught and processed by hook-and-line gear (freezer longline) vessels have been consistently higher than the prices received by trawl vessels. According to an industry

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

3.8. Analysis of Impacts: Alternative 1, No Action

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

Table 2-6 and Table 2-7 provide the vessel count and Pacific cod target catch in the parallel fishery along with total BSAI Pacific cod target catch and the percent of total from parallel catch for sectors active in the parallel fishery (HAL and pot CP sectors not included) from 2010 through 2019. Overall, there were 138 vessels that participated in the parallel fishery from 2010 through 2019. On an annual basis, parallel fishery activity ranged from a low 15 vessels in 2013 and 2014 to high of 33 vessels in 2010 with a range of harvest between 1,241 mt in 2013 and 2,575 mt in 2018. As an average percent of total BSAI target Pacific cod catch, the parallel fishery was 3 percent from 2010 through 2019. Of the sectors that participated in the parallel fishery, the HAL/pot < 60 ft sector routinely had the largest number of vessels and largest amount of catch from the parallel fishery followed by the trawl CV sector. On average, 17 percent of the total BSAI target Pacific cod catch for the HAL/pot < 60 ft sector was harvested from the parallel fishery.

In total, there were 30 Federally-permitted vessels that (1) had an FFP but no LLP license, (2) had an LLP license that did not have the endorsements needed to target Pacific cod in Federal waters, (3) had an LLP license but no FFP, or (4) were used to fish in the parallel fishery after their sector closed to fishing in Federal waters.²⁷ It is likely some of these 30 vessels with an FFP or LLP would continue to fish in the parallel fishery under Alternative 1.

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

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

²⁷ These four groups correspond to the four red boxes in Figure 2-3.

ft in the fall fishery. This could further negatively impact reallocations from the trawl CV sector to the HAL/pot CVs < 60 ft and other sectors in the fall fishery since historically most of the C-season allocation for the trawl CV sector has been reallocated to the HAL/pot CVs < 60 ft and other sectors every fall since 2005.

Table 2-6 Vessel count and catch of BSAI targeted Pacific cod in the parallel fishery in addition to the sector's total catch of BSAI targeted Pacific cod and the percent of total catch from parallel catch for sectors active in the parallel fishery (not including HAL and pot CP sectors) from 2010 through 2019

Year	Trawl CV				Pot CV ≥ 60 ft				HAL/pot < 60 ft			
	Parallel fishery vessel count	Parallel fishery catch (mt)	Total cod catch for the sector (mt)	Parallel catch as a % of total cod catch for the sector	Parallel fishery vessel count	Parallel fishery catch (mt)	Total cod catch for the sector (mt)	Parallel catch as a % of total cod catch for the sector	Parallel fishery vessel count	Parallel fishery catch (mt)	Total cod catch for the sector (mt)	Parallel catch as a % of total cod catch for the sector
2010	15	699	25,178	3%	3	*	11,572	*	13	593	5,511	11%
2011	7	142	34,545	0%	2	*	16,378	*	13	1,331	8,014	17%
2012			39,870	0%	2	*	12,709	*	14	1,031	8,871	12%
2013	2	*	38,792	*	2	*	12,411	*	11	1,133	9,432	12%
2014	1	*	38,727	*	2	*	11,123	*	10	2,439	12,411	20%
2015	11	795	31,561	3%	2	*	10,385	*	12	1,332	10,016	13%
2016	10	806	40,807	2%			11,018	0%	13	1,363	10,296	13%
2017	2	*	37,449	*	4	653	13,720	5%	10	1,365	9,945	14%
2018	2	*	33,675	*	4	331	15,223	2%	15	1,977	8,552	23%
2019	3	*	25,911	*	6	518	6,360	8%	20	1,420	3,565	40%

Source: AKFIN, Dec 2019; parallel_tot(12-12-19)-2

* Denotes confidential data

Table 2-7 Vessel count and catch of BSAI targeted Pacific cod in the parallel fishery in addition to the sector's total catch of BSAI targeted Pacific cod and the percent of total catch from parallel catch for sectors active in the parallel fishery (not including HAL and pot CP sectors) from 2010 through 2019 – continued

Year	A80				HAL CV ≥ 60 ft				AFA CP				Total			
	Parallel fishery vessel count	Parallel fishery catch (mt)	Total cod catch for the sector (mt)	Parallel catch as a % of total cod catch for the sector	Parallel fishery vessel count	Parallel fishery catch (mt)	Total cod catch for the sector (mt)	Parallel catch as a % of total cod catch for the sector	Parallel fishery vessel count	Parallel fishery catch (mt)	Total cod catch for the sector (mt)	Parallel catch as a % of total cod catch for the sector	Parallel fishery vessel count	Parallel fishery catch (mt)	Total cod catch for these sectors (mt)	Parallel catch as a % of total cod catch for these sector
2010	1	*	3,459	*	0	0	31	0%	0	0	5,113	0%	33	2,138	72,095	3%
2011	0	0	1,433	0%	1	*	31	*	0	0	7,743	0%	23	1,954	94,924	2%
2012	1	*	2,607	*	0	0	22	0%	0	0	7,227	0%	23	1,266	101,642	1%
2013	0	0	3,317	0%	0	0	13	0%	0	0	8,274	0%	15	1,241	103,049	1%
2014	0	0	2,193	0%	0	0	7	0%	0	0	5,831	0%	15	2,566	97,168	3%
2015	0	0	2,453	0%	0	0	11	0%	0	0	4,708	0%	27	2,215	88,359	3%
2016	1	*	3,644	*	0	0	12	0%	0	0	5,153	0%	28	2,199	98,350	2%
2017	0	0	544	0%	0	0	11	0%	0	0	6,025	0%	17	2,143	94,838	2%
2018	0	0	3,458	0%	0	0	8	0%	0	0	5,147	0%	23	2,575	87,860	3%
2019	0	0	1,321	0%	0	0	0	0%	0	0	2,018	0%	31	2,080	35,490	6%

Source: AKFIN, Dec 2019; parallel_tot(12-12-19)-2, parallel_tot(12-12-19), and BSAI Pacific cod allocation review file name Sector_Landings (4-16-19)-1

* Denotes confidential data

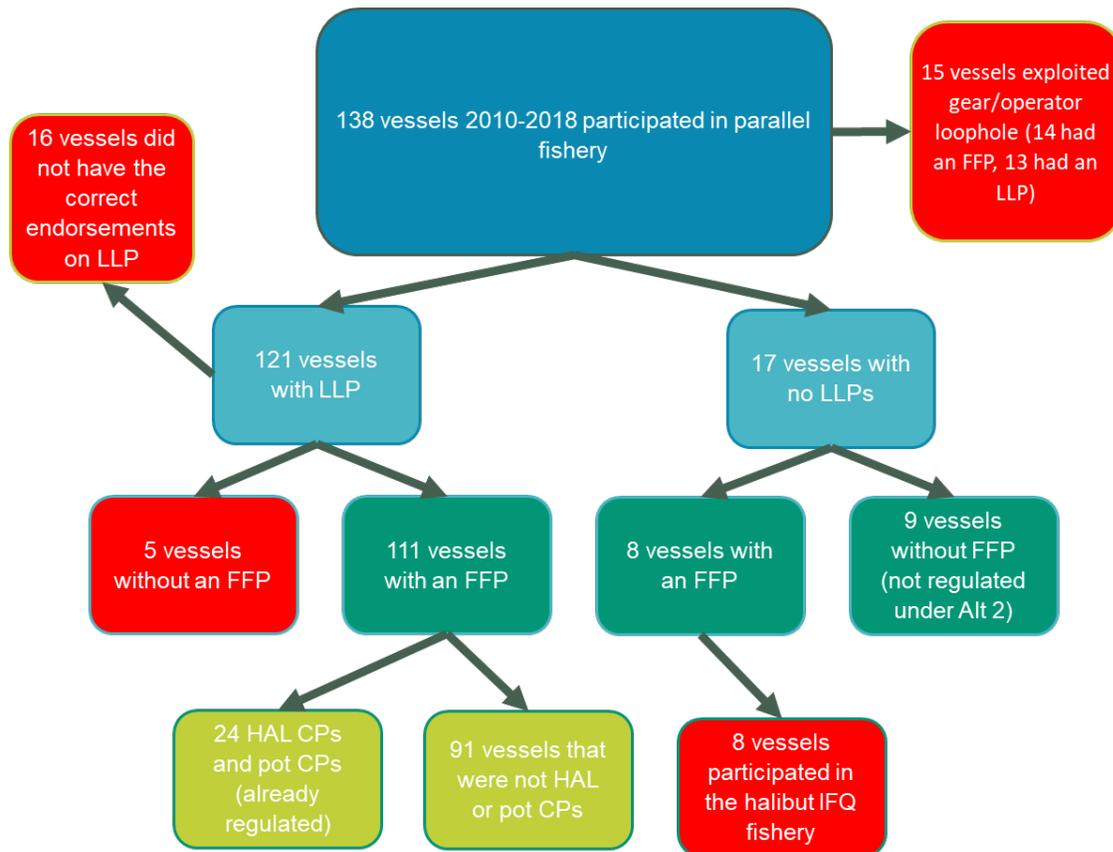
3.9. Analysis of Impacts: Alternative 2 – (Preliminary Preferred Alternative) BSAI Pacific cod Parallel Fishery Limitation

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

Overall, there were 138 vessels that participated in the parallel fishery from 2010 through 2018. In total, there were 121 vessels that had an LLP license assigned to the vessel and 17 vessels did not have an LLP license assigned to the vessel. Of the vessels with an LLP license, 111 vessels had an FFP, while five vessels did not have an FFP. Of the 111 vessels with both an LLP license and FFP, 24 were HAL and pot CPs that already are required to have an LLP license and an FFP with the required endorsements to participate in the parallel fishery and 91 were vessels that were not HAL or pot CPs with an LLP license and FFP that will be required to maintain an LLP license and an FFP with the required endorsements to continue to participate in the parallel fishery under Alternative 2. In addition to these 91 vessels, there are an additional 30 vessels in four different groups that participated in the parallel fishery from 2010 through 2018 that: 1) had an FFP but did not have an LLP license; 2) had an LLP license that lacked the required LLP license endorsements needed to target Pacific cod in Federal waters, 3) had an LLP license but did not have an FFP, and 4) were used to fish in the parallel fishery after their sector closed to fishing in Federal waters.²⁸ Under Alternative 2, these 30 vessels would have been out of compliance. The following sections provide a description of these four different groups of vessels that participate in the parallel fishery, their revenue at risk under Alternative 2, and the likely outcome of this action on these vessels, the broader sector as a result of Alternative 2, and finally the community and processor impacts from Alternative 2.

²⁸ These four groups correspond to the four red boxes in Figure 2-3.

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



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

3.9.1. Vessels with an LLP license

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

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

ranged from 7 to 14 vessels. The range of harvest by these vessels was slightly less than 1,000 mt in 2013 to slightly over 3,700 mt in 2014. As noted in Table 2-9, the parallel fishery catch by pot/HAL CV < 60 ft vessels amounted between 10 percent and 32 percent of the final amount of BSAI Pacific cod allocated to the sector.

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

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

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

* Denotes confidential data

¹Total vessel count is not additive.

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

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

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

3.9.1.1. Vessels with an LLP license but no FFP

Under Alternative 2, those vessels with LLP licenses that are fishing in the parallel fishery will be required to also have an FFP with the required endorsements. Of the 138 total vessels participating the parallel fishery from 2010 through 2018 that had an LLP license, five vessels did not have an FFP. Of those five vessels, three were HAL/pot CVs < 60 ft, one was a trawl CV, and one was a pot CV ≥ 60 ft. Since vessels that have an FFP must comply with groundfish observer program regulations and NMFS recordkeeping and reporting requirements, these five vessels will be required to comply with these Federal regulations. All vessels with an FFP that participate in federally managed or parallel groundfish and halibut fisheries off Alaska (except catcher vessels delivering unsorted codends to a mothership) are assigned to one of two observer categories: 1) the full coverage category, or 2) the partial coverage category. CVs are typically in the partial coverage category observer or electronic monitoring (EM) trip

selection pools. In 2019, the observer and EM selection rates were set at 30 percent for vessels using HAL or pot gear in the EM selection pool, and 18 percent and 15 percent respectively for HAL and pot vessels in the observer trip selection pool, and 24 percent for vessels using trawl gear. Since all five vessels would be in the partial coverage category, each vessel would be required to pay an observer fee of 1.25 percent of their exvessel revenue split between the harvester and processor. In addition, vessels that have an FFP must carry a Vessel Monitoring System (VMS) if they are used to participate in the Atka mackerel, Pacific cod, or pollock directed fisheries in Federal waters of the BSAI or GOA. Vessels that are used to participate in these directed fisheries must also have an endorsement on their FFP that indicates the use of pot, trawl, or HAL gear in these fisheries.

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

3.9.1.2. Vessels with an LLP license but incorrect endorsements

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

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

sector, which in terms of average annual gross exvessel revenue is equivalent to the at-risk estimate of approximately \$498,000.

3.9.2. Vessels without an LLP license

Amongst the 138 vessels participating in the parallel fishery, there were 17 vessels that participated in the parallel fishery from 2010 through 2018 without an LLP license. Of those 17 vessels, eight vessels had an FFP and would be affected by Alternative 2. The remaining nine vessels would not be affected by Alternative 2 since they did not have an FFP. Of the eight vessels without an LLP license but with an FFP, six were pot/HAL CVs < 60 ft that participated in the halibut IFQ fishery and two vessels were pot CVs ≥ 60 ft. The six pot/HAL CVs < 60 ft will need to retain their FFP to continue participating in the IFQ halibut fishery. As noted in Section 2.6.3, all vessels fishing for groundfish in Federal waters of the BS, AI, or GOA are required to have an FFP. In addition, any vessel fishing in Federal waters of the BSAI or GOA for any non-groundfish species (e.g. IFQ halibut) and retains incidental groundfish are required to have an FFP.

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

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

3.9.3. Vessels circumventing the seasonal sector closure

Under this alternative, vessels with an FFP or LLP will be required to adhere to seasonal closures of Federal waters for the respective BSAI Pacific cod sectors, even while fishing in state waters during the parallel fishery. The rationale for including this component of the alternative is to prevent vessels from circumventing the seasonal sector closures by fishing in the parallel fishery. Table 2-10 shows the number of vessels with and without an FFP license that continued to fish in the parallel fishery after their sector is closed to directed fishing in Federal waters from 2010 through 2018. Overall, there are a total of 15 vessels that circumvented the seasonal sector closures from 2010 through 2018. Except for one vessel in 2014 and 2015, all the vessels that continued to fish in the parallel fishery after their sector closed to fishing in Federal waters had an FFP. Of these 15 vessels, 13 had an LLP license. Looking at annual activity, in 2018, the four vessels that continued to fish in the parallel fishery after their sector closed to

fishing in Federal waters had an FFP. These vessels harvested 759 mt of BSAI Pacific cod in the parallel fishery after their sector closed to directed fishing in the Federal waters, which was deducted from the 5,121 mt of BSAI Pacific cod that was reallocated from other sectors later in the fishing year. Since all these 15 vessels have an FFP or an LLP, they will be directly affected by Alternative 2 since they could no longer continue to fish in the parallel fishery once their sector closed to fishing in Federal waters.

Overall, the average annual exvessel gross revenue (2010 through 2018) of the parallel fishery at risk for those vessels circumventing the seasonal sector closures was estimated at approximately \$663,000, which is 16 percent of total gross exvessel revenue for this group of vessels. Under this alternative, there is some likelihood that some or all the vessel owners for these 15 vessels will continue to maintain their FFP and LLP license to participate in the Federal waters and parallel fishery when their sector is open to directed fishing in Federal waters. In general, these vessel owners will continue to maintain their FFP and their LLP license on the vessel if they perceive the benefits of continuing to participate in the parallel fishery as a Federal vessel is greater than the perceived loss of revenue from continuing to circumvent the seasonal sector closure as a State vessel. For vessels that maintain their FFP and LLP license, the Pacific cod harvested while circumventing the sector seasonal closure would likely be harvested by their sector as reallocations in the fall. The value of the reallocated Pacific cod that would be harvested by the entire sector is likely equivalent to the average annual gross exvessel revenue at risk, which was approximately \$663,000 from 2010 through 2018. Note that if any vessel owners forfeit their FFP and remove their LLP license from their vessel, there is some likelihood these vessels will continue to fish as State vessels, which reduces any beneficial shift in available Pacific cod for the greater sector during the fall reallocation fishery.

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

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

Source: NMFS, August 2019; Source HAL_loophole vessels_FFPs

* denotes confidential information

3.9.4. Summary of Impacts to Harvesters

Currently, management allows fishing in the BSAI parallel waters off a federal Pacific cod TAC even when a sector’s federal Pacific cod allocation has been achieved. Alternative 2 will provide protection for those Federal vessels that do not circumvent the seasonal sector closure from Federal vessels that do circumvent the seasonal sector closure. For example, except for one vessel in 2014 and 2015, all the vessels that continued to fish in the parallel fishery after their sector closed to fishing in Federal waters had an FFP. If these vessels continue to have an FFP or LLP license under Alternative 2, these vessels will no longer be allowed to circumvent the seasonal sector closure, which will reduce management impacts from Alternative 1 and will likely reduce overages harvested in the parallel fishery, which are accounted for during reallocations of Pacific cod.

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

the amount of TAC available to participants who hold endorsed licenses. This action extends the Pacific cod endorsement on the LLP license requirement to the parallel fishery for pot and HAL CVs that have an FFP or LLP but will not preclude vessels that do not have an FFP or LLP from entering the parallel fishery.

Alternative 2 may negatively impact Federal vessels (vessels that have either an LLP license or an FFP) that need an LLP license with the correct endorsements and/or an FFP with the correct endorsements. Since 2010, there have been 30 Federal vessels in four different groups, based on the different combination of required LLP licenses and FFPs, that participated in the parallel fishery and that would be out of compliance under Alternative 2 (Table 2-11). Overall, the average annual gross exvessel revenue at risk for these vessels is approximately \$863,000, which is 12 percent of the group's average annual total exvessel gross revenue. Given that three of the four groups of HAL/pot CV < 60' and pot CV ≥ 60' vessels that would be out of compliance under Alternative 2 would likely exit the parallel fishery or stop circumventing seasonal sector closures, there would likely be additional Pacific cod available for harvest by other vessels in the HAL/pot CV < 60 ft sector and the pot CV ≥ 60' sector that an FFP and an LLP license with appropriate endorsements. The estimated average annual exvessel gross value of the Pacific cod shifting from exiting vessels as a result of Alternative 2 for harvest by the sectors would be approximately \$791,000 annually.

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

Vessel group	Number of vessels	Sectors	Revenue at risk (2010-2018) ²⁹	Likely Impact
Vessels with an LLP license but no FFP	5	3 – HAL/pot CVs < 60' 1 – trawl CV 1 – pot CV ≥ 60'	Average annual gross exvessel revenue is approximately \$93,000; 6% of this group's average annual total exvessel gross revenue	Some or all of these vessels will likely apply for an FFP since the observer requirements and recordkeeping and reporting requirements associated with an FFP are likely less than the exvessel revenue received from the parallel fishery.
Vessels with an LLP but incorrect endorsement	16	16 – HAL/pot CVs < 60'	Average annual gross exvessel revenue is approximately \$498,000; 14% of this group's average annual total exvessel gross revenue	Likely these vessels will not participate in the parallel fishery since the cost of an LLP license with the correct endorsements is likely greater than the revenue received from participating in the parallel fishery therefore the Pacific cod harvested by these vessels will be harvested by other sector vessels for equivalent average annual exvessel gross revenue of approximately \$498,000.
Vessels without an LLP license but had a designated FFP for participate in the halibut IFQ fishery	8	6 – HAL/pot CVs < 60' 2 – pot CV ≥ 60'	Average annual gross exvessel revenue is approximately \$200,000; 17% of this group's average annual total exvessel gross revenue	Likely these vessels will not participate in the parallel fishery since the cost of an LLP license with the correct endorsements is likely greater than the revenue received from participating in the parallel fishery therefore the Pacific cod harvested by these vessels will be harvested by other sector vessels for equivalent average annual exvessel gross revenue of approximately \$200,000.
Vessels circumventing the seasonal sector closure	15	15 - HAL/pot CVs < 60'	Average annual gross exvessel revenue is approximately \$663,000; 16% of this group's average annual total exvessel gross revenue	These vessels will likely no longer circumvent the seasonal closure for the sector since the benefits of continuing to participate in the parallel fishery as Federal vessel is greater than circumventing the seasonal sector closure as State vessel.
Total of all vessels that would have been out of compliance under Alternative 2 from 2010 through 2019	30	26- HAL/pot CVs < 60' 1 - trawl CV 3 – pot CV ≥ 60'	Average annual gross exvessel revenue is approximately \$863,000; 12% of this group's average annual total exvessel gross revenue	In aggregate, would likely result in a shift in harvested Pacific cod with an average annual gross exvessel revenue of approximately \$791,000 from vessels exiting the parallel fishery under Alternative 2 to greater sector participants that would benefit from Alternative 2.

²⁹ Revenue data is available only through 2018.

3.9.5. Community and Processor Impacts

To provide an assessment of the impacts of this action on communities and processors, the following section presents information showing parallel fishery vessel activity and fishery dependence, broken out by vessel owner residence for those Federally-permitted vessels (had an LLP license and/or an FFP) from 2010 through 2018 that would be negatively impacted under Alternative 2. In total, there were 30 Federal vessels that (1) had no LLP license, (2) had an incorrect LLP license endorsement, (3) had no FFP, or (4) continued to fish in the parallel fishery after their sector closed to fishing in Federal waters. Under Alternative 2, to continue fishing in the parallel fishery as a Federal vessel, these 30 vessel owners will be required to have an LLP license and an FFP with the appropriate endorsements on their vessel. In addition, all Federally-permitted trawl, HAL and pot vessels will have to stop fishing in the parallel fishery once their sector closes to fishing in Federal waters.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.9.6. Effects on Management

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

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

3.9.7. Federal Fisheries Permit restrictions

It is important to note that Alternative 2 only applies to vessels with an FFP or LLP license. However, under current regulations, vessels not required to have an LLP license to fish for Pacific cod in Federal waters can surrender their FFPs, continue to fish in the parallel fishery after directed fishing for the respective sector closes in Federal waters as long as the season is still open in Federal waters for a sector with the same gear and any other State regulations that apply like vessel length, and then request NMFS to reissue the FFP when the vessel is ready to fish again in the Federal waters. In 2014 and 2015, one vessel that surrendered its FFP and is not named on an LLP license continued to fish in the parallel fishery after the vessel's sector was closed to fishing in Federal waters. In effect, the requirements for FFP and LLP licenses with the appropriate endorsements only partially addresses the management and allocation issue caused when vessels continue to fish past their sector's closures. Vessels that are able to surrender their FFPs and then have NMFS re-issue an FFP to the vessel at any time could continue to allow vessels to circumvent the closures.

Currently, apart from the pot or HAL C/Ps, a vessel operation type endorsement on the FFP may be amended at any time, and the vessel operator may surrender the FFP and later reapply for the FFP at any time. Vessels that surrender their FFPs do not have to comply with Federal observer coverage rules, VMS requirements, or NMFS recordkeeping and reporting requirements while fishing in the parallel fisheries. Under Alternative 2, the management measures that will prohibit Federally-permitted vessels from being used to fish in the parallel fishery unless the vessel has an FFP and LLP license with the required endorsements apply to vessels that have an FFP or LLP. However, if a vessel operator does not have, and is not required to have, an LLP to fish for Pacific cod in Federal waters and may surrender the FFP at any time, without any restrictions on when the operator may reapply for the FFP, any parallel fishery measures the Council adopts could be easily circumvented by vessels that only have FFPs and do not have LLPs. Those vessels could simply amend or surrender the FFP to participate in the BSAI Pacific cod parallel fishery, then later reapply for the FFP to participate in other Federal waters fisheries.

Alternative 2 will preclude vessel operators from removing BS or AI area, gear, and operation type endorsements from the FFP and will only allow operators to reapply for a surrendered FFP three years from the effective date of the FFP after the date of surrender. Since 2012, three unique vessel operators have surrendered and then later reapplied for an FFP. Under Alternative 2, trawl, HAL and pot vessel operators will no longer be able to surrender and later in the same year or the following year request NMFS to reinstate their FFP. Instead, vessel operators will have to wait for three years following surrender of the FFP to apply to NMFS for reissuance of the FFP. Vessels that have FFPs must comply with groundfish observer program regulations and NMFS recordkeeping and reporting requirements. In addition, vessels that have an FFP must carry a VMS if they participate in the Atka mackerel, Pacific cod, or pollock directed fisheries in Federal waters of the BSAI or GOA.

3.9.8. Safety at Sea

This action could promote safety at sea by increasing the number of vessels that have USCG safety inspections. All commercial fishing vessels must comply with USCG safety regulations and carry specific safety equipment, but the safety inspections ensure that vessels are in compliance. Currently, the USCG safety inspections are voluntary. However, vessels that participate in the Federal Observer program are required to have a biennial safety inspection and carry a USCG decal. This action precludes Federally-permitted vessels from surrendering and reactivating the FFP on an unlimited basis, making it more likely that these vessels will continually have FFPs, participate in the Observer program and have a biennial safety inspection. Vessels that have an FFP are also required to carry a VMS, and this geographic location data is available to USCG search and rescue personnel. The VMS data provides search and rescue

personnel with real-time vessel location data, and may be used in addition to data from emergency locator devices to conduct searches for vessels in distress.

3.10. Affected Small Entities (Regulatory Flexibility Act Considerations)

Section 603 of the Regulatory Flexibility Act (RFA) requires that an initial regulatory flexibility analysis (IRFA) be prepared to identify if a proposed action will result in a disproportionate and/or significant adverse economic impact on the directly regulated small entities, and to consider any alternatives that would lessen this adverse economic impact to those small entities. This section provides information that NMFS used in preparing the IRFA and FRFA for this action; namely, a description and estimate of the number of small, directly regulated entities to which the proposed action will apply. This action 1) prohibits a Federally-permitted trawl, HAL, and pot vessel from participating in the BSAI parallel Pacific cod fishery unless the vessels have an FFP and an LLP license with all of the required endorsements; 2) requires these Federally-permitted and licensed vessels that fish in the parallel fishery to adhere to federal sector and seasonal BSAI Pacific cod closures; and 3) restricts these vessels from reapplying for a surrendered FFP within three years following the date of surrender or modifying the endorsements on an FFP after issuance by NMFS.

Identification of Directly Regulated Entities

Entities that might be directly regulated by this action include all trawl, HAL, and pot vessels operating in the BSAI that are issued FFPs given the measures will change the FFP modification and surrender/reissuance regulations.

Number and Description of Small Entities Regulated by the Action

Under the RFA, businesses that are classified as primarily engaged in commercial fishing are considered small entities if they have combined annual gross receipts not in excess of \$11.0 million for all affiliated operations worldwide, regardless of the type of fishing operation (81 FR 4469; January 26, 2016). If a vessel has a known affiliation with other vessels – through a business ownership or through a cooperative – these thresholds are measured against the small entity threshold based on the total gross revenues of all affiliated vessels. As of 2019, there were 192 vessels participating in the BSAI targeted Pacific cod fishery, 71 of which are considered small entities.

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

Overall, this action is likely to have a limited effect on net benefits to the Nation. Under the status quo (Alternative 1), vessels that do not currently have an LLP license or an FFP with the appropriate endorsements would continue to have the potential to enter the BSAI Pacific cod parallel fishery, increasing overall effort in the fishery. This increase in effort could contribute to losses of production efficiency. The increase in effort could contribute to more aggressive fishing and processing practices, both of which contribute to lower quality and less value-added production. The extent of these potential effects is difficult to predict and depends on several factors, including future TAC levels, market conditions, and operating costs.

Under Alternative 2, trawl, HAL, and pot vessels that have an FFP or LLP license could not enter the BSAI Pacific cod parallel fishery unless they have both an FFP and an LLP license that are appropriately endorsed. Vessels that do not have any Federal permits or licenses could continue to access the parallel fishery. The action may reduce the potential for an influx of these vessels into the parallel fishery.

Regulating these Federally-permitted vessels in the manner described could contribute to slowing down the fishery, less aggressive fishing practices, and a shift of available Pacific cod to sector vessels that comply with Alternative 2 requirements, which is mostly the HAL/pot CV < 60 ft sector. Implementation of the action alternative will require NMFS to track FFPs and LLP licenses of these vessels participating in the BSAI Pacific cod parallel fishery. The FFPs for these vessels could no longer be surrendered and reissued at any time. The costs with Alternative 2 will not be incurred under Alternative 1. The main economic benefit from this action is that it will prevent the expansion of effort by Federally-permitted vessels that do not have the correct FFP or LLP license endorsements into the BSAI Pacific cod parallel fishery, but it will not preclude an increase in effort by non-Federally permitted vessels. Therefore, the action has the potential to benefit Federal license holders who are economically dependent on the BSAI Pacific cod fishery, but this benefit may not be realized if there is a significant increase in effort by non-Federally permitted vessels. The costs of Alternative 2 will be incurred by those vessel operators who will forgo the opportunity to participate in the BSAI parallel fishery.

4. Magnuson-Stevens Act and FMP Considerations

4.1. Magnuson-Stevens Act National Standards

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

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

Alternative 2 will not result in overfishing of groundfish in the BSAI or GOA. The alternative merely ensures that vessel sectors more closely adhere to their sector's BSAI Pacific cod allocation under Amendment 85 to the FMP.

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

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

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

This action enhances the management of the Federal BSAI Pacific cod fishery by enhancing conservation and by preventing overharvest. Under the status quo, when the federal allocation (seasonal and annual) of a vessel's sector is fully harvested during the Federal fishery, some of the Federally permitted vessels in that sector continue to fish in State waters during the parallel fishery because the State cannot close its fishery on the basis of vessel operation type. Thus far, NMFS inseason managers have addressed this by assigning reallocations of Pacific cod from various sectors to ensure that the parallel fishery harvests do not present conservation or management overages of the Federal Pacific cod TAC. Under the status quo, there is no certainty that additional sector harvests in the parallel fishery can be effectively accounted for by the agency in the future. Alternative 2 will reduce this uncertainty. In addition, Alternative 2 ensures that each Federal vessel sector will adhere to its allocation under Amendment 85.

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

Alternative 2 does not discriminate between residents of different state or allocate or assign fishing privileges. The action alternative treats all Federally-permitted trawl, HAL, and pot vessels the same, and regardless of owner state of residence. The preferred alternative will be implemented without discrimination among participants and is intended to promote conservation of the Pacific cod resource in the BSAI by providing stability in the fisheries by reducing the uncertainty for how a sector's allocation is accounted for under the TAC. Catch accounting will more closely align with the Council's intent when sector allocations were developed under Amendment 85. The preferred action will also reduce the opportunities for some Federal vessels from exploiting slight differences between State of Alaska and Federal fishery management regulations, which could undermine the effectiveness of Federal management of the Pacific cod resource in Federal waters. The permit conditions that will be imposed by

Alternative 2 do not change existing regulations governing who can fish in the BSAI Pacific cod fishery in Federal waters. Vessel owners or operators who wish to continue to fish in state waters during the parallel fishery can do so if they are not Federal permit holders.

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

This action will potentially improve efficiency in utilization of the Pacific cod resource in the BSAI and enhance the Federal management regime by requiring Federal permit holders to adhere to the Council's original Amendment 85 BSAI Pacific cod sector allocations, LLP, Pacific cod endorsement program for non-trawl vessels, while continuing to allow vessels to fish seamlessly in Federal and state waters during the Federal and parallel fisheries.

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

The preferred alternative is not expected to affect the availability of and variability in the groundfish resources in the BSAI in future years. As noted above, the BSAI Pacific cod harvest will continue to be managed to and limited by the TACs.

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

This action will enhance the management of the Federal BSAI Pacific cod fishery by ensuring that Federal vessels can fish seamlessly across federal and state waters during the parallel fishery in the BSAI and the GOA, thus reducing costs to the industry in understanding regulations associated with the parallel fishery between FMP areas. The action will also reduce management burden by establishing a clearer means of catch accounting to ensure effective management of Pacific cod. Finally, this action does not duplicate any other management action.

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

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

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

By prohibiting HAL, pot, and trawl gear Federally-permitted vessels from participating in the BSAI Pacific cod parallel fishery unless they have an FFP, and LLP license and the correct endorsements, the preferred alternative could help to minimize bycatch and bycatch mortality by preventing any exacerbation of the race for fish in the parallel fishery.

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

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

4.2. Council's Ecosystem Vision Statement

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

Ecosystem Approach for the North Pacific Fishery Management Council

Value Statement

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

Vision Statement

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

Implementation Strategy

The Council intends that fishery management explicitly take into account environmental variability and uncertainty, changes and trends in climate and oceanographic conditions, fluctuations in productivity for managed species and associated ecosystem components,

such as habitats and non-managed species, and relationships between marine species. Implementation will be responsive to changes in the ecosystem and our understanding of those dynamics, incorporate the best available science (including local and traditional knowledge), and engage scientists, managers, and the public.

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

In considering this action, the Council is being consistent with its ecosystem approach policy. The regulatory amendments prohibit trawl, HAL and pot gear vessels from participating in the BS and AI Pacific cod parallel fishery unless they do have an FFP and an LLP license with the correct endorsements. The regulatory amendment also requires these Federally-permitted vessels to adhere to seasonal BSAI Pacific cod closures in Federal waters when fishing in the parallel fishery, and restricts these vessels from amending their FFPs, or reapplying for a surrendered FFP within the three years following the date of surrender. The regulatory amendments prevents all trawl, HAL, and pot gear vessels from circumventing the intent of previous Council decisions regarding license limitation, sector allocations, and catch reporting while participating in the BS and AI Pacific cod parallel fishery.

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

5. Preparers and Persons Consulted

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