**INITIAL REVIEW DRAFT**

Regulatory Impact Review/Initial Regulatory Flexibility Analysis for a Proposed Amendment to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crabs

# Revising Freezer Longline GOA Pacific Cod Sideboards

January 23, 2013

Abstract: This action would remove Gulf of Alaska (GOA) Pacific cod sideboard limits applicable to freezer longliners that were created under the crab rationalization program. When originally implemented, the sideboard limits created by the crab program were aggregated at the inshore and offshore level, and were shared by all gear types. As part of the GOA Pacific cod sector splits (Amendment 83) implemented in 2012, these Pacific cod sideboard limits were disaggregated to create sector limits, which essentially eliminated the sideboard fishery for those freezer longline vessels restricted by the sideboard limit. Removal of these GOA Pacific cod sideboards would restore to these sideboarded vessels the ability to participate in the GOA Pacific cod fishery.

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The purpose of the proposed action is to remove Gulf of Alaska (GOA) sideboard limit for Pacific cod for the freezer longline (hook-and-line catcher/processor) vessels restricted by this limitation. These sideboard limits were established by the crab rationalization program in 2005. When implemented, the sideboard limits were aggregated at the inshore and offshore level and were shared by all gear types. As part of the GOA Pacific cod sector splits (Amendment 83) implemented in 2012, these sideboard limits were modified from an inshore and offshore limit to a narrower limit that applied at the sector level. The modification effectively eliminated this historical fishery for freezer longline vessels subject to the limit. In response to concerns expressed by members of the sector, the North Pacific Fishery Management Council (Council) tasked staff to prepare a discussion paper examining the sideboard limit. After reviewing the discussion paper at the June 2012 meeting, the Council developed a problem statement and alternatives and tasked staff to prepare an initial analysis of a proposed action to remove the sideboard limits.

## Problem Statement

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

> *The narrowing of the sideboard limit under Amendment 83 from a non-gear sideboard to a sector specific sideboard, significantly reduced non-AFA crab Gulf of Alaska Pacific cod sideboards for sideboarded freezer longline vessels active in the Gulf of Alaska Pacific cod fishery prior to the Pacific cod sector split. A recalculation of the Pacific cod sideboards resulted in the loss of fishing opportunities, future revenues, and an ability to participate in the Gulf of Alaska cooperative fishing efforts.*
>
> *Under Amendment 83, the freezer longline sector has a direct allocation of Pacific cod, and due to the harvesting capacity available to participate in the Gulf of Alaska, the freezer longline sector must establish cooperative harvest control measures in order for NMFS to make the sector TAC available for directed fishing. Therefore, the need for catcher processor hook-and-line GOA Pacific cod sideboards to limit the catch of these vessels may no longer exist.*
>
> *Removal of the non-AFA crab GOA Pacific cod sideboards for freezer longliners would restore to the sideboarded vessels the ability to participate in the GOA Pacific cod fishery. Removing sideboard limits for the freezer longline vessels, however, may adversely impact GOA only freezer longline vessels, and to the extent practicable, there is a need to minimize the impact.*

## Description of Alternatives

The following alternatives were also proposed in June 2012:

> Alternative 1: No action
>
> Alternative 2: Remove freezer longline non-AFA crab GOA Pacific cod sideboards

The no action alternative would leave in place the current freezer longline Pacific cod sideboard created under the crab rationalization program in the Western GOA and Central GOA and further narrowed under Amendment 83. Alternative 2 would remove only the freezer longline portion of the GOA Pacific cod sideboard limits created by the crab rationalization program in both Western GOA and Central GOA. All other GOA Pacific cod sideboard limits would remain in effect, and other GOA sideboard limits

applicable to the freezer longline sector would remain in effect. This alternative would require a change to the Bering Sea and Aleutian Islands King and Tanner crab FMP and the regulations supporting GOA Pacific cod sideboards created under the crab rationalization program.

## Potential Effects of the Alternatives

### Alternative 1: No Action

Under this alternative, six freezer longline vessels and five hook-and-line catcher/processor licenses will continue to be restricted by GOA Pacific cod sideboards. NOAA Fisheries implemented inshore and offshore sideboard limits on GOA Pacific cod simultaneously with the implementation of the crab rationalization program. As part of the GOA Pacific cod sectors splits (Amendment 83) implemented in 2012, these sideboard limits were modified from inshore and offshore limits share by all gears to a narrower sector limit that applies specifically to freezer longline vessels. This modification significantly reduced the share of GOA Pacific cod TAC available to the six sideboard restricted freezer longline vessels and five hook-and-line catcher/processors licenses. Since the participation of the sideboarded vessels in the GOA Pacific cod fishery was very limited during the years used to calculate the sideboard (1996 through 2000), NOAA Fisheries has to-date maintained that the revised sideboard is insufficient to support a sideboard fishery, thus essentially eliminating these sideboarded freezer longline vessels from the GOA Pacific cod fishery.

Prior to the 2012 season, five of the six sideboarded vessels capitalized on the aggregate GOA Pacific cod sideboard limits to increase their fishing effort in and catches from the GOA Pacific cod fishery relative to their modest fishing effort during the period used to define sideboard limits (1996 through 2000) (see Table 1-12). With this increase, the dependency of these vessels on GOA Pacific cod fishery increased. Since the sideboards are set based on the historical catches of the vessels during 1996 through 2000, additional catches by the freezer longline vessels arose from increasing harvests relative to sideboarded vessels in other sectors (such as trawl catcher processors and pot catcher processors).

Given that sideboard freezer longline vessels will in all likelihood be precluded from fishing in the GOA Pacific cod fishery, these vessels might try to increase fishing effort in other fisheries to make up for lost GOA Pacific cod fishery revenue. However, the ability for these sideboard vessels to recoup lost GOA Pacific cod revenue in other BSAI and GOA fisheries is limited. In the BSAI Pacific cod fishery, the cooperative members determine their allocations based on their historical BSAI Pacific cod fishing activity and the cooperative calculation is fixed. Cooperative members assert that no potential exists for renegotiation in the future to compensate for loss of revenues to sideboard vessels in the GOA Pacific cod fishery.[1] Fishing opportunities other than Pacific cod appear limited for the sideboarded vessels. Likely, the only opportunity would be BS and AI Greenland turbot, but freezer longline vessels assert that they have difficulty generating profits in that fishery (pers. Comm., Kenny Down, BSAI Freezer Longline Conservation Cooperative).

From the perspective of the non-sideboarded cooperative member vessels and non-member freezer longline vessels, the current GOA Pacific cod sideboard limit does, for all practical purposes, eliminate the six freezer longline vessels and five licenses from the GOA Pacific cod fishery. The elimination of

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

these vessels from the GOA Pacific cod fishery does provide more opportunities for other freezer longline vessels to expand their fishing effort in the GOA Pacific cod fishery. For the freezer longline vessels that are members of the BSAI Pacific cod cooperative, the additional GOA Pacific cod is relatively modest compared to their BSAI Pacific cod harvest. In addition, to the extent that the cooperative has defined the available catch for its members, the additional harvests available may be limited. For non-cooperative freezer longline vessels, this increased opportunity in the GOA Pacific cod fishery could be significant.

Overall, if the current GOA Pacific cod sideboards are maintained, six freezer longline vessels and five licenses restricted by GOA Pacific cod sideboards will no longer be allowed to participate in the GOA Pacific cod fishery. If recent GOA Pacific cod fishing is an indication of future lost revenue, the GOA Pacific cod sideboard restrictions could result in an approximate three percent loss of annual revenue for these vessels, based on releasable data. The additional fishing opportunities in the GOA Pacific cod will likely have little impact on other cooperative vessels not restricted by sideboard limits, but could be significant for non-cooperative freezer longline vessels if they increase their fishing effort.

## Alternative 2: Remove GOA Sideboards

The Council defined GOA Pacific cod sideboards as a part of the crab rationalization program to limit the ability of vessels receiving crab allocations from using the security of those allocations to increase their GOA Pacific cod harvests above historical levels. An increase in catch by these vessels could negatively impact participants who did not benefit from the crab program and exacerbate the "race for fish". In the years after the sideboards were implemented, the freezer longline sideboarded vessels were able to increase their share of the GOA Pacific cod. This increase was permitted because the sideboards were implemented at the inshore/offshore level and sideboarded vessels operating with other gear did not maintain their harvests at historical levels. With the recent implementation of sector specific GOA Pacific cod allocations (and the division of sideboard limits by gear and operation type) sideboard freezer longline vessels are limited to the share of the GOA Pacific cod fishery harvested in the sideboard defining years and cannot maintain the levels of catch that they realized in the first several years they were subject to the sideboards.

*Impacts to Sideboarded Vessels*

As indicated in Section 1.5.2, there are six freezer longline vessels and five hook-and-line catcher/processor licenses that are limited by GOA Pacific cod sideboards from crab rationalization. Table 2-1 shows that four of the six sideboarded vessels have been active in the BSAI snow crab fishery since 2001. Since implementation of the GOA Pacific cod sideboards in 2005, only two of the sideboarded vessels have participated in the BSAI snow crab fishery, although five of the six vessels still retain their crab endorsed LLP license. Of those two sideboarded vessels participating in the BSAI snow crab since 2005, only one vessel has been active in the GOA Pacific cod fishery during this period.

Table 2-2 shows that the five sideboarded freezer longline vessels were active in the GOA Pacific cod fishery from 1997 through 2011. The sixth sideboarded vessel was not active in the GOA Pacific cod fishery since it lacked a LLP license with a GOA area endorsement. During this fifteen year period, the number of sideboarded freezer longline vessels active in the GOA Pacific cod fishery on an annual basis has ranged from a low of 1 vessel in 1997, 1998, and 2000 to high of five in 2001, 2005, 2010, and 2011. All six of the GOA Pacific cod sideboarded vessels participated in the BSAI Pacific cod fishery since 1999.

The majority of catch by the GOA sideboarded freezer longline vessels over the past fifteen years was BSAI Pacific cod. In fact, GOA Pacific cod catch and first wholesale revenue for the sideboard freezer longline vessels was relatively modest. In addition, the relative percentage of GOA Pacific cod catch and first wholesale revenue to total Pacific cod catch and first wholesale revenue has varied little from year to year. As shown in Table 2-2, GOA Pacific cod catch relative to total Pacific cod catch in both GOA and

BSAI was on average 3% during the 2001 through 2011 period. First wholesale revenue for the GOA Pacific cod fishery was also on average 3% relative to the total first wholesale revenue during this same period. Overall, based on the historical fishing patterns of these five sideboarded vessels, these vessels appear dependent on the GOA Pacific cod fishery, albeit significantly less than their dependence on the BSAI Pacific cod fishery.

Removing the GOA Pacific cod sideboard limits for the freezer longline vessels would allow these vessels to expand their effort in the GOA Pacific cod fishery. The cooperative agreement may constrain the harvests of sideboarded vessels to some extent, but not to the extent of the current sideboards. More likely, any cooperative imposed limit would constrain their harvest to levels observed during the 2001 through 2011 period. The cooperative could also permit the sideboarded vessels to increase their fishing effort in the GOA Pacific cod fishery beyond their 2001 through 2011 period. As indicated in Table 2-2, not all six sideboarded vessels participated in the GOA Pacific cod fishery every year, but these vessels have consistently participated in the BSAI Pacific cod fishery. Their consistent and significant participation in the BSAI Pacific cod fishery relative to the GOA Pacific cod fishery is reflected in that their GOA Pacific cod catch was on average only 3% of their total catch of BSAI and GOA Pacific cod. In other words, despite having the ability to lease some or all of their BSAI Pacific cod to expand their effort in the GOA Pacific cod fishery, these vessels have continued to focus the majority of their effort in the BSAI Pacific cod fishery. This pattern has likely arisen from the relatively large amount of Pacific cod available to the vessels in the BSAI in comparison to the GOA.

In the future, if the cooperative no longer coordinates their activities in the GOA Pacific cod fishery, the incentive to "race for fish" increases as more freezer longline vessels chase a fixed allocation of GOA Pacific cod. In an environment with no cooperative coordination, the absence of sideboards would allow these sideboarded vessels to expand their effort in the GOA Pacific cod fishery, and thereby negatively impact other freezer longline vessels participating in the GOA fishery. In addition, a "race for fish" environment could shorten the seasons relatively to the no action alternative, which could also have a negative impact on other freezer longline vessels participating in the fishery.

In addition, the Council recently took final action that would adjust the maximum length overall (MLOA) specified on the LLP license assigned to BSAI Freezer Longline Conservation Cooperative, to accommodate larger replacement vessels (Amendment 99). The action would increase the length of the MLOA on LLP licenses with catcher/processor and hook-and-line Pacific cod endorsements for the BS and AI to 200 feet. With the advantage of cooperative fishing amongst the BSAI freezer longliners, combined with larger, purpose-built replacement vessels, the BSAI-endorsed LLP license holders that are restricted by GOA Pacific cod sideboards could consolidate BSAI harvests within the cooperative, and use their increased processing capacity to garner a greater proportion of the GOA Pacific cod sector allocation, relative to their historical catch. These vessels are also less sensitive to weather conditions, which can limit opportunities for smaller vessels (such as the GOA-only endorsed freezer longline vessels). This has the potential to negatively impact the three GOA-only freezer longline vessels. Note, however, that vessels that fish in the BSAI are all larger than those that are only GOA-endorsed, and some of them substantially so. The cooperative has the ability to preempt fishing opportunities by the exclusively GOA-endorsed vessels, as the GOA Pacific cod catcher/processor sector allocation is relatively small, compared to the number of vessels that are endorsed to participate in the sector. However, the combination of sideboard removal and the ability to increase the length of the vessel may nonetheless negatively impact other freezer longline vessels active in the GOA Pacific cod fishery.

*Impacts to non-sideboarded cooperative member vessels*

As seen in Table 2-3, the number of non-sideboarded BSAI cooperative vessels active in the GOA Pacific cod fishery has ranged from a low of nine in 2011 to a high of 19 in 2003. If sideboards are removed, it is likely that some of the six sideboarded freezer longline vessels would likely enter the GOA Pacific cod

fishery, which could increase competition for a fully utilized sector allocation and could negatively impact non-sideboarded BSAI cooperative member vessels.

Currently, the BSAI cooperative coordinates the fishing activity of its member vessels in the GOA Pacific cod fishery, including the five sideboarded freezer longline vessels. Coordination of its cooperative member vessel activities in the GOA Pacific cod fishery protects cooperative vessels that are not sideboarded subject to the terms of the agreement. The agreement also reduces the incentive for a "race for fish" within the freezer longline sector if the sideboards were removed, but only to the extent that the agreement constrains the currently sideboard vessels. If the currently sideboarded vessels are not constrained, non-sideboarded cooperative member vessels could suffer either a loss of harvests or be compelled to race to maintain their current share of the harvests in the GOA Pacific cod fishery.

Despite the advantages of cooperative coordination in the GOA Pacific cod fishery to member vessels, there is the possibility that the members could choose to no longer coordinate their activities in the GOA fishery. The loss of cooperative coordination could result in a "race for fish" amongst freezer longline vessels. Absent sideboard limits, non-sideboard member vessels could be negatively affected as vessels currently sideboarded could increase their share of the catch without limit.

*Impacts to non-sideboarded non-member vessels*

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

Although cooperative coordination can maintain opportunities for non-member vessels, coordination of fishing among cooperative members could also be used to reduce opportunities for vessels that are not in the cooperative. These efforts to preclude opportunities for non-member vessels may arise whether sideboards are removed or not. With sideboards removed, sideboarded vessels could expand their effort in the GOA Pacific cod fishery, directly affecting fishing opportunities for non-member vessels. With the sideboards in place, the cooperative could coordinate fishing to increase their catches in the GOA Pacific cod fisheries. The cooperative's ability to preclude fishing opportunities of non-members is increased by the removal of sideboards, as the sideboarded vessels that have shown an interest in increasing their efforts in the GOA Pacific cod fishery in recent years have additional fishing opportunities with the sideboards removed.

Shifting fishing effort by the sideboarded vessels from the BSAI Pacific cod fishery to the GOA Pacific cod fishery due to reduced TACs in the BSAI could negatively impact non-member vessels active in the GOA Pacific cod fishery. Vessels that are not cooperative members are more vulnerable to increases in GOA Pacific cod fishing effort by sideboarded vessels since these vessels have no agreement with the sideboard vessels. Cooperative coordination provides members the ability to coordinate their effort in the BSAI and GOA Pacific cod fisheries so as to reduce the harm to any member vessels from reduce TACs in one or both areas.

Finally, removing the GOA Pacific cod sideboards combined with Amendment 99, which adjusts the maximum length overall (MLOA) specified on the LLP licenses assigned to BSAI Freezer Longline Conservation Cooperative to accommodate larger replacement vessels could negative effect the three non-member vessels active in the GOA Pacific cod fishery. Amendment 99 would allow these six freezer longline vessels to increase the length of their vessels if replaced in the future. With this larger vessel advantage combined with cooperative fishing, BSAI-endorsed LLP license holders could consolidate BSAI harvests within the cooperative, and use their increased processing capacity to harvest a greater proportion of the GOA Pacific cod sector allocation, relative to their 2001 through 2011 historical catch. This has the potential to negatively impact the three non-member GOA Pacific cod vessels.

# 1.0 REGULATORY IMPACT REVIEW

## 1.1 Introduction

The purpose of the proposed action is to remove Gulf of Alaska (GOA) sideboard limit for Pacific cod for the freezer longline (hook-and-line catcher/processor) vessels restricted by this limitation. These sideboard limits were established by the crab rationalization program in 2005. When implemented, the sideboard limits were aggregated at the inshore and offshore level and were shared by all gear types. As part of the GOA Pacific cod sector splits (Amendment 83) implemented in 2012, these sideboard limits were modified from an inshore and offshore limit to a narrower limit that applied at the sector level. The modification effectively eliminated this historical fishery for freezer longline vessels subject to the limit. In response to concerns expressed by members of the sector, the North Pacific Fishery Management Council (Council) tasked staff to prepare a discussion paper examining the sideboard limit. After reviewing the discussion paper at the June 2012 meeting, the Council developed a problem statement and alternatives and tasked staff to prepare an initial analysis of a proposed action to remove the sideboard limits.

This proposed action has no significant effect individually or cumulatively on the quality of the human environment (as defined by NAO 216-6). The action would remove sideboard limits for the six freezer longline vessels restricted by this limit. The only effects of this action would be potential redistribution of harvests of the GOA Pacific cod freezer longline sector allocation among vessels in the sector. As such, it is categorically excluded from the need to prepare an Environmental Assessment.

### 1.1.1 What is a Regulatory Impact Review?

This Regulatory Impact Review (RIR) is required under Presidential Executive Order (E.O.) 12866 (58 FR 51735, September 30, 1993). The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement for the order:

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

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

- Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, local or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

### 1.1.2 Statutory authority for this action

NMFS manages the U.S. groundfish fisheries in the portion of its exclusive economic zone within the GOA according to the Fishery Management Plan (FMP) for Bering Sea and Aleutian Islands King and Tanner Crabs. This FMP was prepared by the Council under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

## 1.2 Council's problem statement

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

> *The narrowing of the sideboard limit under Amendment 83 from a non-gear sideboard to a sector specific sideboard, significantly reduced non-AFA crab Gulf of Alaska Pacific cod sideboards for sideboarded freezer longline vessels active in the Gulf of Alaska Pacific cod fishery prior to the Pacific cod sector split. A recalculation of the Pacific cod sideboards resulted in the loss of fishing opportunities, future revenues, and an ability to participate in the Gulf of Alaska cooperative fishing efforts.*
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> *Under Amendment 83, the freezer longline sector has a direct allocation of Pacific cod, and due to the harvesting capacity available to participate in the Gulf of Alaska, the freezer longline sector must establish cooperative harvest control measures in order for NMFS to make the sector TAC available for directed fishing. Therefore, the need for catcher processor hook-and-line GOA Pacific cod sideboards to limit the catch of these vessels may no longer exist.*
>
> *Removal of the non-AFA crab GOA Pacific cod sideboards for freezer longliners would restore to the sideboarded vessels the ability to participate in the GOA Pacific cod fishery. Removing sideboard limits for the freezer longline vessels, however, may adversely impact GOA only freezer longline vessels, and to the extent practicable, there is a need to minimize the impact.*

## 1.3 Alternatives

The following alternatives were also proposed in June 2012:

> Alternative 1: No action
>
> Alternative 2: Remove freezer longline non-AFA crab GOA Pacific cod sideboards

The no action alternative would leave in place the current freezer longline Pacific cod sideboard created under the crab rationalization program in the Western GOA and Central GOA and further narrowed under Amendment 83. Alternative 2 would remove only the freezer longline portion of the GOA Pacific cod sideboard limits created by the crab rationalization program in both Western GOA and Central GOA. All other GOA Pacific cod sideboard limits would remain in effect, and other GOA sideboard limits applicable to the freezer longline sector would remain in effect. This alternative would require a change to the Bering Sea and Aleutian Islands King and Tanner crab FMP and the regulations supporting GOA Pacific cod sideboards created under the crab rationalization program.

## 1.4 Background

### 1.4.1 Description of the Pacific cod fishery

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

In the GOA, trawl landings of Pacific cod have been substantially lower than the peak of 60,000 mt in 1990 and 1991. Harvests by hook-and-line during the same period have fluctuated between 6,000 mt and 15,000 mt per year. Vessels using pot and jig gear began to make significant landings in the early 1990s. Pot and jig landings increased substantially when the State waters Pacific cod fishery, which only allows the use of pot and jig gear, was initiated in 1997. Total catch of Pacific cod peaked in 1999, at 81,785 mt, but declined to 47,996 mt in 2005. Since 2005, total catch of Pacific cod has increased substantially. In 2010, the total catch of GOA Pacific cod was 76,361 mt. Table 1-1 provides GOA Pacific cod by gear from 2003 through 2011.

**Table 1-1 Total catch (including discards) of Pacific cod catch by gear types in the federal and state managed fisheries in the GOA (Western, Central, and Eastern GOA combined), and total allowable catch (TAC)**

| Year | Federal | | | | Total Federal catch | Federal TAC | State | | Total Catch |
|---|---|---|---|---|---|---|---|---|---|
| | Trawl | Longline | Pot | Jig | | | Pot | Other | |
| 2003 | 18,885 | 9,470 | 12,675 | 161 | 41,191 | 40,540 | 8,132 | 3,486 | 52,809 |
| 2004 | 17,512 | 10,327 | 14,965 | 400 | 43,204 | 48,033 | 10,874 | 2,878 | 56,571 |
| 2005 | 14,549 | 5,731 | 14,749 | 203 | 35,232 | 44,433 | 10,020 | 2,741 | 47,539 |
| 2006 | 13,131 | 10,223 | 14,795 | 118 | 38,267 | 52,264 | 9,648 | 690 | 47,791 |
| 2007 | 14,774 | 11,492 | 13,514 | 40 | 39,820 | 52,264 | 11,434 (total) | | 51,253 |
| 2008 | 20,293 | 12,098 | 11,230 | 62 | 43,683 | 50,269 | 15,002 (total) | | 58,685 |
| 2009 | 13,980 | 13,829 | 11,573 | 199 | 39,582 | 41,807 | 12,985 (total) | | 52,567 |
| 2010 | 21,791 | 16,430 | 20,114 | 427 | 58,763 | 59,563 | 18,863 (total) | | 77,625 |
| 2011 | 16,364 | 16,214 | 29,228 | 721 | 62,526 | 65,100 | 21,598 (total) | | 84,124 |
| Source: NMFS Catch Accounting database (2003 - 2012 federal catch), and ADF&G (state waters catch) | | | | | | | | | |
| Table orginates from TOTAL_GOA_PCOD(01-07) excel file and FLL GOA Pcod sideboard tables excel file | | | | | | | | | |

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

### 1.4.2 Management of the GOA Pacific cod fishery

This section describes current management of the GOA Pacific cod fishery, and highlights important regulatory changes in the management of the GOA. Three separate area TACs are specified for GOA Pacific cod: Western GOA, Central GOA, and Eastern GOA. Final 2012 harvest specifications apportioned 32% of the GOA catch to the Western GOA (21,024 mt), 65% to the Central GOA (42,705 mt), and 3% to the Eastern GOA (1,971 mt). GOA Pacific cod was apportioned by inshore and offshore components prior to 2012. Inshore generally indicates catcher vessel prosecution (with provision for

limited amounts of onboard processing) and offshore indicates catcher processor prosecution. Starting in 2012, Western and Central GOA Pacific cod TAC is apportioned amongst gear and operation types (50 C.F.R. §679.20(a)(12)(i)) . Table 1-2 provides the apportionment for the different gear and operation types for 2012. In addition, the TACs are apportioned seasonally, with 60% of the TACs allocated to the A season and 40% to the B season. The A and B seasons were implemented in 2001, as a Steller sea lion protection measure. The fisheries are prosecuted as a limited access derby fisheries, with the season closure timed to coincide with full harvest of the available seasonal TAC. The A season begins on January 1 for fixed-gear vessels, and on January 20 for trawl vessels. The A season ends on June 10, unless the season is closed earlier due to the TAC being fully harvested. The B season begins on September 1 for all gear types, and ends November 1 for trawl vessels and December 31 for non-trawl vessels.

**Table 1-2 Final 2012 seasonal apportionments and allocation of Pacific cod TAC amounts in the GOA and allocations for the Western GOA and Central GOA sectors**

| Regulatory area and sector | Annual allocation (mt) | A season | | B season | |
|---|---|---|---|---|---|
| | | Sector % of annual non-jig TAC | Seasonal allowances (mt) | Sector % of annual non-jig TAC | Seasonal allowances (mt) |
| ***Western GOA*** | | | | | |
| Jig (1.5% of TAC) | 315 | N/A | 189 | N/A | 126 |
| Hook-and-line CV | 290 | 0.7 | 145 | 0.7 | 145 |
| Hook-and-line CP | 4,100 | 10.9 | 2,257 | 8.9 | 1,843 |
| Trawl CV | 7,952 | 27.7 | 5,736 | 10.7 | 2,216 |
| Trawl CP | 497 | 0.9 | 186 | 1.5 | 311 |
| All pot CV and pot CP | 7,869 | 19.8 | 4,100 | 18.2 | 3,769 |
| Total | 21,024 | 60 | 12,614 | 40 | 8,410 |
| ***Central GOA*** | | | | | |
| Jig (1.0% of TAC) | 427 | N/A | 256 | N/A | 171 |
| Hook-and-line <50 CV | 6,174 | 9 | 3,938 | 5 | 2,235 |
| Hook-and-line ≥50 CV | 2,835 | 6 | 2,372 | 1 | 464 |
| Hook-and-line CP | 2,158 | 4 | 1,736 | 1 | 422 |
| Trawl CV | 17,581 | 21 | 8,936 | 20 | 8,645 |
| Trawl CP | 1,775 | 2 | 847 | 2 | 928 |
| All pot CV and pot CP | 11,755 | 18 | 7,538 | 10 | 4,217 |
| Total | 42,705 | 60 | 25,623 | 40 | 17,082 |
| Source: 2012 final specifications, Table 5 | | | | | |
| Table orginates from FLL GOA Pcod Sideboard Tables file | | | | | |

Any unused seasonal apportionment of a particular sector is reallocated to the next seasonal allowance for that sector. Near the end of the year, NMFS considers whether one or more sectors will not likely be able to use its remaining GOA cod allocation. Federal regulations outline a system for reallocating quota that is projected to remain unused by a particular sector near the end of the year. Any reallocation by the NMFS would first be to the CV sectors followed by the combined CV and CP pot sector. Finally, any remaining reallocation would be reallocated to all other CP sectors, taking into account the capability of these sectors to harvest the reallocation.

Halibut PSC allowances are currently apportioned separately to the GOA trawl and hook-and-line sectors, according to the guidelines outlined in 50 CFR 679.21(d). Halibut PSC allowances are not apportioned by management subarea within the GOA. The 2012 and 2013 PSC allowance for the GOA Pacific cod trawl and hook-and-line fisheries are show in Table 1-3. The pot and jig sectors are exempt from halibut PSC limits. The GOA halibut PSC mortality allowance is 2,000 mt for the trawl sector and 300 mt for the hook-and-line sector (include 10 mt set aside for the Demersal shelf rockfish fishery).

The hook-and-line halibut PSC allowance is divided into three seasons: January 1 to June 10 (the A season for Pacific cod), June 10 to September 1, and September 1 to December 31 (the B season for Pacific cod). The trawl allowance is divided not only seasonally, but also by complex. The seasons are January 20 to April 1, April 1 to July 1, July 1 to September 1, and September to October 1. The complexes are the shallow-water species complex (including the pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, skates, and the "other species" directed fisheries) and the deep-water species complex (all other fisheries, which includes Pacific ocean perch, northern rockfish, pelagic shelf rockfish, and deep-water flatfish). Halibut PSC during the directed Pacific cod fishery is counted against the shallow-water trawl halibut PSC apportionment. A separate apportionment that is not divided between shallow-water and deep-water complexes is available for use from October 1 to December 31. Unused seasonal halibut PSC apportionments are rolled over to the following season. Halibut PSC limits often determine season closures dates for the trawl sector, and to a lesser extent, for the hook-and-line sector. Inseason managers monitor halibut PSC in the Pacific cod fisheries and close the directed fisheries if halibut PSC limits are reached. After such a closure, the directed fisheries are typically reopened when the next seasonal apportionment of halibut PSC becomes available.

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

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

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

Inseason managers monitor catch in the fishery, timing the closure of a directed fishery to allow full harvest of the TAC without overharvest. To meet that goal, the closure must be timed to leave only enough of the TAC to support incidental catch in other fisheries during the remainder of the season. Incidental catch occurring after a seasonal closure continues to accrue to the A season TAC until the A season ends. Any overage of the A season TAC taken between the A and the B season is deducted from the B season TAC. When the directed fishery is closed, incidental catch of that species is limited to a maximum retainable allowance (MRA). An MRA limits the amount of non-directed species catch that may be retained, to a percentage of directed species catch. For Pacific cod, the MRA with respect to most directed species is 20%. So, when the Pacific cod fishery is not open for directed fishing, a vessel may retain Pacific cod in an amount up to 20% of its catch of species that are open for directed fishing.[2] Pacific cod are also an increased retention/improved utilization (IR/IU) species. All catch of IR/IU species must be retained when the fishery is open for directed fishing, and all catch up to the MRA must be retained when the fishery is closed to directed fishing.

Entry to the GOA Pacific cod fisheries in federal waters has been restricted under the License Limitation Program (LLP) since 2000. Prior to implementation of the LLP, a moratorium on new vessel entry to the groundfish fisheries was established in 1995. Several management measures have limited participation by certain sectors in the GOA. When the American Fisheries Act (AFA) was implemented in 1998, AFA named CPs were prohibited from fishing in the GOA. In addition, groundfish harvests by several other groups of vessels are sideboarded in the GOA, including AFA CVs (beginning in 2000), non-AFA crab

[2] Pacific cod is also retained in the halibut and sablefish IFQ program. Vessels fishing IFQs are required to retain Pacific cod up to the MRA, except if Pacific cod is on PSC status and must be discarded.

vessels (beginning in 2006), and Amendment 80 CPs (beginning in 2008). The non-AFA GOA sideboards are described in more detail later in this chapter.

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

### 1.4.3 Catch history in the GOA Pacific cod fisheries

Prior to sector apportionments in 2012, Western and Central Pacific cod TACs were apportioned between the inshore (90%) and offshore (10%) processing sectors. As shown in Table 1-4, in some years, portions of the Pacific cod TACs have been left unharvested, but during the most recent years, the GOA Pacific cod TACs have been fully harvested.

**Table 1-4 Total Pacific cod catch and percent of the TAC harvested by the inshore and offshore sectors in the Western and Central GOA, 2003 through 2011**

| | | Inshore | | | Offshore | | |
|---|---|---|---|---|---|---|---|
| Area | Year | TAC (mt) | Catch (mt) | Percent harvested | TAC (mt) | Catch (mt) | Percent harvested |
| Western GOA | 2003 | 13,905 | 14,029 | 101 | 1,545 | 2,206 | 143 |
| | 2004 | 15,261 | 14,280 | 94 | 1,696 | 1,281 | 76 |
| | 2005 | 14,118 | 12,044 | 85 | 1,569 | 424 | 27 |
| | 2006 | 18,127 | 13,660 | 75 | 2,014 | 1,095 | 54 |
| | 2007 | 18,127 | 12,286 | 68 | 2,014 | 1,132 | 56 |
| | 2008 | 17,504 | 13,404 | 77 | 1,945 | 1,465 | 75 |
| | 2009 | 14,558 | 14,126 | 97 | 1,618 | 1,073 | 66 |
| | 2010 | 18,687 | 18,952 | 101 | 2,077 | 2,038 | 98 |
| | 2011 | 20,507 | 20,132 | 98 | 2,279 | 2,153 | 94 |
| Central GOA | 2003 | 20,421 | 22,629 | 111 | 2,269 | 2,240 | 99 |
| | 2004 | 24,404 | 25,594 | 105 | 2,712 | 1,931 | 71 |
| | 2005 | 22,577 | 22,390 | 99 | 2,509 | 361 | 14 |
| | 2006 | 25,565 | 22,062 | 86 | 2,840 | 1,402 | 49 |
| | 2007 | 25,565 | 25,166 | 98 | 2,840 | 1,154 | 41 |
| | 2008 | 25,583 | 26,691 | 104 | 2,837 | 1,837 | 65 |
| | 2009 | 20,835 | 21,758 | 104 | 2,315 | 1,798 | 78 |
| | 2010 | 33,104 | 33,226 | 100 | 3,678 | 3,642 | 99 |
| | 2011 | 36,326 | 36,991 | 102 | 4,036 | 2,536 | 63 |
| Source: NMFS catch accounting | | | | | | | |
| Table orginates from I_O_GOA_PCOD(01-08) excel file and FLL GOA Pcod sideboard tables excel file | | | | | | | |

Table 1-5 shows GOA Pacific cod sector allocations (mt) and catch (mt) for 2012, the year the GOA Pacific cod sector allocations were implemented. One can see from the table, that the freezer longline sector did not harvest its full GOA Pacific cod allocation in 2012. In fact, 600 mt of Western GOA Pacific cod was reallocated to the pot sector in 2012.

**Table 1-5 Total Pacific cod catch and percent of the TAC harvested by the sectors in the Western and Central GOA, 2012**

| Regulatory area and sector | Annual allocation (mt) | Catch (mt) |
|---|---|---|
| ***Western GOA*** | | |
| Jig (1.5% of TAC) | 315 | 321 |
| Hook-and-line CV | 290 | 196 |
| Hook-and-line CP | 4,100 | 3,083 |
| Trawl CV | 7,952 | 6,309 |
| Trawl CP | 497 | 565 |
| All pot CV and pot CP | 7,869 | 7,873 |
| Total | 21,024 | 18,347 |
| ***Central GOA*** | | |
| Jig (1.0% of TAC) | 427 | 402 |
| Hook-and-line CV | 9,009 | 9,111 |
| Hook-and-line CP | 2,158 | 1,484 |
| Trawl CV | 17,581 | 12,523 |
| Trawl CP | 1,775 | 784 |
| All pot CV and pot CP | 11,755 | 13,289 |
| Total | 42,705 | 37,593 |
| Source: NMFS catch accounting | | |
| Table orginates from FLL_GOA_Sector(01-15) excel file and FLL GOA Pcod sideboard tables excel fi | | |

As shown in Table 1-6, the A and B season TACs are not utilized equally. The A season TAC, which is harvested when Pacific cod are aggregated, is typically fully harvested. During recent years, A season catches have met or exceeded A season TACs in both the Western and Central GOA. Incidental catch between the A and B seasons is substantial, particularly by the inshore sector in the Central GOA. During recent years, B season TACs have not been fully harvested. During some years, the trawl and hook-and-line B seasons have ended before the TAC is fully harvested, due to halibut PSC limits being attained. Table 1-7 provides 2102 seasonal allocations and catch by season and area for GOA Pacific cod 2012.

**Table 1-6 Total Pacific cod catch during the A and B seasons by the inshore and offshore sectors in the Western and Central GOA, 2003 through 2011**

**Western GOA**

| | Inshore | | | | | | Offshore | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A season | | | B season | | | A season | | | B season | | |
| Year | TAC | Catch | Percent harvested | TAC | Catch | Percent harvested | TAC | Catch | Percent harvested | TAC | Catch | Percent harvested |
| 2003 | 8,343 | 10,057 | 121 | 5,562 | 3,972 | 71 | 927 | 2,040 | 220 | 618 | 165 | 27 |
| 2004 | 9,157 | 10,536 | 115 | 6,104 | 3,744 | 61 | 1,017 | 625 | 61 | 679 | 656 | 97 |
| 2005 | 8,471 | 10,293 | 122 | 5,647 | 1,750 | 31 | 941 | 123 | 13 | 628 | 300 | 48 |
| 2006 | 10,876 | 12,309 | 113 | 7,251 | 1,351 | 19 | 1,208 | 666 | 55 | 806 | 429 | 53 |
| 2007 | 10,876 | 10,836 | 100 | 7,251 | 1,450 | 20 | 1,208 | 643 | 53 | 806 | 489 | 61 |
| 2008 | 10,502 | 10,526 | 100 | 7,002 | 2,878 | 41 | 1,167 | 1,190 | 102 | 778 | 275 | 35 |
| 2009 | 8,735 | 9,365 | 107 | 5,823 | 4,761 | 82 | 971 | 545 | 56 | 647 | 528 | 82 |
| 2010 | 11,212 | 12,025 | 107 | 7,475 | 6,928 | 93 | 1,246 | 1,077 | 86 | 831 | 962 | 116 |
| 2011 | 12,304 | 13,043 | 106 | 8,203 | 7,089 | 86 | 1,367 | 1,093 | 80 | 911 | 1,059 | 116 |

**Central GOA**

| | Inshore | | | | | | Offshore | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A season | | | B season | | | A season | | | B season | | |
| Year | TAC | Catch | Percent harvested | TAC | Catch | Percent harvested | TAC | Catch | Percent harvested | TAC | Catch | Percent harvested |
| 2003 | 12,253 | 15,714 | 128 | 8,168 | 6,915 | 85 | 1,361 | 1,453 | 107 | 908 | 788 | 87 |
| 2004 | 14,642 | 15,613 | 107 | 9,762 | 9,981 | 102 | 1,627 | 1,347 | 83 | 1,085 | 584 | 54 |
| 2005 | 13,546 | 12,686 | 94 | 9,031 | 9,704 | 107 | 1,505 | 91 | 6 | 1,004 | 270 | 27 |
| 2006 | 15,339 | 15,895 | 104 | 10,226 | 6,167 | 60 | 1,704 | 25 | 1 | 1,136 | 1,377 | 121 |
| 2007 | 15,339 | 15,243 | 99 | 10,226 | 9,922 | 97 | 1,704 | 43 | 3 | 1,136 | 1,111 | 98 |
| 2008 | 15,350 | 15,436 | 101 | 10,233 | 11,255 | 110 | 1,702 | 1,724 | 101 | 1,135 | 113 | 10 |
| 2009 | 12,501 | 14,254 | 114 | 8,334 | 7,504 | 90 | 1,389 | 1,322 | 95 | 926 | 477 | 51 |
| 2010 | 19,862 | 22,297 | 112 | 13,242 | 10,929 | 83 | 2,207 | 2,260 | 102 | 1,471 | 1,382 | 94 |
| 2011 | 21,795 | 20,226 | 93 | 14,530 | 16,766 | 115 | 2,422 | 1,076 | 44 | 1,614 | 1,459 | 90 |

Source: NMFS catch accounting

Note: Unharvested TAC from the A season was rolled over to the B season, so the total annual TAC was not exceeded.

Table originate from I_O_GOA_PCOD_Season(01-08) excel file and FLL GOA Pcod Sideboard Tables excel file

**Table 1-7 Seasonal GOA Pacific cod sector allocation and total catch by sectors in the Western and Central GOA, 2012**

| Regulatory area and sector | A season | | B season | |
|---|---|---|---|---|
| | Seasonal allowances (mt) | Catch (mt) | Seasonal allowances (mt) | Catch (mt) |
| ***Western GOA*** | | | | |
| Jig (1.5% of TAC) | 189 | 117 | 126 | 204 |
| Hook-and-line CV | 145 | 129 | 145 | 67 |
| Hook-and-line CP | 2,257 | 2,029 | 1,843 | 1,054 |
| Trawl CV | 5,736 | 5,752 | 2,216 | 558 |
| Trawl CP | 186 | 400 | 311 | 165 |
| All pot CV and pot CP | 4,100 | 4,225 | 3,769 | 3,648 |
| Total | 12,614 | 12,652 | 8,410 | 5,696 |
| ***Central GOA*** | | | | |
| Jig (1.0% of TAC) | 256 | 274 | 171 | 129 |
| Hook-and-line CV | 6,310 | 7,276 | 2,699 | 1,836 |
| Hook-and-line CP | 1,736 | 1,482 | 422 | 1,489 |
| Trawl CV | 8,936 | 9,714 | 8,645 | 2,809 |
| Trawl CP | 847 | 160 | 928 | 624 |
| All pot CV and pot CP | 7,538 | 7,820 | 4,217 | 5,469 |
| Total | 25,623 | 26,726 | 17,082 | 12,356 |

Source: 2012 final specifications, Table 5 and NMFS Catch Accounting

Table orginates from FLL_GOA_SECTOR(01-15) excel file and FLL GOA Pcod Sideboard Tables file

Short season lengths are another indication that the GOA Pacific cod fishery is fully utilized. In recent years, the A season for the Central GOA inshore Pacific cod fishery has closed approximately one month after the trawl gear opening on January 20, because the TAC has been fully harvested (see Table 1-8). For the Western inshore fishery, the A season, in general, closes mid-February. The offshore fishery tends to close later in the season compared to the inshore fishery. During the B season, the inshore fishery in both Western and Central GOA has closed short of the December 31 regulatory closure on several occasions. In the offshore fishery, the season tends to remain open for the entire regulatory period. In 2012, the first season with Pacific cod sector allocations, the Pacific cod fishery for the freezer longline sector closed on 10 June for the A season and December 31 for the B season.

**Table 1-8 Pacific cod A and B season closures for the hook-and-line sector in the Western and Central GOA, 2003 through 2011**

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

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

### 1.4.4 Management of the GOA Pacific cod sideboards from the crab rationalization program

Recognizing that rationalizing the BSAI crab fisheries could provide opportunities for fishermen to alter their crab fishing patterns and take greater advantage of other fisheries, the Council established GOA sideboard limits for vessels and LLP licenses that had Bering Sea snow crab history and generated crab quota shares. Sideboards are intended to limit the ability of vessels in rationalized fisheries from exceeding historic levels of participation in other fisheries, which otherwise might exacerbate a "race for fish." Sideboards are collective catch limits that apply to all vessels in a particular sector. Vessels subject to a sideboard limit are allowed to fish up to that limit but may not exceed it. Sideboards do not guarantee a specific amount of TAC.

GOA Pacific cod sideboard limits for non-AFA crab vessels are set equal to the retained catch of Pacific cod by vessels subject to the limit, divided by the total retained catch of GOA Pacific cod by all groundfish vessels from 1996 through 2000. In contrast, GOA groundfish sideboard limits for non-AFA crab vessels are based on GOA groundfish landings by vessels subject to the sideboard, relative to groundfish landings by all vessels.

In addition to the GOA groundfish sideboards for the non-AFA crab vessels, participation in the GOA Pacific cod fishery is restricted. Vessels that qualified for Bering Sea snow crab quota share must have landed more than 50 mt of groundfish harvested from the GOA between January 1, 1996, and December 31, 2000, in order to qualify to participate in the GOA Pacific cod fishery. This restriction also applies to any vessel named on an LLP license that generated Bering Sea snow crab fishery quota share.

To protect non-AFA crab vessels that demonstrated dependence on the GOA Pacific cod fishery, an exemption from the Pacific cod sideboards was included in the crab rationalization program. The catch history of the exempt vessels was not included in the sideboard calculations. Since their historical catch was not included in the sideboard limits, catch by these vessels does not count towards the sideboard caps, nor are the exempt vessels required to stop fishing when the sideboard limit is reached, if the directed fishery is open.

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

Prior to implementation of GOA Pacific cod sector allocations in 2012, NMFS managed the sideboard limit for Pacific cod by setting an inshore and offshore sideboard cap. Those amounts were then made available to all vessels in the respective sector subject to the sideboard limit, on a seasonal basis, at the beginning of the year. All targeted or incidental catch of the sideboard species made by the non-AFA crab vessels subject to the sideboard was applied to the applicable sideboard limit. See Table 1-9 the 2011 sideboard limits for Western and Central GOA Pacific cod.

As part of the GOA Pacific cod sector allocation in 2012, the Council recommended operational and gear-specific non-AFA crab sideboards based on participation in the GOA Pacific cod from 1996 through 2000. The Council considered and rejected combining the GOA inshore and offshore non-AFA crab sideboards into a single Central GOA and a single Western GOA sideboard limit. The Council was concerned that combining the inshore and offshore sideboards into a single amount for both catcher processors and catcher vessels sectors could result in one gear or operational type preempting the other. The Council was also concerned that an aggregate sideboard limit could have a negative impact on non-sideboarded vessels since the sideboard limit could be greater than some sector specific allocations. The recalculated sideboard ratios are shown in Table 1-10. In 2012, NMFS determined that the sideboard limits for the freezer longline sector were insufficient to support a direct fishery, so the fishery was closed for the entire year.

**Table 1-9 2011 non-AFA crab sideboard limits for Western and Central GOA Pacific cod**

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

**Table 1-10 2012 non-AFA crab sideboard limits for Western and Central GOA Pacific cod freezer longliner sector**

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

## 1.5 Description of the freezer longline sector

The freezer longline sector currently consists of 36 vessels. At reported in Table 1-11, 33 of these vessels are members of the freezer longline conservation cooperative (FLCC). Six of the FLCC vessels are restricted by the GOA Pacific cod sideboards from the crab rationalization program. Of these 6 vessels, 3 have Central GOA Pacific cod endorsements and 4 have Western GOA Pacific cod endorsements. Of the remaining FLCC vessels, 19 vessels are named on a LLP license endorsed for the Central GOA Pacific cod and 12 vessels are named on a LLP license endorsed for the Western GOA Pacific cod. The remaining 3 freezer longline vessels are not members of the FLCC and only have LLP licenses endorsed for the GOA: one vessel with a Central GOA Pacific cod endorsement and 2 vessels with a Western GOA Pacific cod endorsement.

**Table 1-11 Freezer longline vessels and the number LLP licenses with Pacific cod area endorsements**

| FLL Vessel Groups (number of FLL vessels) | Nuimber of Pcod area endorsements | | | |
|---|---|---|---|---|
| | BS | AI | CG | WG |
| Sideboarded Cooperative Vessels (6) | 6 | 6 | 3 | 4 |
| Non-Sideboarded Cooperative vessels (27) | 30 | 28 | 19 | 12 |
| Non-sideboarded Non-Cooperative vessels (3) | 0 | 0 | 1 | 2 |
| Source:AKFIN report on January 11, 2013 | | | | |
| Table orginated from FLL_LLP(01-10) excel file and FLL GOA Pcod sideboard Tables excel file | | | | |

The freezer longline vessels range in length from 107’ to 180’ and use longline gear to target Pacific cod and other species in the BSAI and GOA. The primary groundfish species targeted by the freezer longline

vessels are Pacific cod, sablefish, and Greenland turbot. In addition, longline vessels also may retain incidentally caught species, such as skates, rockfish, arrowtooth flounder, and pollock.

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

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

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

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

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

### 1.5.1 Freezer Longline Conservation Cooperative (FLCC)

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

In the GOA, the allocation of Pacific cod and apportionment of halibut PSC available to the longline catcher processor sector is at times too small to allow NMFS to open the fishery in the absence of some control on harvest by members of the sector. So, for several years, FLCC members have organized their GOA Pacific cod harvests, although not all participants in the GOA Pacific cod fishery are cooperative members. This coordination has resulted is a sufficient commitments regarding Pacific cod harvests and

halibut PSC avoidance to allow NMFS to open the fishery (NMFS 2011b). Beginning in 2012, long term allocations of the Western and Central GOA Pacific cod TACs to the GOA freezer longline sector, and provisions that limit entry to the directed GOA longline Pacific cod fishery, may provide additional opportunities for a GOA harvest cooperative to form.

### 1.5.2 Freezer longline fishing in the GOA Pacific cod fishery

Several member vessels in the freezer longline cooperative participate in the GOA Pacific cod fisheries. Table 1-12 shows the annual number of sideboarded and non-sideboarded freezer longline vessels active in the GOA Pacific cod fishery, as well as the number of vessels that are not members of the FLCC that are active in the GOA Pacific cod fishery. Table 1-13 shows annual vessel count by the three freezer longline groups in the Central and Western GOA Pacific cod fishery. The vessel counts and catch data was grouped into distinct time periods to contrast changes in participation during these time periods.

During the period 1996 to 2000, the years used to calculate the sideboard limit, only the cooperative vessels participated in the GOA Pacific cod fishery, although the sideboarded cooperative vessels had limited fishing activity. During the years leading up to the implementation of the crab rationalization program (2001 through 2004), the cooperative vessels continued to be active in the GOA Pacific cod fishery and one non-member vessel enter the fishery in 2004. Fishing activity by the sideboarded cooperative vessels increased during this time period as indicated by the increased vessel count.

During the years following implementation of the crab rationalization program, cooperative vessels continued to participate in the GOA Pacific cod fishery, and all three non-member vessels participated in the GOA Pacific cod fishery. During this period, the number of FLCC vessels active in the GOA Pacific cod fishery has ranged from a low of nine in 2005 to high of 17 in 2007, 2009, and 2010. Their associated GOA Pacific cod catch has ranged from a low of 732 mt in 2005 to a high of 7,369 mt in 2010. The number of non-member vessels active in the GOA Pacific cod fishery has ranged from one in 2005, 2006, and 2007 to a high of three vessels in 2008, 2009, and 2010. Given that the number of non-member vessels fell below three in several years, catch data could only be reported for 2008, 2009, and 2010 due to confidentiality limitations. For those years, 3 non-cooperative vessels were active in the GOA Pacific cod fishery and their catch ranged from 565 mt in 2008 to 1,156 mt in 2009. In 2012, the year GOA Pacific cod sector allocations were implemented, the sideboarded cooperative vessels could not fish in the GOA Pacific cod fishery.

Table 1-14 provides the first wholesale revenue for GOA Pacific cod by the three freezer longline groups active in the GOA from 1996 through 2011.

**Table 1-12 Activity for sideboarded FLL cooperative vessels, non-sideboarded non-cooperative FLL vessels, and non-sideboarded cooperative FLL vessels in GOA Pacific cod from 1996 to 2012**

| Year | Sideboarded cooperative vessels | | Non-sideboarded non-cooperative vessels | | Non-sideboard cooperative vessels | |
|---|---|---|---|---|---|---|
| | Catch (mt) | Vessel count | Catch (mt) | Vessel count | Catch (mt) | Vessel count |
| | *Years used to calculate the sideboard limit* | | | | | |
| 1996 | 0 | 0 | 0 | 0 | 4,479 | 9 |
| 1997 | * | 1 | 0 | 0 | 3,505 | 9 |
| 1998 | * | 1 | 0 | 0 | 3,170 | 7 |
| 1999 | 205 | 3 | 0 | 0 | 4,428 | 13 |
| 2000 | * | 1 | 0 | 0 | 3,620 | 11 |
| | *Years leading up to implementation of crab rationalization program* | | | | | |
| 2001 | 348 | 5 | 0 | 0 | 3,490 | 9 |
| 2002 | 583 | 3 | 0 | 0 | 7,235 | 13 |
| 2003 | 640 | 4 | 0 | 0 | 4,703 | 14 |
| 2004 | 375 | 3 | * | 1 | 3,750 | 10 |
| | *Years since implementation of crab rationalization program* | | | | | |
| 2005 | 189 | 3 | * | 1 | 543 | 6 |
| 2006 | * | 2 | * | 1 | 2,770 | 13 |
| 2007 | 86 | 3 | * | 1 | 4,362 | 14 |
| 2008 | 542 | 3 | 555 | 3 | 3,807 | 12 |
| 2009 | 872 | 4 | 1,155 | 3 | 3,485 | 13 |
| 2010 | 786 | 4 | 941 | 3 | 6,583 | 13 |
| 2011 | 1,357 | 3 | * | 2 | 5,710 | 10 |
| | *Years since implementation of Pacific cod sector allocations* | | | | | |
| 2012 | 0 | 0 | * | 2 | 2,714 | 7 |

Source:AKFIN report on January 11, 2013, from w eekly production reports

* denotes confidential data

Table orginates from FLL_GOA(1-11) excel file and FLL GOA Pcod Sideboard Tables excel file

**Table 1-13 Vessel count by freezer longline vessel category in the GOA Pacific cod fishery by area from 1996 through 2012**

| Year | Sideboarded cooperative vessels | | Non-sideboarded non-cooperative vessels | | Non-sideboard cooperative vessels | |
|---|---|---|---|---|---|---|
| | CGOA | WGOA | CGOA | WGOA | CGOA | WGOA |
| | *Years used to calculate the sideboard limit* | | | | | |
| 1996 | 0 | 0 | 0 | 0 | 4 | 9 |
| 1997 | 0 | 1 | 0 | 0 | 1 | 9 |
| 1998 | 1 | 0 | 0 | 0 | 5 | 6 |
| 1999 | 1 | 2 | 0 | 0 | 6 | 12 |
| 2000 | 0 | 1 | 0 | 0 | 5 | 10 |
| | *Years leading up to implementation of crab rationalization program* | | | | | |
| 2001 | 0 | 5 | 0 | 0 | 2 | 9 |
| 2002 | 0 | 3 | 0 | 0 | 7 | 10 |
| 2003 | 0 | 4 | 0 | 0 | 6 | 13 |
| 2004 | 0 | 3 | 1 | 0 | 4 | 9 |
| | *Years since implementation of crab rationalization program* | | | | | |
| 2005 | 2 | 3 | 1 | 0 | 4 | 6 |
| 2006 | 2 | 1 | 1 | 1 | 6 | 11 |
| 2007 | 1 | 2 | 1 | 0 | 6 | 10 |
| 2008 | 3 | 1 | 1 | 2 | 7 | 8 |
| 2009 | 1 | 3 | 2 | 2 | 5 | 9 |
| 2010 | 2 | 3 | 1 | 3 | 6 | 9 |
| 2011 | 2 | 3 | 1 | 2 | 8 | 8 |
| | *Years since implementation of Pacific cod sector allocations* | | | | | |
| 2012 | 0 | 0 | 1 | 2 | 4 | 5 |

Source:AKFIN report on January 11, 2013, from w eekly production reports

Table orginates from FLL_GOA(1-11) excel file and FLL GOA Pcod Sideboard Tables excel file

**Table 1-14 First wholesale revenue for sideboarded FLL cooperative vessels, non-sideboarded non-cooperative FLL vessels, and non-sideboarded cooperative FLL vessels in GOA Pacific cod from 1996 to 2012**

| Year | Sideboarded cooperative vessels | | Non-sideboarded non-cooperative vessels | | Non-sideboard cooperative vessels | |
|---|---|---|---|---|---|---|
| | First wholesale value ($) | Vessel count | First wholesale value ($) | Vessel count | First wholesale value ($) | Vessel count |
| | ***Years used to calculate the sideboard limit*** | | | | | |
| 1996 | 0 | 0 | 0 | 0 | 3,180,057 | 9 |
| 1997 | * | 1 | 0 | 0 | 2,755,282 | 9 |
| 1998 | * | 1 | 0 | 0 | 2,536,743 | 7 |
| 1999 | 262,795 | 3 | 0 | 0 | 5,679,370 | 13 |
| 2000 | * | 1 | 0 | 0 | 4,585,658 | 11 |
| | ***Years leading up to implementation of crab rationalization program*** | | | | | |
| 2001 | 415,849 | 5 | 0 | 0 | 4,173,717 | 9 |
| 2002 | 609,972 | 3 | 0 | 0 | 7,575,108 | 13 |
| 2003 | 747,596 | 4 | 0 | 0 | 5,495,713 | 14 |
| 2004 | 450,511 | 3 | * | 1 | 4,508,857 | 10 |
| | ***Years since implementation of crab rationalization program*** | | | | | |
| 2005 | 241,062 | 3 | * | 1 | 693,355 | 6 |
| 2006 | * | 2 | * | 1 | 4,689,731 | 13 |
| 2007 | 166,910 | 3 | * | 1 | 8,544,335 | 14 |
| 2008 | 1,245,698 | 3 | 1,239,720 | 3 | 8,748,151 | 12 |
| 2009 | 1,128,240 | 4 | 1,498,337 | 3 | 4,506,614 | 13 |
| 2010 | 1,152,116 | 4 | 1,318,779 | 3 | 9,652,903 | 13 |
| 2011 | 2,357,437 | 3 | * | 2 | 9,920,218 | 10 |

Source:AKFIN report on January 16, 2013, from comprehensive blend catch accounting

* denotes confidential data

Table orginates from FLL_WV(01-16) excel file and FLL GOA Pcod Sideboard Tables excel file

### 1.5.3 Markets

Pacific cod produced by the freezer longliners is ultimately sold in a wide variety of places like white tablecloth restaurants, fast food restaurants, food service operations in school and hospitals, and grocery stores, in the United States or in foreign countries. Pacific cod is sold in wide variety of product forms like fillets, sticks, portions, breaded or non-breaded, and salt cod.

The freezer longline vessels are primarily producing trays of frozen headed and gutted Pacific cod. This product is processed further, once it leaves the catcher processor. Additional processing may take place in the United States. However, much of the processing takes place overseas. Pacific cod processed in second countries may be exported to third countries for consumption. Pacific cod receiving secondary processing overseas may be re-exported to the United States, for consumption.

# 2.0 EXPECTED EFFECTS OF THE ALTERNATIVES

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

## 2.1 Alternative 1: No Action

Under this alternative, six freezer longline vessels and five hook-and-line catcher/processor licenses will continue to be restricted by GOA Pacific cod sideboards. NOAA Fisheries implemented inshore and offshore sideboard limits on GOA Pacific cod simultaneously with the implementation of the crab rationalization program. As part of the GOA Pacific cod sectors splits (Amendment 83) implemented in 2012, these sideboard limits were modified from inshore and offshore limits share by all gears to a narrower sector limit that applies specifically to freezer longline vessels. This modification significantly reduced the share of GOA Pacific cod TAC available to the six sideboard restricted freezer longline vessels and five hook-and-line catcher/processors licenses. Since the participation of the sideboarded vessels in the GOA Pacific cod fishery was very limited during the years used to calculate the sideboard (1996 through 2000), NOAA Fisheries has to-date maintained that the revised sideboard is insufficient to support a sideboard fishery thus eliminating these sideboarded freezer longline vessels from the GOA Pacific cod fishery.

Prior to the 2012 season, five of the six sideboarded vessels capitalized on the aggregate GOA Pacific cod sideboard limits to increase their fishing effort in and catches from the GOA Pacific cod fishery relative to their modest fishing effort during the period used to define sideboard limits (1996 through 2000) (see Table 1-12). With this increase, the dependency of these vessels on GOA Pacific cod fishery increased. Since the sideboards are set based on the historical catches of the vessels during 1996 through 2000, additional catches by the freezer longline vessels arose from increasing harvests relative to sideboarded vessels in other sectors (such as trawl catcher processors and pot catcher processors).

Given that sideboard freezer longline vessels will in all likelihood be precluded from fishing in the GOA Pacific cod fishery, these vessels might try to increase fishing effort in other fisheries to make up for lost GOA Pacific cod fishery revenue. However, the ability for these sideboard vessels to recoup lost GOA Pacific cod revenue in other BSAI and GOA fisheries is limited. In the BSAI Pacific cod fishery, the cooperative members determine their allocations based on their historical BSAI Pacific cod fishing activity and the cooperative calculation is fixed. Cooperative members assert that no potential exists for renegotiation in the future to compensate for loss of revenues to sideboard vessels in the GOA Pacific cod fishery.[3] Fishing opportunities other than Pacific cod appear limited for the sideboarded vessels. Likely,

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

the only opportunity would be BS and AI Greenland turbot, but freezer longline vessels assert that they have difficulty generating profits in that fishery (pers. Comm., Kenny Down, BSAI Freezer Longline Conservation Cooperative).

From the perspective of the non-sideboarded cooperative member vessels and non-member freezer longline vessels, the current GOA Pacific cod sideboard limit does, for all practical purposes, eliminate the six freezer longline vessels and five licenses from the GOA Pacific cod fishery. The elimination of these vessels from the GOA Pacific cod fishery does provide more opportunities for other freezer longline vessels to expand their fishing effort in the GOA Pacific cod fishery. For the freezer longline vessels that are members of the BSAI Pacific cod cooperative, the additional GOA Pacific cod is relatively modest compared to their BSAI Pacific cod harvest. In addition, to the extent that the cooperative has defined the available catch for its members, the additional harvests available may be limited. For non-cooperative freezer longline vessels, this increased opportunity in the GOA Pacific cod fishery could be significant.

Overall, if the current GOA Pacific cod sideboards are maintained, six freezer longline vessels and five licenses restricted by GOA Pacific cod sideboards will no longer be allowed to participate in the GOA Pacific cod fishery. If recent GOA Pacific cod fishing is an indication of future lost revenue, the GOA Pacific cod sideboard restrictions could result in an approximate three percent loss of annual revenue for these vessels, based on releasable data. The additional fishing opportunities in the GOA Pacific cod will likely have little impact on other cooperative vessels not restricted by sideboard limits, but could be significant for non-cooperative freezer longline vessels if they increase their fishing effort.

## 2.2 Alternative 2: Remove GOA sideboards

The Council defined GOA Pacific cod sideboards as a part of the crab rationalization program to limit the ability of vessels receiving crab allocations from using the security of those allocations to increase their GOA Pacific cod harvests above historical levels. An increase in catch by these vessels could negatively impact participants who did not benefit from the crab program and exacerbate the "race for fish". In the years after the sideboards were implemented, the freezer longline sideboarded vessels were able to increase their share of the GOA Pacific cod. This increase was permitted because the sideboards were implemented at the inshore/offshore level and sideboarded vessels operating with other gear did not maintain their harvests at historical levels. With the recent implementation of sector specific GOA Pacific cod allocations (and the division of sideboard limits by gear and operation type) sideboard freezer longline vessels are limited to the share of the GOA Pacific cod fishery harvested in the sideboard defining years and cannot maintain the levels of catch that they realized in the first several years they were subject to the sideboards.

*Impacts to Sideboarded Vessels*

As indicated in Section 1.5.2, there are six freezer longline vessels and five hook-and-line catcher/processor licenses that are limited by GOA Pacific cod sideboards from crab rationalization. Table 2-1 shows that four of the six sideboarded vessels have been active in the BSAI snow crab fishery since 2001. Since implementation of the GOA Pacific cod sideboards in 2005, only two of the sideboarded vessels have participated in the BSAI snow crab fishery, although five of the six vessels still retain their crab endorsed LLP license. Of those two sideboarded vessels participating in the BSAI snow crab since 2005, only one vessel has been active in the GOA Pacific cod fishery during this period.

Table 2-2 shows that the five sideboarded freezer longline vessels were active in the GOA Pacific cod fishery from 1997 through 2011. The sixth sideboarded vessel was not active in the GOA Pacific cod fishery since it lacked a LLP license with a GOA area endorsement. During this fifteen year period, the number of sideboarded freezer longline vessels active in the GOA Pacific cod fishery on an annual basis has ranged from a low of 1 vessel in 1997, 1998, and 2000 to high of five in 2001, 2005, 2010, and 2011.

All six of the GOA Pacific cod sideboarded vessels participated in the BSAI Pacific cod fishery since 1999.

**Table 2-1 Vessel count and catch of BSAI snow crab (lbs.) for GOA sideboarded freezer longline vessels, 2001 through 2011**

| Year | Vessel count | Crab catch (lbs.) |
|---|---|---|
| 2001 | 4 | 1,245,575 |
| 2002 | 4 | 816,625 |
| 2003 | 3 | * |
| 2004 | 3 | * |
| 2005 | 1 | * |
| 2006 | 1 | * |
| 2007 | 1 | * |
| 2008 | 2 | * |
| 2009 | 2 | * |
| 2010 | 1 | * |
| 2011 | 1 | * |
| Source:AKFIN report on January 11, 2013, from fish tickets | | |
| * denotes confidential data | | |
| Table orginates from FLL_CRAB(01-11) excel file and FLL GOA Pcod Sideboa | | |

The majority of catch of the GOA sideboarded freezer longline vessels over the past fifteen years was BSAI Pacific cod. In fact, GOA Pacific cod catch and first wholesale revenue for the sideboard freezer longline vessels was relatively modest. In addition, the relative percentage of GOA Pacific cod catch and first wholesale revenue to total Pacific cod catch and first wholesale revenue has varied little from year to year. As shown in Table 2-2, GOA Pacific cod catch relative to total Pacific cod catch in both GOA and BSAI was on average 3% during the 2001 through 2011 period. First wholesale revenue for the GOA Pacific cod fishery was also on average 3% relative to the total first wholesale revenue during this same period. Overall, based on the historical fishing patterns of these five sideboarded vessels, these vessels appear dependent on the GOA Pacific cod fishery, albeit significantly less than their dependence on the BSAI Pacific cod fishery.

Removing the GOA Pacific cod sideboard limits for the freezer longline vessels would allow these vessels to expand their effort in the GOA Pacific cod fishery. The cooperative agreement may constrain the harvests of sideboarded vessels to some extent, but not to the extent of the current sideboards. More likely, any cooperative imposed limit would constrain their harvest to levels observed during the 2001 through 2011 period. The cooperative could also permit the sideboarded vessels to increase their fishing effort in the GOA Pacific cod fishery beyond their 2001 through 2011 period. As indicated in Table 2-2, not all six sideboarded vessels participated in the GOA Pacific cod fishery every year, but these vessels have consistently participated in the BSAI Pacific cod fishery. Their consistent and significant participation in the BSAI Pacific cod fishery relative to the GOA Pacific cod fishery is reflected in that their GOA Pacific cod catch was on average only 3% of their total catch of BSAI and GOA Pacific cod. In other words, despite having the ability to lease some or all of their BSAI Pacific cod to expand their effort in the GOA Pacific cod fishery, these vessels have continued to focus the majority of their effort in the BSAI Pacific cod fishery. This pattern has likely arisen from the relatively large amount of Pacific cod available to the vessels in the BSAI in comparison to the GOA.

**Table 2-2 Catch (mt), first wholesale value ($) and vessel count in the BSAI and GOA Pacific cod fisheries for the GOA sideboarded freezer longline vessels along with percent of GOA Pacific cod catch and first wholesale revenue relative to total Pacific cod catch and first wholesale revenue, 1996 through 2012**

| Year | BSAI catch (mt) | BSAI first wholesale value ($) | BSAI Vessel count | GOA catch (mt) | GOA first wholesale value ($) | GOA Vessel count | % of GOA catch relative to total catch | % of GOA first whole revenue relative to total first wholesale revenue |
|---|---|---|---|---|---|---|---|---|
| | *Years used to calculate the sideboard limit* | | | | | | | |
| 1996 | 4,204 | 3,070,686 | 3 | 0 | 0 | 0 | 0% | 0% |
| 1997 | 6,275 | 3,713,300 | 5 | * | * | 1 | * | * |
| 1998 | 6,945 | 6,116,733 | 5 | * | * | 1 | * | * |
| 1999 | 9,318 | 11,082,807 | 6 | 205 | 262,795 | 3 | 2% | 2% |
| 2000 | 12,687 | 15,480,877 | 6 | * | * | 1 | * | * |
| | *Years leading up to implementation of crab rationalization program* | | | | | | | |
| 2001 | 14,990 | 16,893,798 | 6 | 348 | 415,849 | 5 | 2% | 2% |
| 2002 | 13,222 | 12,931,038 | 6 | 583 | 609,972 | 3 | 4% | 5% |
| 2003 | 15,331 | 17,776,261 | 6 | 640 | 747,596 | 4 | 4% | 4% |
| 2004 | 16,351 | 19,164,518 | 6 | 375 | 450,511 | 3 | 2% | 2% |
| | *Years since implementation of crab rationalization program* | | | | | | | |
| 2005 | 16,424 | 22,795,546 | 6 | 189 | 241,062 | 5 | 1% | 1% |
| 2006 | 12,973 | 22,742,412 | 6 | 553 | 935,954 | 3 | 4% | 4% |
| 2007 | 13,413 | 27,538,941 | 6 | 85 | 166,910 | 3 | 1% | 1% |
| 2008 | 16,174 | 33,338,243 | 6 | 542 | 1,245,698 | 4 | 3% | 4% |
| 2009 | 17,631 | 22,052,567 | 6 | 872 | 1,128,240 | 4 | 5% | 5% |
| 2010 | 16,163 | 24,344,009 | 6 | 786 | 1,152,116 | 5 | 5% | 5% |
| 2011 | 23,558 | 39,624,329 | 6 | 1,357 | 2,357,437 | 5 | 5% | 6% |
| 2012 | 23,390 | not yet released | 6 | 0 | 0 | 0 | 0% | 0% |

Source:AKFIN report on January 16, 2013, from comprehensive blend catch accounting

* denotes confidential data

Table orginates from FLL_WV(01-16) excel file and FLL GOA Pcod Sideboard Tables excel file

In the future, if the cooperative no longer coordinates their activities in the GOA Pacific cod fishery, the incentive to "race for fish" increases as more freezer longline vessels chase a fixed allocation of GOA Pacific cod. In an environment with no cooperative coordination, the absence of sideboards would allow these sideboarded vessels to expand their effort in the GOA Pacific cod fishery, and thereby negatively impact other freezer longline vessels participating in the GOA fishery. In addition, a "race for fish" environment could shorten the seasons relatively to the no action alternative, which could also have a negative impact on other freezer longline vessels participating in the fishery.

In addition, the Council recently took final action that would adjust the maximum length overall (MLOA) specified on the LLP license assigned to BSAI Freezer Longline Conservation Cooperative, to accommodate larger replacement vessels (Amendment 99). The action would increase the length of the MLOA on LLP licenses with catcher/processor and hook-and-line Pacific cod endorsements for the BS and AI to 200 feet. With the advantage of cooperative fishing amongst the BSAI freezer longliners, combined with larger, purpose-built replacement vessels, the BSAI-endorsed LLP license holders that are restricted by GOA Pacific cod sideboards could consolidate BSAI harvests within the cooperative, and use their increased processing capacity to garner a greater proportion of the GOA Pacific cod sector allocation, relative to their historical catch. These vessels are also less sensitive to weather conditions, which can limit opportunities for smaller vessels (such as the GOA-only endorsed freezer longline vessels). This has the potential to negatively impact the three GOA-only freezer longline vessels. Note, however, that vessels that fish in the BSAI are all larger than those that are only GOA-endorsed, and some of them substantially so. The cooperative has the ability to preempt fishing opportunities by the exclusively GOA-endorsed vessels, as the GOA Pacific cod catcher/processor sector allocation is relatively small, compared to the number of vessels that are endorsed to participate in the sector. However, the combination of sideboard removal and the ability to increase the length of the vessel may nonetheless negatively impact other freezer longline vessels active in the GOA Pacific cod fishery.

*Impacts to non-sideboarded cooperative member vessels*

As seen in Table 2-3, the number of non-sideboarded BSAI cooperative vessels active in the GOA Pacific cod fishery has ranged from a low of nine in 2011 to a high of 19 in 2003. If sideboards are removed, it is likely that some of the six sideboarded freezer longline vessels would likely enter the GOA Pacific cod fishery, which could increase competition for a fully utilized sector allocation and could negatively impact non-sideboarded BSAI cooperative member vessels.

Currently, the BSAI cooperative coordinates the fishing activity of its member vessels in the GOA Pacific cod fishery, including the five sideboarded freezer longline vessels. Coordination of its cooperative member vessel activities in the GOA Pacific cod fishery protects cooperative vessels that are not sideboarded subject to the terms of the agreement. The agreement also reduces the incentive for a "race for fish" within the freezer longline sector if the sideboards were removed, but only to the extent that the agreement constrains the currently sideboard vessels. If the currently sideboarded vessels are not constrained, non-sideboarded cooperative member vessels could suffer either a loss of harvests or be compelled to race to maintain their current share of the harvests in the GOA Pacific cod fishery.

**Table 2-3 Catch (mt), first wholesale value ($) and vessel count in the BSAI and GOA Pacific cod fisheries for the non-sideboarded BSAI cooperative freezer longline vessels active in the GOA along with percent of GOA Pacific cod catch and first wholesale revenue relative to total Pacific cod catch and first wholesale revenue, 1996 through 2012**

| Year | BSAI catch (mt) | BSAI first wholesale value ($) | BSAI Vessel count | GOA catch (mt) | GOA first wholesale value ($) | GOA Vessel count | % of GOA catch relative to total catch | % of GOA first whole revenue relative to total first wholesale revenue |
|---|---|---|---|---|---|---|---|---|
| | *Years used to calculate the sideboard limit* | | | | | | | |
| 1996 | 59,818 | 43,697,370 | 20 | 4,479 | 3,180,057 | 13 | 7% | 7% |
| 1997 | 84,368 | 49,925,359 | 21 | 3,505 | 2,755,282 | 10 | 4% | 5% |
| 1998 | 64,599 | 56,899,037 | 21 | 3,170 | 2,536,743 | 11 | 5% | 4% |
| 1999 | 60,114 | 71,503,014 | 22 | 4,428 | 5,679,370 | 18 | 7% | 7% |
| 2000 | 60,985 | 74,417,300 | 22 | 3,620 | 4,585,658 | 15 | 6% | 6% |
| | *Years leading up to implementation of crab rationalization program* | | | | | | | |
| 2001 | 65,849 | 74,212,015 | 22 | 3,490 | 4,173,717 | 11 | 5% | 5% |
| 2002 | 63,732 | 62,330,375 | 24 | 7,235 | 7,575,108 | 17 | 10% | 11% |
| 2003 | 69,871 | 81,014,368 | 24 | 4,703 | 5,495,713 | 19 | 6% | 6% |
| 2004 | 71,964 | 84,348,026 | 25 | 3,750 | 4,508,857 | 13 | 5% | 5% |
| | *Years since implementation of crab rationalization program* | | | | | | | |
| 2005 | 76,487 | 106,157,681 | 25 | 543 | 693,355 | 10 | 1% | 1% |
| 2006 | 68,658 | 120,363,817 | 26 | 2,770 | 4,689,731 | 17 | 4% | 4% |
| 2007 | 58,376 | 119,851,874 | 27 | 4,362 | 8,544,335 | 16 | 7% | 7% |
| 2008 | 66,668 | 137,421,272 | 27 | 3,807 | 8,748,151 | 15 | 5% | 6% |
| 2009 | 74,539 | 93,233,182 | 27 | 3,485 | 4,506,614 | 14 | 4% | 5% |
| 2010 | 68,377 | 102,987,648 | 27 | 6,583 | 9,652,903 | 15 | 9% | 9% |
| 2011 | 92,111 | 154,930,271 | 24 | 5,710 | 9,920,218 | 16 | 6% | 6% |
| 2012 | 104,737 | data not yet released | 24 | 2,714 | data not yet released | 9 | 3% | data not yet released |
| Source:AKFIN report on January 16, 2013, from comprehensive blend catch accounting | | | | | | | | |
| * denotes confidential data | | | | | | | | |
| Table orginates from FLL_WV(01-16) excel file and FLL GOA Pcod Sideboard Tables excel file | | | | | | | | |

Despite the advantages of cooperative coordination in the GOA Pacific cod fishery to member vessels, there is the possibility that the members could choose to no longer coordinate their activities in the GOA fishery. The loss of cooperative coordination could result in a "race for fish" amongst freezer longline vessels. Absent sideboard limits, non-sideboard member vessels could be negatively affected as vessels currently sideboarded could increase their share of the catch without limit.

*Impacts to non-sideboarded non-member vessels*

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

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

| Year | GOA catch (mt) | GOA first wholesale value ($) | GOA Vessel count |
|---|---|---|---|
| | ***Years used to calculate the sideboard limit*** | | |
| 1996 | 0 | 0 | 0 |
| 1997 | 0 | 0 | 0 |
| 1998 | 0 | 0 | 0 |
| 1999 | 0 | 0 | 0 |
| 2000 | 0 | 0 | 0 |
| | ***Years leading up to implementation of crab rationalization program*** | | |
| 2001 | 0 | 0 | 0 |
| 2002 | 0 | 0 | 0 |
| 2003 | 0 | 0 | 0 |
| 2004 | * | * | 1 |
| | ***Years since implementation of crab rationalization program*** | | |
| 2005 | * | * | 1 |
| 2006 | * | * | 2 |
| 2007 | * | * | 1 |
| 2008 | 555 | 1,239,720 | 3 |
| 2009 | 1,154 | 1,498,337 | 3 |
| 2010 | 915 | 1,318,779 | 3 |
| 2011 | * | * | 2 |
| 2012 | * | data not yet released | 2 |
| Source:AKFIN report on January 16, 2013, from comprehensive blend catch accounting | | | |
| * denotes confidential data | | | |
| Table orginates from FLL_WV(01-16) excel file and FLL GOA Pcod Sideboard Tables excel file | | | |

Although cooperative coordination can maintain opportunities for non-member vessels, coordination of fishing among cooperative members could also be used to reduce opportunities for vessels that are not in the cooperative. These efforts to preclude opportunities for non-member vessels may arise whether sideboards are removed or not. With sideboards removed, sideboarded vessels could expand their effort in the GOA Pacific cod fishery, directly affecting fishing opportunities for non-member vessels. With the sideboards in place, the cooperative could coordinate fishing to increase their catches in the GOA Pacific cod fisheries. The cooperative's ability to preclude fishing opportunities of non-members is increased by the removal of sideboards, as the sideboarded vessels that have shown an interest in increasing their efforts in the GOA Pacific cod fishery in recent years have additional fishing opportunities with the sideboards removed.

Shifting fishing effort by the sideboarded vessels from the BSAI Pacific cod fishery to the GOA Pacific cod fishery due to reduced TACs in the BSAI could negatively impact non-member FLL vessels active in the GOA Pacific cod fishery. Vessels that are not cooperative members are more vulnerable to increases in GOA Pacific cod fishing effort by sideboarded vessels since these vessels have no agreement with the sideboard vessels. Cooperative coordination provides members the ability to coordinate their effort in the

BSAI and GOA Pacific cod fisheries so as to reduce the harm to any member vessels from reduce TACs in one or both areas.

Finally, removing the GOA Pacific cod sideboards combined with Amendment 99, which adjusts the maximum length overall (MLOA) specified on the LLP licenses assigned to BSAI Freezer Longline Conservation Cooperative to accommodate larger replacement vessels could negative effect the three non-member vessels active in the GOA Pacific cod fishery. Amendment 99 would allow these six freezer longline vessels to increase the length of their vessels if replaced in the future. With this larger vessel advantage combined with cooperative fishing, BSAI-endorsed LLP license holders could consolidate BSAI harvests within the cooperative, and use their increased processing capacity to harvest a greater proportion of the GOA Pacific cod sector allocation, relative to their 2001 through 2011 historical catch. This has the potential to negatively impact the three non-member GOA Pacific cod vessels.

## 2.3 Potential Effects on Net Benefits to the Nation

Other than some general observations of the possible effects of the proposed action on net National benefits, any quantitative cost/benefit analysis is not possible. Cost data for the six GOA sideboarded vessels are not currently available. For this reason, a quantitative cost/benefit examination of the alternatives or comparative net benefits conclusions concerning the alternatives is not possible.

Under the no action alternative, the six freezer longline vessels and five hook-and-line catcher/processor licenses will continue to be restricted by GOA Pacific cod sideboards. The continued elimination of these vessels and licenses from the GOA Pacific cod fishery does have the potential to reduce gains in efficiency if the BSAI freezer longline cooperative in coordinating their activity in the GOA Pacific cod fishery cannot utilize these sideboarded vessels in that fishery. It is possible that some of these six vessels are more efficient at harvesting GOA Pacific cod compared with other cooperative vessels that fish in the fishery. However, the no action alternative does likely reduce the chance of a future "race for fish" in the GOA Pacific cod fishery if the cooperative no longer coordinates its activities in that fishery.

Under the proposed action, the six freezer longline vessels that are restricted by GOA Pacific cod sideboards would be free to participate in the GOA Pacific cod fishery. If the BSAI freezer longline cooperative continues to coordinate its fishing activities in the GOA Pacific cod, there is some potential efficiency advantage if these six vessels harvest GOA Pacific cod are more efficient than other cooperative vessels participating in this fishery. There is also more potential for a "race for fish" within the freezer longline sector under this alternative. Overall, the overall net benefit to the Nation from the proposed action is likely limited.

# 3.0 CONSISTENCY WITH APPLICABLE LAW AND POLICY

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

## 3.1 Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA), first enacted in 1980, and codified at 5 U.S.C. 600–611, was designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization frequently has a bearing on its ability to comply with a federal regulation. Major goals of the RFA are (1) to increase agency awareness and understanding of the impact of their regulations on small business; (2) to require that agencies communicate and explain their findings to the public; and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities.

The RFA emphasizes predicting significant adverse impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts, while still achieving the stated objective of the action. When an agency publishes a proposed rule, it must either, (1) "certify" that the action will not have a significant adverse effect on a substantial number of small entities, and support such a certification declaration with a "factual basis," demonstrating this outcome, or (2) if such a certification cannot be supported by a factual basis, prepare and make available for public review an Initial Regulatory Flexibility Analysis (IRFA) that describes the impact of the proposed rule on small entities.

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

The IRFA must contain:

1. A description of the reasons why action by the agency is being considered;
2. A succinct statement of the objectives of, and the legal basis for, the proposed rule;
3. A description of, and where feasible, an estimate of the number of small entities to which the proposed rule will apply (including a profile of the industry divided into industry segments, if appropriate);
4. A description of the projected reporting, record keeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
5. An identification, to the extent practicable, of all relevant federal rules that may duplicate, overlap, or conflict with the proposed rule;
6. A description of any significant alternatives to the proposed rule that accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes, and that would minimize any significant adverse economic impact of the proposed rule on small entities.

Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives, such as:

a. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

b. The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

c. The use of performance rather than design standards;

d. An exemption from coverage of the rule, or any part thereof, for such small entities.

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

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

### 3.1.1 Definition of a Small Entity

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

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

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

The SBA has established "principles of affiliation" to determine whether a business concern is "independently owned and operated." In general, business concerns are affiliates of each other when one

concern controls or has the power to control the other or a third party controls or has the power to control both. The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. Individuals or firms that have identical or substantially identical business or economic interests, such as family members, persons with common investments, or firms that are economically dependent through contractual or other relationships, are treated as one party, with such interests aggregated when measuring the size of the concern in question. The SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern's size. However, business concerns owned and controlled by Indian Tribes, Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601), Native Hawaiian Organizations, or Community Development Corporations authorized by 42 U.S.C. 9805 are not considered affiliates of such entities, or with other concerns owned by these entities, solely because of their common ownership.

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

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

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

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

### 3.1.2 Reason for Considering the Proposed Action

The purpose of the proposed action is to remove GOA non-AFA crab sideboard limit for Pacific cod for those freezer longline vessels restricted by these limitations. The non-AFA crab sideboard limits were originally included in the crab rationalization program, which was implemented in 2005. When implemented, the non-AFA crab sideboard limits were aggregated at the inshore and offshore level and were shared by all gear types. As part of the GOA Pacific cod sector splits (Amendment 83) implemented in 2012, the non-AFA crab sideboard limits were modified from an inshore and offshore limit shared by all gears to a narrower sector limit. Recognizing the modification to the GOA non-AFA crab Pacific cod sideboard will eliminate this historical fishery for these sideboard limited freezer longline vessels, the Council initiated an analysis to remove the GOA Pacific cod sideboards for the freezer longline vessels.

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

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

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

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

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

The objective of the proposed action is to remove the GOA Pacific cod sideboards for the freezer longline vessels that are restricted by these limits. This objective is encompassed by authorities contained in the Magnuson-Stevens Act. Under the Magnuson-Stevens Act, the United States has exclusive management authority over all living marine resources found within the EEZ. The management of marine fishery resources is vested in the Secretary of Commerce, with advice from the Regional Fishery Management Councils. The GOA Pacific cod sideboards created under the crab rationalization program are managed under the FMP for Bering Sea and Aleutian Islands King and Tanner crabs.

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

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

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

The RFA requires a consideration of affiliations between entities for the purpose of assessing if an entity is small. There is not a strict one-to-one correlation between vessels and entities; many persons and firms are known to have ownership interests in more than one vessel, and many of these vessels with different ownership, are otherwise affiliated with each other.

The entities directly regulated by this action are those catcher processors operating in the EEZ of the BSAI and GOA, using longline gear. Earnings from all Alaskan fisheries for 2011 were matched with the

freezer longline vessels that are restricted by GOA Pacific cod sideboards. Of the six vessels directly regulated by this action, none are small entities. All six of these vessels are members of the BSAI Freezer Longline Conservation Cooperative and, as such, are not considered small entities for the purpose of the RFA.

### 3.1.5 Recordkeeping and Reporting Requirements

Recordkeeping and reporting requirements are not expected to change as a result of the proposed action. The action under consideration requires no additional reporting, recordkeeping, or other compliance requirements that differ from the status quo.

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

No relevant federal rules were identified as duplicating, overlapping, or conflicting with the proposed action under consideration herein.

### 3.1.7 Description of Significant Alternatives

Upon final action, this section will be updated to discuss the Council's preferred alternative.

## 3.2 National Standards

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

**National Standard 1- Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.**

None of the alternatives considered in this action would affect overfishing of groundfish in the BSAI or GOA since the action will continue to be managed under the current harvest specifications process. The alternatives would also not affect, on a continuing basis, the ability to achieve the optimum yield from each groundfish fishery for the same reasons.

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

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

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

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

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

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

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

This action will improve efficiency in utilization of the fishery resource. The action does not allocate shares, but simply removes GOA Pacific cod sideboards for freezer longline vessels thereby allowing these vessels to participate in the sector's GOA Pacific cod fishery.

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

None of the proposed alternatives are expected to affect the availability of and variability in the groundfish resources in the BSAI and GOA in future years. The harvest would be managed to and limited by the TACs for each species, regardless of the proposed action considered in this amendment.

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

Since this proposed action would remove GOA Pacific cod sideboards for those freezer longline vessels restricted by this limitation, this action would not impose additional costs for compliance, and does not duplicate any other management action.

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

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

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

Since the proposed action would only remove GOA Pacific cod sideboards for those freezer longline vessels restricted by this limitation, this action is not expected to impact bycatch.

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

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

## 3.3 Section 303(a)(9) – Fisheries Impact Statement

Section 303(a)(9) of the Magnuson-Stevens Act requires that any management measure submitted by the Council take into account potential impacts on the participants in the fisheries, as well as participants in adjacent fisheries. The impacts on participants in the freezer longline groundfish fisheries in the BSAI and GOA have been discussed in previous sections of this document (see Chapter 2). The proposed action is not anticipated to have effects on participants in other fisheries.

# 4.0 LIST OF PREPARERS

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