

INITIAL REVIEW DRAFT

REGULATORY IMPACT REVIEW/  
INITIAL REGULATORY FLEXIBILITY ANALYSIS

For a proposed Fishery Management Plan for Bering Sea/Aleutian Islands  
King and Tanner Crabs

To Revise the Crab Sideboard Exemptions in the GOA Pacific Cod Fishery  
from November 1 to December 31

June 2010

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*Revise Crab Sideboard Exemptions in GOA Pacific cod Fishery from November 1 – December 31*

## Executive Summary

### Introduction

The crab rationalization program was implemented in March of 2005. The program allocates IFQ to harvesters in the crab fisheries. 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 included GOA groundfish sideboard limits for vessels and licenses that had Bering Sea snow crab history that contributed to IFQ. At its December 2006 meeting, the Council heard public testimony that the GOA sideboard limits, stemming from the crab rationalization program, had overly restricted historical participants in the GOA Pacific cod fishery. In response, the Council initiated an amendment to adjust the GOA Pacific cod sideboard exemption qualifications for non-AFA crab vessels, exempt qualified non-AFA crab vessels from GOA pollock sideboards, and exempt non-AFA crab vessels from GOA Pacific cod sideboards, from November 1 to December 31 of each year. In October 2008, the Council took final action on exempting GOA Pacific cod dependent non-AFA crab vessels from GOA Pacific cod sideboard limits. At the same time, the Council removed the GOA B season Pacific cod sideboard exemption from the original FMP amendment package and repackaged for further consideration in this amendment package.

### Purpose and Need

The purpose of the non-AFA crab sideboard limit was to prevent vessels with crab quota from disadvantaging non-crab participants in the GOA groundfish fisheries. However, it is not uncommon to see large amounts of Pacific cod go unharvested in both western GOA and central GOA during the B season for both the inshore and offshore component. To address this issue, the Council developed the following draft problem statement:

*Recognizing that rationalizing the BSAI crab fisheries could provide opportunities for fisherman to alter their crab fishing patterns and take greater advantage of other fisheries, the Council included GOA groundfish sideboard limits for non-AFA crab vessels that qualified for the Bering Sea snow crab IFQ fishery. However, given that considerable amounts of GOA Pacific cod B season TAC has continually remained unharvested during the November and December period, an exemption from GOA Pacific cod sideboard limits could allow for a more fully utilized resource, which is consistent with Council policy and MSA National Standard 1.*

### Alternatives

Under this action, there are three alternatives. Alternative 1 (status quo) would not change the B season GOA Pacific cod sideboard limits. Alternative 2 would permit those non-AFA crab vessels/license that are prohibited from targeting GOA Pacific cod to target GOA Pacific cod from November 1 - December 31 absent of any sideboard limit. Alternative 2 would also exempt from sideboard limits those non-AFA crab vessels/licenses limited by GOA Pacific cod sideboards from November 1 - December 31. Note that Alternative 2 was rewritten by staff to reflect a more accurate description of the non-AFA crab vessels which would be exempt from sideboard limits. Alternative 3 would exempt only those non-AFA crab vessels that are permitted to target GOA Pacific cod but are restricted by GOA Pacific cod sideboard limits from GOA Pacific cod sideboard limits. In each of the action alternatives, the Council included two options that would establish a minimum tonnage and/or a percent of TAC that must be available on November 1. These options would be applied individually to both the inshore and offshore waters and the WGOA and CGOA areas.

Alternative 1: No changes to B season Pacific cod sideboard limit

Alternative 2: **Under this alternative, two groups of non-AFA crab vessels/licenses would be exempt from GOA Pacific side board limits from November 1 to December 31. The first group, GOA Pacific cod prohibited vessels/licenses would be authorized to target GOA Pacific cod during the November 1 to December 31 period and not be limited by sideboards. The second group, those non-AFA crab vessels/licenses qualified to target GOA Pacific cod, would be exempt from sideboard limits during November 1 – December 31.**

Suboption 2.1 The exemption would apply if up to 10% to 30% of the B season Pacific cod TAC remains unharvested prior to November 1 for inshore and offshore components of the WGOA and CGOA.

Suboption 2.2 The exemption would apply if up to 0 to 5,000 mt of B season Pacific cod TAC remains unharvested prior to November 1 for inshore and offshore components of the WGOA and CGOA.

Alternative 3: Exempt from GOA B season Pacific cod sideboard limits during November 1 – December 31 for those non-AFA crab vessels that are restricted by GOA Pacific cod sideboard limits.

Suboption 3.1 The exemption would apply if up to 10% to 30% of the B season Pacific cod TAC remains unharvested prior to November 1 for inshore and offshore components of the WGOA and CGOA.

Suboption 3.2 The exemption would apply if up to 0 to 5,000 mt of B season Pacific cod TAC remains unharvested prior to November 1 for inshore and offshore components of the WGOA and CGOA.

This exemption only applies to those non-AFA crab vessels/LLPs that are eligible to participate in the GOA Pacific cod fishery (have appropriate LLP).

The intent of the action is to address National Standard 1 and more fully utilize GOA Pacific cod TAC so as not to impact other GOA Pacific cod dependent vessels. Under Alternatives 2, NMFS could relax B season Pacific cod sideboard restrictions after November 1 for non-AFA crab vessels/licenses that are restricted by GOA groundfish sideboard limits in the inshore and offshore of the WGOA and/or CGOA if up to 10 to 30 percent of the B season TAC remains unharvested in the respective area and/or if up to 0 to 5,000 mt of Pacific cod TAC remains unharvested. Alternative 3 would accomplish the same exemption, but would limit the exemption to only those non-AFA crab vessels/licenses that are permitted to target GOA Pacific cod but are restricted by the GOA Pacific cod sideboard limits.

## **Impacts of the Alternatives**

### **Alternative 1**

Under Alternative 1, there would be no change to the B season Pacific cod sideboard limit after November 1 for non-AFA crab vessels. Participation levels by non-AFA crab vessels to which the GOA Pacific cod sideboard applies would likely remain at the current level. Since establishment of the GOA sideboard in 2006, the GOA Pacific cod sideboard fishery has closed prematurely. As a result, those non-AFA crab vessels that have been constrained in their catch of GOA Pacific cod in the sideboard fishery during will likely continue to be constrained in the future under status quo despite B season GOA Pacific cod quota still being available. In addition, there is the potential that large amounts of GOA Pacific cod TAC will remained unharvested at the end of the B season.

### Alternatives 2 and 3

Looking at the population of non-AFA crab vessels that could be exempt under Alternatives 2 and 3, currently, there are a total of 227 non-AFA crab vessels and 57 licenses that made a landing of BS snow crab during the 1996 to 2000 period that contributed to an IFQ. Of this total, 5 non-AFA crab vessels/licenses are already exempt from GOA Pacific cod sideboards. In addition, the Council in October 2008, voted to exempt an additional 3 vessels/licenses from GOA Pacific cod sideboard limits. After removing already exempt vessels/licenses and potential exempt vessels/licenses, the remaining 219 non-AFA vessels and 49 licenses would be exempt from the GOA Pacific cod sideboard limits under Alternative 2. Eight five non-AFA crab vessels and 40 LLP licenses that qualify to participate in the GOA Pacific cod sideboard fishery would be exempt from GOA Pacific cod sideboard limits under Alternative 3.

Examining the annual fishing activity in the GOA Pacific cod fishery for the qualified vessels shows that very few of the vessels have been active in this fishery during the November 1 to December 31 period throughout 1995 to 2007. In contrast, the total number of other Pacific cod dependent vessels active during the November 1 to December 31 time period has ranged from no vessels during a few years to 87 vessels in 2007. In recent years, the number of other Pacific cod dependent vessels participating in the central GOA Pacific cod fishery during the November 1 to December 31 period has increased significantly.

Despite the limited number of qualified vessels that fished in the GOA Pacific cod fishery during the November 1 to December 31 period, there is a potential that lifting the GOA Pacific cod sideboards during this period could increase fishing pressure on GOA Pacific cod and thereby impact other GOA Pacific cod dependent vessels. Unfortunately, it is not possible to determine with any certainty the extent to which the new exempt vessels would impact other Pacific cod participants.

Despite the limited number of qualified vessels that fished in the GOA Pacific cod fishery during the November 1 to December 31 period, there is a potential that lifting the GOA Pacific cod sideboards during this period could increase fishing pressure on GOA Pacific cod and thereby impact other GOA Pacific cod dependent vessels. Unfortunately, it is not possible to determine with any certainty the extent to which the new exempt vessels would impact other Pacific cod participants. In addition, the limited number of qualified vessels participating during November 1 to December 31 restricts the information that can be presented (Table 2-25). This restriction is necessary to protect the confidentiality of the information. Reflected in Table 2-25 is the increase in the central GOA Pacific cod catch by other Pacific cod dependent vessels, increasing from 254 mt in 2004 to 2,485 mt in 2007. This increase in central GOA Pacific cod catch during the same time period was not seen in the western GOA. In 2008 and 2009, the catch of central GOA Pacific cod catch declined sharply, while catch in the western GOA increased.

Crucial in selecting the appropriate threshold(s) is providing the right amount of opportunity for vessels to fully utilize the TAC to the extent practicable, while also leaving a sufficient amount of TAC for existing Pacific cod dependent vessels during the November 1 – December 31 fishery period to maintain their historic access to the fishery. If the percent of available B season GOA Pacific cod TAC required on November 1 is too high, there is the potential that B season GOA Pacific cod sideboards would not be relaxed, thus reducing the opportunity to fully utilize the Pacific cod resource. At the same time, if there is insufficient TAC after November 1 and the GOA B season Pacific cod sideboards are lifted for qualified vessels, existing Pacific cod dependent vessels could be negatively impacted from increased fishing effort. To ensure the Council's intent that B season GOA Pacific cod TAC is fully utilized to the extent practicable and existing B season GOA Pacific cod participants are protected, the choice of an appropriate threshold must be carefully considered.

Based on catch information, the inshore component of the western GOA likely has the most underutilized Pacific cod TAC. An indication of the need for a sideboard exemption is the amount of B season TAC remaining after November 1, which has ranged from 63 percent of the B season TAC (2,357 mt) in 2005 to 92 percent of the B season TAC (5,342 mt) in 2006.

For the offshore component of the western GOA, the need for a sideboard exemption is limited due to smaller TAC levels. There was little need for an exemption during the 2003 and 2004 season because the fishery did not open for the 2003 B season and in 2004, the hook-and-line fishery closed on October 2 due to halibut PSC restrictions. For 2006 and 2007, there appeared to be sufficient TAC available for a sideboard exemption. The amount of B season TAC remaining after November 1 was 87 percent of the B season TAC (1,114 mt) in 2006 and 75 percent (916 mt) in 2007.

For the inshore component of the central GOA, the opportunity for an exemption appears limited. The primary reason for the limitation is due to the B season TAC is being fully utilized for most years. In 2003 and 2004, the hook-and-line fishery closed on September 3 and October 2, respectively. For the remaining years, the hook-and-line fishery closed on December 31, but the opportunity for an exemption fishery appears limited due to a strong B season fishery by existing Pacific cod participants. Similar to fishing patterns in the western GOA, existing Pacific cod participants harvest a larger share of the B season TAC during the early portion of the B season (September 1 – October 31) compared to the later portion of the B season (November 1 – December 31). As a result, the increase in fishing effort by the existing Pacific cod participants appears to have left little need for a sideboard exemption. For example, in 2005, only 235 mt or 3 percent of the B season TAC was left unharvested at the end of the season, while 2007, 673 mt or 7 percent of the B season TAC was left unharvested. The one exception was 2006, where 2,259 mt or 32 percent of the B season TAC was left unharvested.

For the offshore component of the central GOA, the need for a sideboard exemption appears to be greater when compared to the inshore component. Similar to other areas of the GOA, there would have been little need for an exemption during the 2003 and 2004 B season due to early closures. However, for 2006 and 2007, there was greater need for a sideboard exemption. The amount of B season TAC remaining on November 1 has ranged from 71 percent of the B season TAC (1,930 mt) in 2007 to 76 percent of the B season TAC (1,941 mt) in 2006.

Potentially affecting this proposed action is three recent Council actions. In October 2008, the Council exempted 3 new GOA Pacific cod dependent non-AFA crab vessels from GOA Pacific cod sideboard limits. When combined with the existing five non-AFA crab vessels that are exempt from GOA Pacific cod sideboard limits, it is likely that a larger portion of the B season GOA Pacific cod will be harvested by existing participants in the future. Given that sideboard exempt GOA Pacific cod participants may utilize more B season Pacific cod in future years, there may be a need for a higher level of protection from increased effort caused by the proposed B season sideboard exemption. The Council may want to take into consideration the potential increased effort by existing GOA Pacific cod participants when calculating the minimum tonnage or percent of TAC necessary for the exempt fishery.

In December 2009, the Council took final action on GOA Pacific cod sector splits that allocates western and central GOA Pacific cod TACs among the fixed gear sectors (hook-and-line catcher processors, hook-and-line catcher vessels, pot catcher processors, pot catcher vessels combined, jig sector, and trawl sectors based on recent sector catch histories. GOA Pacific cod sectors allocations would be based on the sector's historic catch levels. The Council recommended allocation to the pot CV/CP sector for western GOA Pacific cod TAC would be 38 percent with a seasonal apportionment of 52 percent for the A season and 48 percent reserved for the B season. In the central GOA, the potential allocation to the pot CV/CP sector would be 27.8 percent. The recommended seasonal apportionment for this subarea would be 63.9 percent for the A season and 36.1 percent for the B season.

The Council also included a provision that would allow any portion of an allocation that NMFS determines will not be harvested by the respective sectors during the remainder of the fishing year to be rolled over to CV sectors first, and then to all sectors as needed to harvest the remaining Pacific cod.

If implemented, the apportionment of GOA Pacific cod between sectors will likely require the Council to redesign the thresholds used for determining the annual sideboard exemption. As noted above, the thresholds (Suboptions 2.1 and 2.2 and Suboptions 3.1 and 3.2) are currently based on having a specific percentage or amount of GOA Pacific cod TAC prior to November 1 for inshore and offshore components of the western and central GOA. A better approach might be to design thresholds to apply at a newly defined sector level given that the exempt vessels will be limited by the available sector apportionment. This could be as simple as keeping the current percentages and changing the language to apply at the sector level rather than at the TAC level. By changing the threshold to apply at the sector level, only non-AFA crab vessels operating in that sector would be exempt from Pacific cod sideboards during the November 1 to December 31 period for that year. Another approach would be to eliminate the thresholds all together and defer management of the sideboard exemption during the November 1 to December 31 period to NMFS inseason management. The rationale for deferring management of the sideboard exemption to NMFS is based on the inseason management's experience in managing Pacific cod rollovers and the need to coordinate sideboard exemptions with sector rollovers to better utilize available Pacific cod. Allowing NMFS flexibility in managing sideboard exemption and rollovers may increase the potential for fully harvesting the western and central GOA Pacific cod TAC.

Finally, the Council in April 2009 took final action on fixed gear licenses, which limit entry into the directed Pacific cod fisheries in the Western and Central GOA. The Council's preferred alternative would add gear-specific Pacific cod endorsements to fixed gear licenses, which limit entry into the directed Pacific cod fisheries in the Western and Central GOA. Licenses may qualify for gear-specific Pacific cod endorsements based on directed Pacific cod landings during 2002 through 2008. The minimum thresholds are 10 metric tons for CV licenses with MLOA designation of <60 ft., and 50 metric tons for CP licenses and CV licenses with an MLOA designation of  $\geq$  60 ft. The Pacific cod endorsements will restrict licenses to using the gear type(s) (pot, hook-and-line, and/or jig) specified on the license. A substantial number of the CV licenses that will receive pot endorsements and have an MLOA of greater than 60 feet are subject to the non-AFA crab vessel sideboards (10 of 21 western GOA and 10 of 27 central GOA licenses). In addition, there are 4 western GOA and 4 central GOA fixed gear CP licenses that qualify for a pot and/or hook-and-line Pacific cod endorsement that are subject to the sideboards. The effect of Pacific cod endorsements will be to limit the number of licenses eligible to fish the western and central GOA Pacific cod sector allocations, and would effectively cap the number of participants in each sector. Given the thresholds are minimal, this action will reduce the potential for latent participation in the western and central GOA Pacific cod fishery and would likely not affect the availability of Pacific cod during a November 1 to December 31 sideboard exemption fishery. The limited number of Pacific cod endorsed fixed gear licenses will also make it difficult for the GOA Pacific cod prohibited vessels and the Pacific cod sideboard vessels to participate in the proposed November 1 to December 31 sideboard exemption fishery.

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## 1 INTRODUCTION

The crab fisheries in the Exclusive Economic Zone (3 to 200 miles offshore) of the Bering Sea and Aleutian Islands are managed under the Bering Sea/Aleutian Islands King and Tanner Crabs Fishery Management Plan (FMP), as developed by the North Pacific Fisheries Management Council under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The FMP was approved by the Secretary of Commerce (Secretary) and became effective in 1989.

In August of 2005, fishing in the Bering Sea and Aleutian Island crab fisheries began under a new share-based management program (the “rationalization program”). The program allocates IFQ to harvesters in the crab fisheries. 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 included GOA groundfish sideboard limits for vessels that had Bering Sea snow crab history that contributed to an IFQ. At its December 2006 meeting, the Council heard public testimony that the GOA sideboard limits stemming from the crab rationalization program had overly restricted historical participants in the GOA Pacific cod fishery. In December 2007, the Council initiated an amendment to adjust the GOA Pacific cod sideboard exemption qualifications for non-AFA crab vessels, exempt qualified non-AFA crab vessels from GOA pollock sideboards, and exempt non-AFA crab vessels from GOA Pacific cod sideboards from November 1 to December 31 of each year. In October 2008, the Council took final action on exempting GOA Pacific cod dependent non-AFA crab vessels from GOA Pacific cod sideboard limits. At the same time, the Council removed the GOA B season Pacific cod sideboard exemption from the original FMP amendment and repackaged for consideration in this action.

This document contains a Regulatory Impact Review (Section 2) and an Initial Regulatory Flexibility Analysis (Section 3) of a suite of alternatives to exempt non-AFA crab vessels from GOA Pacific cod sideboard limits after November 1. Section 4 contains a discussion of the Magnuson Stevens Act National Standards and a fishery impact statement.

Given the amendment package addresses allocation issues for GOA Pacific cod harvesters, the document is expected to meet the requirements of EEQ regulations at 40 CFR Part 1500-1508 and NOAA Administrative Order NAO 216-6 for categorical exclusion from detained environmental review. The proposed action is not expected to affect the overall amount of Pacific cod taken in the GOA by the non-AFA crab vessels that would be exempt from the sideboard limits after November 1.

## 2 REGULATORY IMPACT REVIEW

This chapter provides information on the economic and socioeconomic impacts of the alternatives, as required by Executive Order 12866 (E.O. 12866). This chapter includes a description of the purpose and need for the action and the management objects, a description of the alternatives proposed to meet those objectives, identification of the individuals or groups that may be affected by the action, the nature of those impacts (quantifying the economic impacts where possible), and discussion of the tradeoffs.

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

*In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and Benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nonetheless*

*essential to consider. Further, in choosing among alternative regulatory approaches agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.*

E.O. 12866 requires that the Office of Management and Budget (OMB) 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.

Under the Magnuson-Stevens Act, the United States has exclusive fishery management authority over all marine fishery resources found within the EEZ. The management of these marine resources is vested in the Secretary of Commerce (Secretary) and in the Regional Fishery Management Councils. The groundfish fisheries in the Gulf of Alaska (GOA) EEZ are managed under the FMP for Groundfish of the GOA.

## **2.1 Purpose and Need**

The purpose of the non-AFA crab sideboard limit was to prevent vessels with crab quota from disadvantaging non-crab participants in the GOA groundfish fisheries. However, it is not uncommon to see large amounts of Pacific cod go unharvested in both western GOA and central GOA during the B season for both the inshore and offshore sectors. To address this issue, the Council developed the following draft problem statement:

*Recognizing that rationalizing the BSAI crab fisheries could provide opportunities for fisherman to alter their crab fishing patterns and take greater advantage of other fisheries, the Council included GOA groundfish sideboard limits for non-AFA crab vessels that qualified for the Bering Sea snow crab IFQ fishery. However, given that considerable amounts of GOA Pacific cod B season TAC has continually remained unharvested during the November and December period, an exemption from GOA Pacific cod sideboard limits could allow for a more fully utilized resource, which is consistent with Council policy and MSA National Standard 1.*

## **2.2 Alternatives Considered**

Under this action, there are three alternatives. Alternative 1 (status quo) would not change the B season GOA Pacific cod sideboard limits. Alternative 2 would permit those non-AFA crab vessels/license that are prohibited from targeting GOA Pacific cod to now target the species during the November 1 to December 31 period absent any sideboard limits. Alternative 2 would also exempt those non-AFA crab vessels/licenses limited by GOA Pacific cod sideboards during November 1 to December 31. Note that Alternative 2 was rewritten by staff to reflect a more accurate description of the vessels exempted by this proposed action. Alternative 3 would exempt from GOA Pacific cod sideboard limits only those non-AFA crab vessels that are permitted to target GOA Pacific cod but are restricted by GOA Pacific cod sideboard

limits. In each of the action alternatives, the Council included two options that would the exemption fishery if sufficient Pacific cod TAC was available on November 1.

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Alternative 2: **Under this alternative, two groups of non-AFA crab vessels/licenses would be exempt from GOA Pacific side board limits from November 1 to December 31. The first group, GOA Pacific cod prohibited vessels/licenses would be authorized to target GOA Pacific cod during November 1 to December 31 and not be limited by sideboards. The second group, those non-AFA crab vessels/licenses qualified to target GOA Pacific cod, would be exempt from sideboard limits November 1 – December 31.**

Suboption 2.1 The exemption would apply if up to 10% to 30% of the B season Pacific cod TAC remains unharvested prior to November 1 for inshore and offshore components of the WGOA and CGOA.

Suboption 2.2 The exemption would apply if up to 0 to 5,000 mt of B season Pacific cod TAC remains unharvested prior to November 1 for inshore and offshore components of the WGOA and CGOA.

Alternative 3: Exempt from GOA B season Pacific cod sideboard limits during November 1 – December 31 for those non-AFA crab vessels that are restricted by GOA Pacific cod sideboard limits.

Suboption 3.1 The exemption would apply if up to 10% to 30% of the B season Pacific cod TAC remains unharvested prior to November 1 for inshore and offshore components of the WGOA and CGOA.

Suboption 3.2 The exemption would apply if up to 0 to 5,000 mt of B season Pacific cod TAC remains unharvested prior to November 1 for inshore and offshore components of the WGOA and CGOA.

This exemption only applies to non-AFA crab vessels/LLPs that are eligible to participate in the GOA Pacific cod fishery (have appropriate LLP).

The intent of the proposed action is to address National Standard 1, which is to more fully utilize GOA Pacific cod TAC so as not to impact other GOA Pacific cod dependent vessels. Under Alternatives 2, NMFS would relax B season Pacific cod sideboard restrictions after November 1 for non-AFA crab vessels/licenses that are restricted by GOA groundfish sideboard limits in the inshore and offshore components of the western GOA and/or central GOA if up to 10 to 30 percent of the B season TAC remains unharvested and/or if up to 0 to 5,000 mt of Pacific cod TAC remains unharvested. Alternative 3 would accomplish the same, but would limit the exemption to only those non-AFA crab vessels/licenses that are permitted to target GOA Pacific cod but are restricted by the GOA Pacific cod sideboard limits.

## 2.3 Background

### 2.3.1 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 catcher vessels and hook-and-line catcher processors. Smaller amounts of cod are taken by other sectors, including catcher vessels using jig gear. Pacific cod is the second most dominant species among the commercial groundfish catch in the GOA, accounting for about 51,400 mt or 27% of the total 2007 commercial groundfish catch. About 15% of the total commercial Pacific cod catch off

Alaska is harvested in the GOA, with the remaining 85% harvested in the Bering Sea and Aleutian Islands (BSAI).

In the GOA, trawl landings of Pacific cod have been declining since they peaked in 1990 and 1991 at nearly 60,000 mt per year. Harvests by hook-and-line during this 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. Since 2003, vessels using pot gear have harvested a larger share of Gulf of Alaska Pacific cod than the trawl or hook-and-line sectors. Total catch of Pacific cod peaked in 1999, at 81,785 mt, but has since declined to 47,646 mt in 2006. Total Federal catch as a percentage of the Federal TAC has declined since Steller sea lion regulations went into effect in 2001. From 1995-2000, 99% of the Federal TAC was harvested, and from 2001 - 2006, only 86% of the Federal TAC was harvested. Table 2-1 provides GOA Pacific cod catch by gear from 2000 - 2009.

**Table 2-1 Pacific cod catch (mt) by gear type in the Federal and State fisheries in the Gulf of Alaska, TAC and ABC, from 2000 - 2009**

Year	Federal				Total Federal Catch	Federal TAC	State		Total Catch
	Trawl	Longline	Pot	Other			Pot	Other	
2000	25,441	11,500	17,274	50	54,266	58,715	10,399	1,638	66,303
2001	24,382	9,825	7,171	155	41,532	52,110	7,841	2,076	51,499
2002	19,809	14,667	7,694	176	42,306	44,230	10,505	1,706	54,516
2003	18,913	9,475	12,675	90	41,152	40,540	8,132	3,291	52,575
2004	17,472	10,317	14,884	345	43,017	48,033	10,874	2,731	56,622
2005	14,509	5,730	14,684	203	35,127	44,433	10,020	2,694	47,840
2006	13,111	10,167	14,412	118	37,807	52,264	9,248	690	48,145
2007	14,746	11,411	13,523	41	39,721	52,264	11,904 (total)		51,760
2008	20,101	12,017	11,313	62	43,494	50,269	13,396 (total)		56,890
2009	13,905	13,683	11,615	194	39,397	41,807	12,690 (total)		52,087

Source: NMFS Blend and Catch Accounting databases (2000 - 2009 Federal catch).

Fishing effort for Pacific cod is widely distributed along the shelf edge in the GOA. Trawl effort was also located near Chirikof, Cape Barnabus, Cape Chiniak, and Marmot Flats. The hook-and-line fishery primarily occurs at depths of 25 to 140 fathoms over gravel, cobble, mud, sand, and rocky bottoms (Livingston et al. 2002).

Additional descriptions of the GOA Pacific cod fisheries are included in the Groundfish Economic Stock Assessment and Fishery Evaluation (SAFE) report (Hiatt et al. 2007) and the Groundfish PSEIS (NOAA 2004a). The SAFE document includes information on catch and revenues from the fisheries, the numbers and sizes of fishing vessels and processing plants, and other economic variables that describe or relate to the performance of the fisheries.

### 2.3.2 Management of the GOA Pacific Cod Fishery

Three separate area TACs are identified for Pacific cod: western GOA, central GOA, and eastern GOA. Final 2008 harvest specifications apportioned 57% of the GOA catch to the central GOA (28,426 mt) and 39% to the western GOA (19,449 mt). The GOA Pacific cod TACs are not divided among gear types, but are apportioned to the inshore and offshore processing sectors, with 90 percent allocated to the inshore component and 10 percent to the offshore component. In addition, the TACs are apportioned seasonally, with 60 percent of the TACs allocated to the A season and 40 percent to the B season. The A and B seasons were implemented in 2001, as a Steller sea lion protection measure. The A season begins on

January 1st for fixed gear vessels, and on January 20th for trawl vessels. The A season ends on June 10th, but NMFS usually closes the season much earlier when the TAC has been fully fished. The B season begins on September 1st for all gear types, and ends November 1st for trawl vessels and December 31st for non-trawl vessels. However, the B season usually closes much earlier for the trawl sector, and often closes early for the hook-and-line sector as well, due to halibut PSC restrictions.

Inseason managers monitor catch in the fishery, timing the closure of a directed fishery to allow full harvest of the TAC. 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. Managers attempt to time the A season closure to leave a sufficient portion of the A season TAC available for incidental catch by other directed fisheries. Incidental catch continues to accrue to the A season TAC until the A season ends. Any overage or incidental catch between the A season and the B season is deducted from the B season TAC. Incidental catch when the directed fishery is closed 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 percent. When Pacific cod fishery is not open for directed fishing, a vessel may retain Pacific cod in an amount up to 20 percent of its catch of species that are open for directed fishing.<sup>1</sup> Pacific cod are also an improved retention/improved utilization (IR/IU) species. All catch of IR/IU species must be retained when the fishery is open for directed fishing, and all catch up to the MRA must be retained when the fishery is closed to directed fishing.

### **2.3.3 Total catch of Pacific cod in the Gulf of Alaska**

In recent years, the GOA Pacific cod TACs have been nearly fully harvested. The TAC, total catch, and percentage of TAC harvested in the Pacific cod fisheries in the western and central GOA are summarized in Table 2-2. As indicated in Table 2-3, during 4 of the last 7 years, the inshore sector in the western GOA harvested less than 90 percent of the TAC. In contrast, Table 2-4 indicates that in the central GOA, the inshore sector harvested more than 90 percent of the TAC in all but one of the last seven years. During 2004 through 2006, in both management areas, the offshore sector harvested 75 percent or less of the TAC.

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<sup>1</sup> Pacific cod are also retained in the halibut and sablefish IFQ program. Vessels fishing IFQ are required to retain Pacific cod up to the MRA, except if Pacific cod is on PSC status.

**Table 2-2 Total allowable catch (mt) of Pacific cod in the Federal Pacific cod fisheries in the western and central GOA, 2000 - 2009**

Year	Western GOA			Central GOA		
	Federal TAC	Total Catch	Percent of TAC Harvested	Federal TAC	Total Catch	Percent of TAC Harvested
2000	20,625	21,867	106.0	34,080	32,188	94.4
2001	18,300	14,161	77.4	30,250	27,324	90.3
2002	16,849	17,168	101.9	24,790	25,058	101.1
2003	15,450	16,235	105.1	22,690	24,828	109.4
2004	16,957	15,554	91.7	27,116	27,464	101.3
2005	15,687	12,402	79.1	25,086	22,595	90.1
2006	20,141	14,742	73.2	28,405	23,011	81.0
2007	20,141	13,401	66.5	28,405	25,985	91.5
2008	19,449	14,902	74.9	28,426	28,309	99.6
2009	16,175	15,167	93.8	23,150	23,447	101.3

Source: NMFS Blend (2000-2002) and Catch Accounting (2003-2009) databases.

**Table 2-3 Pacific cod catch (mt) and percentage of the TAC harvested in the inshore and offshore sectors in the western GOA, 2001 - 2009**

Year	Inshore			Offshore		
	Federal TAC	Total Catch	Percent of TAC Harvested	Federal TAC	Total Catch	Percent of TAC Harvested
2001	16,470	12,461	75.7	1,830	1,700	92.9
2002	15,164	15,541	102.5	1,685	1,627	96.6
2003	13,905	14,029	100.9	1,545	2,205	142.7
2004	15,261	14,274	93.5	1,696	1,281	75.5
2005	14,118	11,978	84.8	1,569	423	27.0
2006	18,127	13,648	75.3	2,014	1,095	54.4
2007	18,127	12,262	67.6	2,014	1,139	56.6
2008	17,504	13,435	76.8	1,945	1,467	75.4
2009	14,558	14,095	96.8	1,618	1,073	66.3

Source: NMFS Blend (2001-2002) and Catch Accounting (2003-2009) databases.

**Table 2-4 Pacific cod catch (mt) and percentage of the TAC harvested in the inshore and offshore sectors in the central GOA, 2001 - 2009**

Year	Inshore			Offshore		
	TAC	Total Catch	Percent of TAC Harvested	TAC	Total Catch	Percent of TAC Harvested
2001	27,255	25,255	92.7	3,025	2,066	68.3
2002	22,311	22,665	101.6	2,479	2,393	96.5
2003	20,421	22,601	110.7	2,269	2,228	98.2
2004	24,404	25,533	104.6	2,712	1,931	71.2
2005	22,577	22,234	98.5	2,509	361	14.4
2006	25,565	21,609	84.5	2,840	1,402	49.4
2007	25,565	24,847	97.2	2,840	1,138	40.1
2008	25,583	27,048	105.7	2,837	1,262	44.5
2009	20,835	21,650	103.9	2,315	1,798	77.7

Source: NMFS Blend database (2001-2002) and Catch Accounting (2003-2009) databases.



The A and B season TACs are not utilized equally (see Table 2-5 and Table 2-6). The A season TAC, which is harvested when Pacific cod are aggregated on the fishing grounds, is typically fully harvested. In recent years, A season catches have exceeded A season TACs in both the western and central GOA. Most of this overage is a result of incidental catch after the A season has closed to directed fishing, but prior the official end of the A season on June 10th. Incidental catch made between the A and B season accrues to the B season TAC, but due to limited directed fishing effort during the B season, much of the B season TACs have remained unharvested.

**Table 2-5 Pacific cod catch (mt) during the A and B seasons by the inshore and offshore sectors in the western GOA, 2003 – 2009**

Year	Inshore						Offshore					
	A season			B season			A season			B season		
	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested
2003	8,343	10,057	120.5	5,562	3,972	71.4	927	2040	220.1	618	165	26.7
2004	9,157	10,536	115.1	6,104	3,738	61.2	1017	626	61.6	679	655	96.5
2005	8,471	10,298	121.6	5,647	1,686	29.9	941	123	13.1	628	300	47.8
2006	10,876	12,299	113.1	7,251	1,349	18.6	1208	666	55.1	806	429	53.2
2007	10,876	10,836	99.6	7,251	1,427	19.7	1208	643	53.2	806	497	61.7
2008	10,502	10,649	101.4	7,002	2,776	39.6	1,167	1,327	113.7	778	139	17.9
2009	8,735	9,834	112.6	5,823	4,637	79.6	971	871	89.7	647	202	31.2

Source: NMFS Annual Catch Reports, 2003-2009.

**Table 2-6 Pacific cod catch (mt) during the A and B seasons by the inshore and offshore sectors in the central GOA, 2003 - 2009**

Year	Inshore						Offshore					
	A season			B season			A season			B season		
	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested
2003	12,253	15,679	128.0	8,168	6,922	84.7	1,361	1,440	105.8	788	908	115.2
2004	14,643	15,673	107.0	9,761	9,860	101.0	1,627	1,347	82.8	1,085	584	53.8
2005	13,547	12,688	93.7	9,660	9,660	100.0	1,414	91	6.4	1,003	270	26.9
2006	15,339	15,529	101.2	10,226	6,083	59.5	1,679	25	1.5	1,136	1,378	121.3
2007	15,339	15,234	99.3	10,226	9,613	94.0	1,704	43	2.5	1,136	1,376	96.5
2008	15,350	18,013	117.4	10,233	8,738	85.4	1,702	1,773	104.2	1,135	19	1.7
2009	12,501	18,590	148.7	8,334	5,895	70.7	1,389	1,429	120.8	926	378	40.8

Source: NMFS Annual Catch Reports, 2003-2009.

Short season lengths are another indication that the GOA Pacific cod fishery is fully utilized. In recent years, the A seasons for the Gulf Pacific cod fisheries have closed approximately one month after the trawl gear opening on January 20<sup>th</sup>, because the TAC has been fully harvested (see Table 2-7). In 2005, in the central GOA, the A season inshore TAC was fully fished just 7 days after the trawl season opened. Halibut PSC restrictions have occasionally limited A season harvests by the trawl sector. During the B season, the trawl fishery has been closed due to halibut PSC restrictions in 4 of the past 7 years (see Table 2-8 and Table 2-9). The hook-and-line sector's B season has been closed twice in the past 7 years due to halibut PSC limits and twice due to TAC.

**Table 2-7 Pacific cod A season closures for the western and central GOA, 2001 - 2009**

Year	Western GOA				Central GOA			
	Inshore		Offshore		Inshore		Offshore	
	Date	Reason	Date	Reason	Date	Reason	Date	Reason
2001	27-Feb	TAC	24-May	TAC	4-Mar	TAC	24-May (TRW)	HAL
2002	26-Feb	TAC	9-Feb	TAC	9-Mar	TAC	25-Mar	TAC
2003	17-Feb	TAC	20-Mar	TAC	9-Feb	TAC	1-Feb	TAC
2004	24-Feb	TAC	8-Mar	TAC	31-Jan	TAC	2-Feb	TAC
2005	24-Feb	TAC	22-Feb	TAC	26-Jan	TAC	22-Feb	TAC
2006	23-Feb (TRW) <sup>1</sup>	HAL	19-Feb	TAC	23-Feb (TRW) <sup>2</sup>	HAL	19-Feb	TAC
2007	8-Mar	TAC	14-Feb	TAC	27-Feb	TAC	14-Feb	TAC
2008	29-Feb	TAC	4-Mar	TAC	1-Mar	TAC	9-Mar	TAC
2009	25-Feb	TAC	10-Jun	REG	27-Jan	TAC	19-Feb	TAC

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

1 Season closed to other gear groups on March 2 when TAC reached.

2 Season closed to other gear groups on Feb 28 when TAC reached.

**Table 2-8 Pacific cod B season closures for the trawl and hook-and-line sectors in the western GOA, 2001 - 2009**

Year	Inshore		Offshore		Inshore		Offshore	
	Trawl				Hook-and-line			
	Date	Reason	Date	Reason	Date	Reason	Date	Reason
2001	21-Oct	HAL	21-Oct	HAL	4-Sep	HAL	4-Sep	HAL
2002	13-Oct	HAL	3-Oct	TAC	23-Nov	TAC	3-Oct	TAC
2003	12-Sep	HAL	not opened	TAC	25-Sep	TAC	not opened	TAC
2004	1-Oct	HAL	1-Oct	HAL	2-Oct	HAL	2-Oct	HAL
2005	1-Oct	HAL	1-Oct	HAL	31-Dec	REG	31-Dec	REG
2006	8-Oct	HAL	8-Oct	HAL	31-Dec	REG	31-Dec	REG
2007	1-Nov	REG	1-Nov	REG	31-Dec	REG	31-Dec	REG
2008	1-Nov	REG	1-Nov	REG	16-Oct	HAL	16-Oct	HAL
2009	1-Nov	REG	1-Nov	REG	31-Dec	REG	31-Dec	REG

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

**Table 2-9 Pacific cod B season closures for the trawl and hook-and-line sectors in the central GOA, 2001 - 2009**

Year	Inshore		Offshore		Inshore		Offshore	
	Trawl				Hook-and-line			
	Date	Reason	Date	Reason	Date	Reason	Date	Reason
2001	21-Oct	HAL	21-Oct	HAL	4-Sep	HAL	4-Sep	HAL
2002	not opened	TAC	8-Oct	TAC	26-Sep	TAC	8-Oct	TAC
2003	3-Sep	TAC	14-Oct	TAC	3-Sep	TAC	14-Oct	TAC
2004	1-Oct	HAL	1-Oct	HAL	2-Oct	HAL	2-Oct	HAL
2005	1-Oct	HAL	1-Oct	HAL	31-Dec	REG	31-Dec	REG
2006	8-Oct	HAL	8-Oct	HAL	31-Dec	REG	31-Dec	REG
2007	1-Nov	REG	1-Nov	REG	31-Dec	REG	31-Dec	REG
2008	3-Oct	TAC	1-Nov	REG	3-Oct	TAC	16-Oct	HAL
2009	2-Sep	HAL	1-Nov	REG	1-Oct	TAC	31-Dec	REG

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

### 2.3.4 Management of the GOA Non-AFA snow crab sideboards

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 included GOA groundfish sideboard limits for vessels and licenses that had Bering Sea snow crab history that contributed to an IFQ.

Figure 2-1 provides a diagram of these sideboard limits. GOA groundfish (other than Pacific cod and fixed-gear sablefish) sideboard limits for non-AFA crab vessels are based on GOA groundfish landings by qualified vessels relative to groundfish landings by all vessels from 1996 to 2000. For GOA Pacific cod, the sideboard limit is based on retained catch of Pacific cod by qualified vessels, excluding BSAI snow crab qualified vessels that are prohibited from participating in the GOA Pacific cod fishery and vessels exempt from GOA sideboards limits, divided by the total retained catch of Pacific cod by all groundfish vessels. These same GOA groundfish sideboard restrictions apply in the State of Alaska parallel groundfish fisheries for those qualified BSAI snow crab vessels with a Federal Fisheries Permit or LLP license. Table 2-10 shows the GOA Pacific cod sideboard ratios for the non-AFA crab vessels and the 2009 sideboard limits.

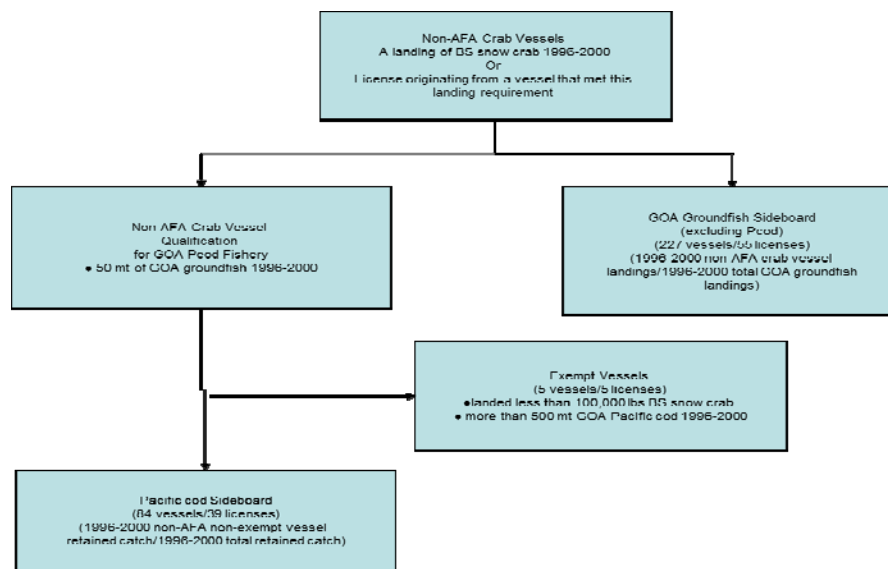


Figure 2-1 Diagram of Non-AFA crab vessel sideboard program for the GOA

**Table 2-10 Final 2009 GOA non-AFA crab vessel groundfish harvest sideboard limitations for Pacific cod**

Species	Apportions and allocations by area/processor/gear	Ratio of 1996-2000 non-AFA crab vessel catch to 1996-2000 total harvest	Proposed 2009 TAC (mt)	2009 non-AFA crab vessel sideboard limit (mt)
Pacific cod	<b>A Season</b>			
	<b>January 1 - June 10</b>			
	W inshore	0.0902	8,735	788
	W offshore	0.2046	970	198
	C inshore	0.0383	12,767	489
	C offshore	0.2074	1,418	294
	<b>B Season</b>			
	<b>September 1 - December 31</b>			
	W inshore	0.0902	5,823	525
	W offshore	0.2046	647	132
	C inshore	0.0383	8,510	326
	C offshore	0.2074	946	196
	<b>Annual</b>			
	E inshore	0.011	1,792	20
	E offshore	0	199	0

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 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 that generated Bering Sea snow crab fishery quota share.

There is an exemption from GOA Pacific cod sideboard limits for qualified vessels. Exempt BSAI snow crab qualified vessels must have landed less than 100,000 lbs of Bering Sea snow crab and more than 500 mt of GOA Pacific cod during the 1996 and 2000 period. The exemption was developed for non-AFA crab vessels that demonstrated dependence on the GOA Pacific cod fishery. The catch history of the exempt vessels was not included in the sideboard calculations. Since their historic catch was not included in the sideboard limits, catch of 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.

Although not yet implemented, the Council in October 2008 expanded the GOA Pacific cod exemption for qualified BSAI snow crab qualified vessels. In order to qualify for the exemption, a vessel must have Bering Sea snow crab history less than 750,000 pounds over the period 1996 – 2000 and the vessel must have landed more than 680 mt of GOA Pacific cod over that same period. The intent of this action is to exempt those GOA Pacific cod dependent vessels that were restricted by GOA Pacific cod sideboard limits when the crab program was implemented in 2005.

Since LLPs can move among vessels, it is possible that the sideboard limits on a vessel could differ from those associated with the license assigned to that vessel. In cases where vessels are subject to one sideboard (i.e., GOA Pacific cod sideboard) and the LLP license used on that vessel is more restrictive (i.e., prohibited from fishing GOA Pacific cod) the more restrictive measure applies. The converse is true

as well, LLP licenses subject to GOA Pacific cod sideboard and used on a vessel prohibited from fishing GOA Pacific cod would not relieve that vessel from the prohibition on GOA Pacific cod fishing.

There are 227 non-AFA crab vessels that made a landing of BS snow crab during the 1996 to 2000 period that contributed to an IFQ. These vessels range in size from 70 feet length overall to 203 feet length overall (see Figure 2-2). Of the 227 non-AFA crab vessels, 138 are prohibited from fishing for GOA Pacific cod, 84 are allowed to target GOA Pacific cod, but are limited by GOA Pacific cod sideboards, and 5 are exempt from the GOA Pacific cod sideboard limits. Any vessel that uses an LLP that originated on a qualified non-AFA crab vessel is also limited by the GOA groundfish sideboards. There are 55 groundfish LLP licenses that originated on non-AFA crab vessels. Of the 55 licenses, 11 licenses prohibit the vessel using that license from directed fishing in the GOA Pacific cod fishery, 39 licenses limit the vessel using that LLP license to the GOA Pacific cod sideboard, and 5 licenses would exempt the vessel using the license from the GOA Pacific cod sideboard limit.

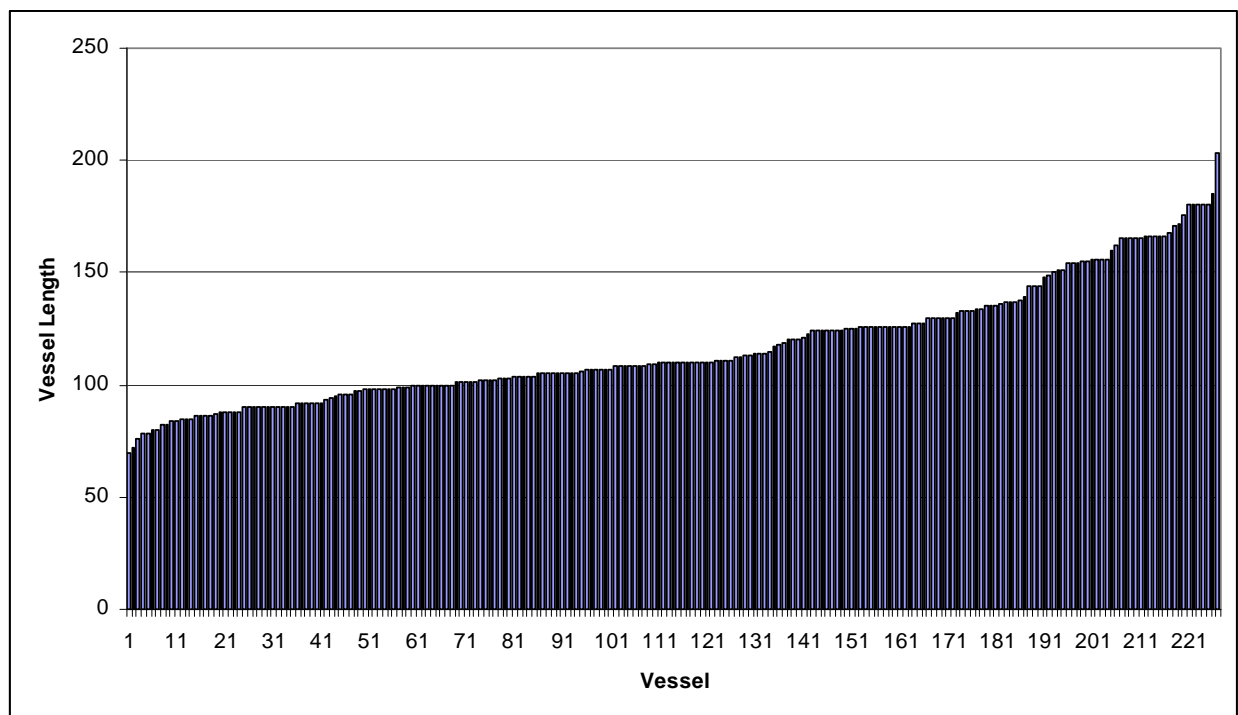


Figure 2-2 Length overall of the 227 non-AFA crab vessels

NMFS manages the sideboard limits by setting a single sideboard cap for each GOA groundfish species. That amount is then made available to all qualified vessels subject to the cap, on a seasonal basis, at the beginning of the year. All targeted or incidental catch of sideboard species made by the non-AFA crab vessels will be deducted from the sideboard limit.

NMFS will close the directed fisheries to those non-AFA BSAI snow crab vessels subject to the cap that qualify to participate in the GOA groundfish fisheries when sideboard amounts are inadequate to support a directed fishery. The exception would be those vessels that are exempt from GOA Pacific cod sideboards. These exempt vessels would be allowed to fish for GOA Pacific cod, as long as directed fishing for Pacific cod is open.

Sideboard limit closures will be timed so that adequate amounts of the species are available for bycatch needs in other directed fisheries. This is done to help ensure that no sideboard caps are exceeded. NMFS will only open directed fishing for a species when adequate sideboard amounts exist at the start of the fishing year to cover both the bycatch needs for that species in other fisheries and the directed fishery harvest. In 2006 and 2007, only the western and central GOA Pacific cod were open for directed fishing for the qualified non-AFA crab sideboard vessels.

Table 2-11 provides annual total catch of GOA Pacific cod and other groundfish from 1995 to 2009 for non-AFA crab vessels excluding those vessels that are currently exempt from GOA Pacific cod sideboard limits. Prior to implementation of the crab sideboard limits, total catch of GOA Pacific cod by the non-AFA crab vessels ranged from 2,434 mt to 11,153 mt. During the 2006 fishing year, the GOA Pacific cod sideboard catch was 5,037 mt, while the limit was 3,615 mt. In 2006, the sideboard catch exceeded the sideboard limit due to a sideboard regulation being implemented in August 2006, which was after the A season was completed.

**Table 2-11 Total catch (mt) of non-AFA crab vessels from 1995 - 2009 minus the 5 vessels exempt from Pacific cod sideboards**

Year	Pacific cod	Other Groundfish
1995	3,651	127
1996	2,618	763
1997	2,434	590
1998	3,430	1,597
1999	7,651	1,375
2000	11,153	1,424
2001	3,464	2,660
2002	4,215	2,035
2003	4,953	1,477
2004	5,876	1,033
2005	6,760	2,629
2006	6,471	2,462
2007	6,760	2,629
2008	3,276	719
2009	2,520	853

Source: Table is from RIR Tables.xls, while raw data is from non\_afa\_snow\_crab\_cvs.xls and non\_afa\_snow\_crab\_cp5.xls which originated from ADF&G fish tickets for catcher vessels and blend data/catch accounting for catcher processors. Data does not include State water Pacific cod catch and sablefish and halibut IFQ bycatch of Pacific cod IFQ fisheries.

Table 2-12 provides a brief summary of the western and central GOA Pacific cod sideboard fishery closures during 2006 to 2009. The important point of this table is that it shows that, with the exception of 2009 in the western GOA, Pacific cod in both areas during the A season closed prematurely, as a result of the sideboard limit being reached during the early February period. The B season inshore sideboard fishery also closed prior to the end of the fishing season as a result of the sideboard limit being reached, again with the exception of 2009.

**Table 2-12 Sideboard fishery closure dates for Western and Central GOA Pacific cod during 2006 - 2009**

Area	Season	Inshore				Offshore			
		2006	2007	2008	2009	2006	2007	2008	2009
Western GOA	A	2 Mar (TAC)	16 Feb (TAC)	4 Feb (TAC)	22 Feb (TAC)	19 Feb (TAC)	14 Feb (TAC)	27 Feb (TAC)	10-Jun
	B	21 Aug (TAC)	14 Oct (TAC)	3 Oct (TAC)	31-Dec	12 Oct (TAC)	31-Dec	31-Dec	31-Dec
Central GOA	A	28 Feb (TAC)	24 Jan (TAC)	9 Feb (TAC)	13 Jan (TAC)	19 Feb (TAC)	14 Feb (TAC)	26 Feb (TAC)	19 Feb (TAC)
	B	21 Aug (TAC)	11 Oct (TAC)	26 Sep (TAC)	31-Dec	31-Dec	31-Dec	31-Dec	31-Dec

Source: NMFS Status of Fisheries/Closure Summary.

Table 2-13 provides an annual vessel count of the non-AFA crab vessels, by sideboard category in the GOA Pacific cod fishery from 1995 to 2009 that caught GOA Pacific cod. The number of Pacific cod exempt non-AFA crab vessels ranged between 4 and 5 during this period. For Pacific cod prohibited non-AFA crab vessels, the numbers ranged from 15 vessels in 1995, to 2 vessels in 1997. For Pacific cod sideboard non-AFA crab vessels, the vessel numbers ranged from 15 in 1997 to 60 in 2000. Since implementation of the sideboards on the non-AFA crab vessels, only 22 vessels recorded GOA Pacific cod catch. Finally, the number of other vessels that caught GOA Pacific cod has ranged from 476 in 1995, to 258 in 2006.

**Table 2-13 Number of vessels fishing in the GOA Pacific cod fishery by sideboard category**

Year	Pacific cod exempt vessels	Pacific cod prohibited vessels	Pacific cod sideboard vessels	Other Pacific cod vessels
1995	4	15	42	476
1996	5	8	28	414
1997	4	2	15	419
1998	4	6	26	412
1999	5	8	35	383
2000	5	11	60	399
2001	5	3	25	348
2002	4	7	20	287
2003	4	3	20	265
2004	4	6	21	281
2005	4	8	18	260
2006	4	6	22	258
2007	4	2	22	276
2008	4	2	27	306
2009	5	2	15	294

Source: non\_afa\_snow\_crab\_cvs.xls and non\_afa\_snow\_crab\_cp5.xls from ADF&G fish tickets for catcher vessels and blend data/catch accounting for catcher processors.

Table 2-14 provides GOA Pacific cod catch for non-AFA crab vessels by sideboard category, while Table 2-15 provides annual percent of GOA Pacific cod caught by each vessel group. Overall, the total catch of GOA Pacific cod has declined during the 1995 to 2009 period. In 1995, the combined catch of GOA Pacific cod by all vessels was 68,182 mt, while the combined catch in 2005 was 34,353 mt. For the Pacific cod exempt non-AFA crab vessels, on average their percent of the total GOA Pacific cod catch is 3.5 percent, with a catch range of 2,762 mt in 1996 to 1,016 mt in 2001. For non-AFA crab vessels prohibited from targeting GOA Pacific cod, on average their percent of the total GOA Pacific cod catch is 1.2 percent. Note that the sideboard regulations were not implemented until March 2006, which may explain the 2006 sideboard catch of 1,434 mt for this group of vessels. For the non-AFA crab vessels that are restricted by Pacific cod sideboards, on average their percent of the total GOA Pacific cod catch is 8.6 percent. Finally, GOA Pacific cod for other Pacific cod vessels on average account for 86.8 percent of all GOA Pacific cod catch.

**Table 2-14 GOA Pacific cod catch (mt) of non-AFA crab vessels by sideboard category from 1995 - 2009**

Year	Pacific Cod Exempt Vessel Catch	Pacific Cod Prohibited Vessel Catch	Pacific Cod Sideboard Vessel Catch	Other Pacific Cod Vessel Catch	Total Catch
1995	2,141	358	3,293	62,389	68,182
1996	2,762	62	2,556	63,447	68,827
1997	1,710	*	*	65,214	69,357
1998	2,508	53	3,377	57,470	63,409
1999	2,488	689	6,962	57,624	67,764
2000	1,388	429	10,724	41,456	53,997
2001	1,016	1,163	2,301	37,255	41,735
2002	1,077	1,142	3,073	35,429	40,721
2003	1,317	570	4,384	33,884	40,154
2004	1,080	563	5,313	34,768	41,724
2005	2,210	1,632	5,128	25,383	34,353
2006	1,807	1,434	5,037	28,186	36,464
2007	1,567	*	*	33,107	38,144
2008	949	22	2,526	26,171	29,667
2009	812	31	1,464	22,769	25,076

Source: non\_afa\_snow\_crab\_cvs.xls and non\_afa\_snow\_crab\_cp5.xls from ADF&G fish tickets for catcher vessels and blend data/catch accounting for catcher processors. Data does not include State water Pacific cod catch and sablefish and halibut IFQ bycatch of Pacific cod.

\*Concealed for confidentiality

**Table 2-15 Percent of GOA Pacific cod catch by sideboard category from 1995 - 2009**

Year	Pacific Cod Exempt Vessel Percent of Total Catch	Pacific Cod Prohibited Vessel Percent of Total Catch	Pacific Cod Sideboard Vessel Percent of Total Catch	Other Pacific Cod Vessels Percent of Total Catch
1995	3.1%	0.5%	4.8%	91.5%
1996	4.0%	0.1%	3.7%	92.2%
1997	2.5%	*	*	94.0%
1998	4.0%	0.1%	5.3%	90.6%
1999	3.7%	1.0%	10.3%	85.0%
2000	2.6%	0.8%	19.9%	76.8%
2001	2.4%	2.8%	5.5%	89.3%
2002	2.6%	2.8%	7.5%	87.0%
2003	3.3%	1.4%	10.9%	84.4%
2004	2.6%	1.3%	12.7%	83.3%
2005	6.4%	4.8%	14.9%	73.9%
2006	5.0%	3.9%	13.8%	77.3%
2007	4.1%	*	*	86.8%
2008	3.2%	0.1%	8.5%	88.2%
2009	3.2%	0.1%	5.8%	90.8%
<b>Average</b>	<b>3.5%</b>	<b>1.2%</b>	<b>8.6%</b>	<b>86.8%</b>

Source: non\_afa\_snow\_crab\_cvs.xls and non\_afa\_snow\_crab\_cp5.xls from ADF&G fish tickets for catcher vessels and blend data/catch accounting for catcher processors. Data does not include State water Pacific cod catch and sablefish and halibut IFQ bycatch of Pacific cod.

\*Concealed for confidentiality



### 2.3.5 Ex-vessel prices and gross revenues

Ex-vessel prices for GOA Pacific cod landed by the fixed gear sectors ranged from \$0.267 to \$0.56 per pound round weight, during 2002 – 2008 (see Table 2-16). During this same time period, prices for the trawl sector ranged from \$0.234 – \$0.494 per pound round weight.

**Table 2-16 Ex-vessel prices (dollars) in the Gulf of Alaska Pacific cod fisheries**

Year	Fixed Gear	Trawl Gear
2002	0.287	0.234
2003	0.304	0.282
2004	0.267	0.251
2005	0.297	0.269
2006	0.396	0.369
2007	0.487	0.494
2008	0.560	0.429

Source: 2009 Economic SAFE, Table 18.

### 2.3.6 First wholesale prices and revenues

Table 2-17 provides price per pound for Pacific cod products in the fisheries off Alaska by processing mode, from 2002 to 2008. First wholesale revenues for Pacific cod off Alaska are estimated in the 2008 Economic SAFE (Hiatt et al., 2009). In 2008, the average price per pound for all cod products was \$1.89 per pound for at-sea processors and \$1.73 per pound for shoreside processors. The 'all products' price estimate is a weighted average of all product prices.

**Table 2-17 Price per pound of Pacific cod products in the fisheries off Alaska by processing sector, 2002-2008 (dollars)**

Year	Whole fish		Head & gut		Filletts		Other products		All products	
	At-sea	Shoreside	At-sea	Shoreside	At-sea	Shoreside	At-sea	Shoreside	At-sea	Shoreside
2002	0.29	0.41	0.97	0.99	1.58	2.28	1.03	0.79	0.98	1.31
2003	0.41	0.56	1.13	0.98	2.29	2.18	0.89	0.56	1.14	1.26
2004	0.43	0.54	1.09	1.04	2.2	2.13	1.02	0.8	1.09	1.26
2005	0.56	0.58	1.29	1.5	2.07	2.72	1.32	0.81	1.29	1.65
2006	0.65	0.79	1.67	1.38	3.35	3.12	1.21	0.94	1.66	1.76
2007	0.66	0.92	1.86	1.64	2.74	3.63	1.30	0.96	1.84	1.81
2008	0.56	0.67	1.91	1.65	4.12	3.88	0.98	0.65	1.89	1.73

Source: 2009 Economic SAFE, Table 26.

## 2.4 Expected Effects of the Alternatives

### 2.4.1 Alternative 1 – Status Quo

Under Alternative 1, there would be no change to the B season Pacific cod sideboard limit after November 1 for non-AFA crab vessels. Participation levels by non-AFA crab vessels to which the GOA Pacific cod sideboard applies would likely remain at the current level. As noted in Table 2-12, the GOA Pacific cod sideboard fishery closed prematurely during the 2006 through 2009 fishing years. As a result, those non-AFA crab vessels that have been constrained in their catch of GOA Pacific cod in the sideboard fishery during the 2006 through 2009 years, will likely continue to be constrained in the future under status quo despite the availability of B season GOA Pacific cod quota.

Under status quo there is the potential that large amounts of GOA Pacific cod TAC to remain unharvested at the end of the B season. As noted in Table 2-18, large amounts of the B season inshore Pacific cod quota were left unharvested for both western GOA inshore and offshore during the 2005 to 2008 period, but in 2009 the amount left at the end of the year diminished considerably. Looking at closures due to TAC or halibut PSC restrictions, only 2005, 2006, 2007, and 2009 remained open throughout the entire B season (Table 2-19). In 2003, the western GOA Pacific cod fishery was closed for inshore on September 25 due to exceeding the A season TAC, while the offshore B season fishery never opened. In 2004, the western GOA Pacific cod fishery for inshore and offshore closed on October 2 due to halibut PSC restrictions. In 2008, the Pacific cod fishery for inshore and offshore closed on October 16 due to halibut PSC restrictions.

**Table 2-18 Pacific cod catch (mt) during the A and B seasons by the inshore and offshore sectors in the western GOA, 2003 - 2009**

Year	Inshore						Offshore					
	A season			B season			A season			B season		
	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested
2003	8,343	10,057	120.5	5,562	3,972	71.4	927	2040	220.1	618	165	26.7
2004	9,157	10,536	115.1	6,104	3,738	61.2	1017	626	61.6	679	655	96.5
2005	8,471	10,298	121.6	5,647	1,686	29.9	941	123	13.1	628	300	47.8
2006	10,876	12,299	113.1	7,251	1,349	18.6	1208	666	55.1	806	429	53.2
2007	10,876	10,836	99.6	7,251	1,427	19.7	1208	643	53.2	806	497	61.7
2008	10,502	10,649	101.4	7,002	2,776	39.6	1,167	1,327	113.7	778	139	17.9
2009	8,735	9,834	112.6	5,823	4,637	79.6	971	871	89.7	647	202	31.2

Source: NMFS Annual Catch Reports, 2003-2009.

**Table 2-19 Pacific cod B season closures for the hook-and-line sectors in the western GOA, 2003 - 2009**

Year	Inshore		Offshore	
	Date	Reason	Date	Reason
2003	25-Sep	TAC	not opened	TAC
2004	2-Oct	HAL	2-Oct	HAL
2005	31-Dec	REG	31-Dec	REG
2006	31-Dec	REG	31-Dec	REG
2007	31-Dec	REG	31-Dec	REG
2008	16-Oct	HAL	16-Oct	HAL
2009	31-Dec	REG	31-Dec	REG

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

Looking at Table 2-20, available TAC was left unharvested for central GOA inshore in 2003, 2006, 2007, and 2009 while the offshore fishery had available TAC in 2004, 2005, 2007, 2008, and 2009. Looking at closures of the B season central GOA fishery over the 2003 to 2009 period, only 2005, 2006, and 2007 remained open throughout the entire B season (Table 2-21). In 2003, the central GOA Pacific cod fishery was closed for the inshore sector on September 3 due to TAC, while the offshore B season fishery closed on October 14 due TAC. In 2004, the central GOA Pacific cod fishery for inshore and offshore closed on October 2 due to halibut PSC restrictions. In 2008 and 2009, the inshore Pacific cod fishery closed in early October due to TAC, while the offshore Pacific cod fishery in 2008 closed on 16 October due to halibut PSC restrictions.

**Table 2-20 Pacific cod catch (mt) during the A and B seasons by the inshore and offshore sectors in the central GOA, 2003 - 2009**

Year	Inshore						Offshore					
	A season			B season			A season			B season		
	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested	TAC	Catch	Percent harvested
2003	12,253	15,679	128.0	8,168	6,922	84.7	1,361	1,440	105.8	788	908	115.2
2004	14,643	15,673	107.0	9,761	9,860	101.0	1,627	1,347	82.8	1,085	584	53.8
2005	13,547	12,688	93.7	9,660	9,660	100.0	1,414	91	6.4	1,003	270	26.9
2006	15,339	15,529	101.2	10,226	6,083	59.5	1,679	25	1.5	1,136	1,378	121.3
2007	15,339	15,234	99.3	10,226	9,613	94.0	1,704	43	2.5	1,136	1,376	96.5
2008	15,350	15,996	104.2	10,233	11,051	108	1,702	1,149	67.5	1,135	113	9.9
2009	12,501	14,278	114.2	8,334	7,371	88.4	1,389	1,322	95.2	926	476	51.4

Source: NMFS Annual Catch Reports, 2003-2007.

**Table 2-21 Pacific cod B season closures for the hook-and-line sectors in the central GOA, 2003 - 2009**

Year	Inshore		Offshore	
	Date	Reason	Date	Reason
2003	3-Sep	TAC	14-Oct	TAC
2004	2-Oct	HAL	2-Oct	HAL
2005	31-Dec	Reg	31-Dec	Reg
2006	31-Dec	Reg	31-Dec	Reg
2007	31-Dec	Reg	31-Dec	Reg
2008	3-Oct	TAC	16-Oct	HAL
2009	1-Oct	TAC	31-Dec	Reg

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

#### 2.4.2 Alternatives 2 and 3 – Exempt certain vessels from GOA Pacific cod sideboard after November 1.

Under Alternative 2, all non-AFA crab vessels would be allowed to fish in the GOA Pacific cod fishery from November 1- December 31. Included in this alternative are two groups of non-AFA crab vessels. The first group would be those non-AFA crab vessels/LLPs that are restricted from participating in the GOA Pacific cod sideboard fishery, while the second group would be those non-AFA crab vessels/LLPs that are qualified to target GOA Pacific cod but are restricted by sideboard limits. Alternative 3 would exempt only those non-AFA crab vessels qualified to target GOA Pacific cod but are restricted by sideboard limits from GOA Pacific cod sideboard limits. Note that this exemption only applies to those non-AFA crab vessels/LLPs that are eligible to participate in the GOA Pacific cod fishery.

Included in each of the alternatives are two options that would limit the November 1 to December 31 exemption to those years with sufficient TAC to support the additional fishing effort from exempt non-AFA crab vessels. The first option would permit the November 1 – December 31 GOA Pacific cod sideboard exemption if up to 10 to 30 percent of the B season Pacific cod TAC remains unharvested prior to November 1 for inshore and offshore components of the western GOA and central GOA. The second option would permit the sideboard exemption if up to 0 to 5,000 mt of B season Pacific cod TAC remains unharvested prior to November 1 of inshore and offshore components of the western and central GOA.

Looking at the population of non-AFA crab vessels that could be exempt under these two alternatives, there are a total of 227 non-AFA crab vessels and 57 licenses that made a landing of BS snow crab during

the 1996 to 2000 period that contributed to an IFQ. Of that total, 5 non-AFA crab vessels/licenses are already exempt from GOA Pacific cod sideboards and the Council in October 2008 agreed to exempt an additional 3 vessels/licenses from GOA Pacific cod sideboard limits. After removing already exempt vessels/licenses and soon to be exempt vessels/licenses, the remaining 219 non-AFA vessels and 49 licenses would be exempt from the GOA Pacific cod sideboard limits under Alternative 2 and 85 non-AFA crab vessels and 40 LLPs that qualify to participate in the GOA Pacific cod sideboard fishery would be exempt from GOA Pacific cod sideboard limits under Alternative 3. Of the 219 non-AFA crab vessels, 147 vessel owners listed Washington as their state address, 43 owners listed Alaska as their address, and 25 owners listed Oregon as their address. The remaining vessel owners listed their state address as California, Idaho, Maine, Minnesota, and Montana.

In order for a qualified vessel to participate in a directed GOA Pacific cod fishery during the November 1 to December 31 time frame, the vessel must be named on a GOA groundfish LLP license. Of the 219 total non-AFA crab vessels that would qualify under Alternative 2, 23 vessels are named on a central GOA groundfish LLP license, 18 vessels are named on a western GOA groundfish LLP, and 13 vessels are named on both a central and western GOA groundfish LLP license. Of the 85 vessels that qualify under Alternative 3, 16 vessels are named on a central GOA groundfish LLP license, 9 vessels are named on a western GOA groundfish LLP license, and 6 vessels are named on both a central and western GOA groundfish LLP license.

Examining the annual fishing activity in the GOA Pacific cod fishery for the qualified vessels shows that very few of the vessels have been active in this fishery during the November 1 to December 31 period throughout 1995 to 2007. Table 2-22 provides a vessel count of GOA Pacific cod fishery participants after November 1 from 1995 to 2009 for non-AFA crab vessels by sideboard category. Table 2-23 and Table 2-24 provide vessel length for those non-AFA crab vessels active in the Pacific cod prohibited category and the Pacific cod sideboard category shown in Table 2-22. As seen from Table 2-22, more non-AFA crab vessels participated in the western GOA Pacific cod fishery during the 1995 to 2002 period, while central GOA saw more non-AFA crab vessels during the 2005 to 2007 period. Of the few participating non-AFA crab vessels during this period, the Pacific cod sideboard group had the greatest number of vessels participating in the GOA Pacific cod during the November 1 to December 31 period. In contrast, the total number of other Pacific cod dependent vessels active during the November 1 to December 31 time period has been as high as 87 vessels in 2007.

**Table 2-22 Vessel count in the GOA Pacific cod fishery after November 1 by subarea from 1995 to 2009**

Year	Central GOA				Western GOA			
	Pacific cod Prohibited	Pacific cod Sideboard	Pacific cod Exempt	Other Pacific cod dependent vessels	Pacific cod Prohibited	Pacific cod Sideboard	Pacific cod Exempt	Other Pacific cod dependent vessels
1995	0	2	0	14	0	3	0	1
1996	0	0	0	1	0	0	0	2
1997	0	0	0	18	1	0	0	0
1998	0	0	0	2	0	5	0	10
1999	1	0	0	1	0	0	0	0
2000	0	1	0	8	0	0	0	1
2001	0	0	0	5	1	1	1	2
2002	0	0	0	13	1	5	0	12
2003	0	0	0	0	0	0	0	0
2004	0	3	0	8	1	1	0	1
2005	0	4	2	29	0	1	0	12
2006	0	1	3	68	1	0	0	18
2007	0	2	2	87	0	0	0	13
2008	0	0	0	12	0	0	0	12
2009	0	0	0	9	0	1	0	25

Source: non\_afa\_snow\_crab\_cvs.xls and non\_afa\_snow\_crab\_cp5.xls from ADF&G fish tickets for catcher vessels and blend data/catch accounting for catcher processors. Data does not include State water Pacific cod catch and sablefish and halibut IFQ bycatch of Pacific cod IFQ fisheries.

Note: In 2003, the B season Pacific cod fishery closed before November 1.

**Table 2-23 Vessel length of non-AFA crab vessels active in the central GOA Pacific cod fishery during November 1 to December 31 from 1995 to 2007**

Year	Pacific cod prohibited	Pacific cod sideboard
1995		79
		91
1999	90	
2000		165
2004		70
		102
		110
2005		70
		82
		98
		110
2006		127
2007		70
		100

Source: non\_afa\_snow\_crab\_cvs.xls and non\_afa\_snow\_crab\_cp5.xls from ADF&G fish tickets for catcher vessels and blend data/catch accounting for catcher processors.

**Table 2-24 Vessel length of non-AFA crab vessels active in the western GOA Pacific cod fishery during November 1 to December 31 from 1995 to 2009**

Year	Pacific cod prohibited	Pacific cod sideboard
1995		79
		82
		180
1997	125	
1998		82
		91
		100
		101
		110
2001	180	78
2002	125	82
		97
		106
		107
		110
2004	90	103
2005	103	
2006	82	
2009		124

Source: non\_afa\_snow\_crab\_cvs.xls and non\_afa\_snow\_crab\_cp5.xls from ADF&G fish tickets for catcher vessels and blend data/catch accounting for catcher processors.

Despite the limited number of qualified vessels that fished in the GOA Pacific cod fishery during the November 1 to December 31 period, there is a potential that lifting the GOA Pacific cod sideboards during this period could increase fishing pressure on GOA Pacific cod and thereby impact other GOA Pacific cod dependent vessels. Unfortunately, it is not possible to determine with any certainty the extent to which the new exempt vessels would impact other Pacific cod participants. In addition, the limited number of qualified vessels participating during November 1 to December 31 restricts the information that can be presented (Table 2-25). This restriction is necessary to protect the confidentiality of the information. Reflected in Table 2-25 is the increase in the central GOA Pacific cod catch by other Pacific cod dependent vessels, increasing from 254 mt in 2004 to 2,485 mt in 2007. This increase in central GOA Pacific cod catch during the same time period was not seen in the western GOA. In 2008 and 2009, the catch of central GOA Pacific cod catch declined sharply, while catch in the western GOA increased.

**Table 2-25 GOA Pacific cod catch (mt) by subarea during November and December from 1995 to 2009**

Year	Central GOA				Western GOA			
	Pacific cod Prohibited	Pacific cod Sideboard	Pacific cod Exempt	Other Pacific cod dependent vessels	Pacific cod Prohibited	Pacific cod Sideboard	Pacific cod Exempt	Other Pacific cod dependent vessels
1995	0	*	0	174	0	*	0	*
1996	0	0	0	*	0	0	0	*
1997	0	0	0	139	*	0	0	0
1998	0	0	0	*	0	267	0	244
1999	0	0	0	*	0	0	0	0
2000	0	*	0	*	0	0	0	*
2001	0	0	0	41	*	*	*	*
2002	0	0	0	89	*	*	0	1,464
2003	0	0	0	0	0	0	0	0
2004	0	*	0	254	*	*	0	*
2005	0	*	*	709	0	*	0	*
2006	0	*	*	1,989	*	0	0	*
2007	0	*	*	2,485	0	0	0	215
2008				147				612
2009				212		*		1,266

Source: non\_afa\_snow\_crab\_cvs.xls and non\_afa\_snow\_crab\_cp5.xls from ADF&G fish tickets for catcher vessels and blend data/catch accounting for catcher processors. Data does not include State water Pacific cod catch and sablefish and halibut IFQ bycatch of Pacific cod IFQ fisheries.

Note: In 2003, the B season Pacific cod fishery closed before November 1.

\*Concealed for confidentiality

With the intent to provide protection for current B season GOA Pacific cod participants, the Council included two suboptions that would limit the GOA Pacific cod sideboard limit exemption to those periods with sufficient GOA Pacific cod TAC to support the potential increase in fishing effort from non-AFA crab vessels. Under a percent of TAC approach, (Suboptions 2.1 and 3.1), the Council during final action would select a minimum proportion of TAC between 10 to 30 percent that must be available on November 1 in the inshore and offshore components of the western and central GOA before the November 1 to December 31 exemption would be permitted. Under a minimum tonnage approach, (Suboptions 2.2 and 3.2), the Council during final action would select a specific minimum metric tonnage between 0 and 5,000 mt that must be available on November 1 in the inshore and offshore components of the western and central GOA before the exemption would be permitted.

Crucial in selecting the appropriate threshold(s) is providing the right amount of opportunity for non-AFA crab vessels to fully utilize the TAC to the extent practicable, while also leaving a sufficient amount of TAC for existing Pacific cod dependent vessels during the November 1 – December 31 fishery period. If the percent of available B season GOA Pacific cod TAC required on November 1 is too high, there is the potential that B season GOA Pacific cod sideboards would not be relaxed, thus reducing the opportunity to fully utilize the Pacific cod resource. At the same time, if there is insufficient TAC after November 1 and the GOA B season Pacific cod sideboards are lifted for qualified vessels, existing Pacific cod dependent vessels could be negatively impacted from increased fishing effort. To ensure the Council's intent that B season GOA Pacific cod TAC is fully utilized to the extent practicable and existing B season GOA Pacific cod participants are protected, the choice of an appropriate threshold must be carefully considered.

To assist the Council in selecting a percent of TAC and/or a minimum tonnage for the sideboard exemption, Table 2-26 and Table 2-27 provide annual B season Pacific cod catch for the inshore and offshore components of western and central GOA from 2003 to 2009. To show catch patterns during the B season, the catch is divided into two time periods: September 1 to October 30 and November 1<sup>st</sup> to December 31. Also included in the table are the percent of the B season GOA Pacific cod TAC harvested from November 1 to December 31, and the percent of B season TAC remaining on November 1. Finally, the table includes an adjusted B season TAC and the dates of the fixed-gear B season closures. An adjusted B season TAC is provided to reflect a better indication of B season GOA Pacific cod usage. To adjust the B season TAC, any Pacific cod TAC underage or overage during the A season is added or deducted from the B season TAC. In addition, incidental catch of Pacific cod between the A and B season is also deducted from the B season TAC.

**Table 2-26 Catch of B season Pacific cod for inshore and offshore of the western GOA from 2003 to 2009**

Inshore GOA - B Season Pacific cod										
Year	Adjusted B season TAC	Catch				Total B season TAC remaining on November 1		Total B season TAC remaining at end of year		Date of B season closure
		Sept 1 - Oct 30		Nov 1 - Dec 31		mt	% of total B season TAC	mt	% of total B season TAC	
		mt	% of total B season TAC	mt	% of total B season TAC					
2003	3,662	3,786	103%	1	0%	-124	-3%	-125	-3%	25-Sep
2004	4,665	3,427	73%	258	6%	1,238	27%	980	21%	2-Oct
2005	3,753	1,396	37%	233	6%	2,357	63%	2,123	57%	31-Dec
2006	5,800	458	8%	865	15%	5,342	92%	4,477	77%	31-Dec
2007	7,224	1,184	16%	181	3%	6,040	84%	5,859	81%	31-Dec
2008	6,855	2,284	33%	492	7%	4,571	67%	4,079	60%	16-Oct
2009	5,099	3,407	67%	1,230	24%	1,692	33%	462	9%	31-Dec
Offshore GOA - B Season Pacific cod										
Year	Adjusted B season TAC	Catch				Total B season TAC remaining on November 1		Total B season TAC remaining at end of year		Date of B season closure
		Sept 1 - Oct 30		Nov 1 - Dec 31		mt	% of total B season TAC	mt	% of total B season TAC	
		mt	% of total B season TAC	mt	% of total B season TAC					
2003	-632	28	-4%		0%	-660	-104%	-660	104%	Not open
2004	867	452	52%		0%	415	48%	415	48%	2-Oct
2005	1,384	238	17%		0%	1,146	83%	1,146	83%	31-Dec
2006	1,282	168	13%	196	15%	1,114	87%	919	72%	31-Dec
2007	1,225	309	25%	45	4%	916	75%	871	71%	31-Dec
2008	618	123		16	3%	495	80%	479	78%	16-Oct
2009	746	202	27%		0%	544	73%	544	73%	31-Dec

Source: pcod\_catch\_wed.xls from Catch Accounting.

<sup>1</sup>B season TAC is adjusted for A season TAC overage or underage and incidental catch of Pacific cod during A and B season.



**Table 2-27 Catch of B season Pacific cod for inshore and offshore of the central GOA from 2003 to 2009**

Inshore GOA - B Season Pacific cod										
Year	Adjusted B season TAC	Catch				Total B season TAC remaining on November 1		Total B season TAC remaining at end of year		Date of B season closure
		Sept 1 - Oct 30		Nov 1 - Dec 31		mt	% of total B season TAC	mt	% of total B season TAC	
		mt	% of total B season TAC	mt	% of total B season TAC					
2003	2,318	4,485	193%	4	0%	-2,167	-93%	-2,171	-94%	3-Sep
2004	7,078	7,613	108%	485	7%	-535	-8%	-1,020	-14%	2-Oct
2005	8,339	6,692	80%	1,412	17%	1,647	20%	235	3%	31-Dec
2006	7,082	3,035	43%	1,787	25%	4,047	57%	2,259	32%	31-Dec
2007	9,184	5,673	62%	2,838	31%	3,511	38%	673	7%	31-Dec
2008	8,178	8,034	98%	705	9%	144	2%	-561	-7%	3-Oct
2009	5,354	5,624	105%	271	5%	-270	-5%	-541	-10%	1-Oct
Offshore GOA - B Season Pacific cod										
Year	Adjusted B season TAC	Catch				Total B season TAC remaining on November 1		Total B season TAC remaining at end of year		Date of B season closure
		Sept 1 - Oct 30		Nov 1 - Dec 31		mt	% of total B season TAC	mt	% of total B season TAC	
		mt	% of total B season TAC	mt	% of total B season TAC					
2003	766	738	96%		0%	28	4%	28	4%	14-Oct
2004	1,244	463	37%		0%	781	63%	781	63%	2-Oct
2005	2,223	77	3%		0%	2,146	97%	2,146	97%	31-Dec
2006	2,562	621	24%	532	21%	1,941	76%	1,409	55%	31-Dec
2007	2,720	790	29%	228	8%	1,930	71%	1,701	63%	31-Dec
2008	1,516	19	1%		0%	1,497	99%	1,497	99%	16-Oct
2009	944	378	40%		0%	566	60%	566	60%	31-Dec

Source: pcod\_catch\_wed.xls from Catch Accounting.

<sup>1</sup>B season TAC is adjusted for A season TAC overage or underage and incidental catch of Pacific cod during A and B season.

Based on the information presented in Table 2-26 and Table 2-27, the inshore component of the western GOA has the most underutilized Pacific cod TAC. Looking at the most recent seven years to assess the need for a sideboard exemption, there appeared to be little need for an exemption in the inshore component of the western GOA during 2003 and 2004. In both years, TAC levels on November 1 were low and the fishery closed for the hook-and-line sectors prior to November 1. However, for 2005 to 2009 there appeared to be significant Pacific cod TAC available on November 1. Catch data shows that the percent of B season TAC harvested during the early portion of the B season (September 1 - October 30) was greater than the later portion of the B season (November 1 – December 31), which is likely due to greater fishing effort during the early portion of the B season and significantly less effort in the later portion of the B season. An indication of the need for an exemption is the amount of B season TAC remaining after November 1 for the inshore component of western GOA, which has ranged from 63 percent of the B season TAC (2,357 mt) in 2005 to 33 percent of the B season TAC (1,692 mt) in 2009.

For the offshore component of the western GOA, the need for a sideboard exemption appears limited due to smaller TAC levels. Again, looking at historical B season catch to assess the potential for a sideboard exemption, there would have been little need during the 2003 and 2004 because the fishery did not open for 2003 B season and in 2004, the hook-and-line fishery closed on October 2 due to halibut PSC restrictions. In 2005, the freezer longliner fleet had planned to fish for Pacific cod in the GOA during December given that B season Pacific cod TAC was still available. However, NMFS inseason management was concerned that there was not sufficient halibut PSC remaining in the GOA to support the freezer longliner fleet. As a result, the freezer longliners did not fish in the GOA during the B season in 2005. For 2006 through 2009, there appeared to be sufficient TAC available for a sideboard exemption.

For the inshore component of the central GOA, the opportunity for an exemption appears limited. The primary reason for the limitation is due to the B season TAC is being fully utilized for most years. In 2003 and 2004, the hook-and-line fishery closed on September 3 and October 2, respectively. For the

remaining years, the hook-and-line fishery closed on December 31, but the opportunity for an exemption fishery appears limited due to a strong B season fishery by existing Pacific cod participants. Similar to fishing patterns in the western GOA, existing Pacific cod participants harvest a larger share of the B season TAC during the early portion of the B season (September 1 – October 31) compared to the later portion of the B season (November 1 – December 31). As a result, the increase in fishing effort by the existing Pacific cod participants appears to have left little need for a sideboard exemption. For example, in 2005, only 235 mt or 3 percent of the B season TAC was left unharvested at the end of the season, while 2007, 673 mt or 7 percent of the B season TAC was left unharvested. The one exception was 2006, where 2,259 mt or 32 percent of the B season TAC was left unharvested.

For the offshore component of the central GOA, the need for a sideboard exemption appears to be greater when compared to the inshore component. Similar to other areas of the GOA, there would have been little or no need for an exemption fishery during the 2003 and 2004 because the fishery closed on 14 October due TAC for the 2003 B season and 2 October due to halibut PSC restriction for the 2004 B season. In 2005, the freezer longliner fleet had planned to fish for Pacific cod in the GOA during December given that B season Pacific cod TAC was still available. However, NMFS inseason management was concerned that there was not sufficient halibut PSC remaining in the GOA to support the freezer longliner fleet. As a result, the freezer longliners did not fish in the GOA during the B season in 2005. For 2006 and 2007, there appears a greater need for a sideboard exemption. The amount of B season TAC remaining on November 1 ranged from 71 percent of the B season TAC (1,930 mt) in 2007 to 76 percent of the B season TAC (1,941 mt) in 2006.

Note that an exemption fishery could change existing fishing patterns of current GOA Pacific cod participants. If existing participants perceive an increase in effort due to an exemption fishery, existing GOA Pacific cod participants that fish throughout the entire B season could shift some or all of their B season effort to the early portion of the B season (September 1 to October 30). If the shift in effort by existing Pacific cod participants is significant enough, the potential for an exemption fishery is reduced.

Potentially affecting this proposed action is three recent Council actions. In October 2008, the Council exempted 3 new GOA Pacific cod dependent non-AFA crab vessels from GOA Pacific cod sideboard limits. When combined with the existing five non-AFA crab vessels that are exempt from GOA Pacific cod sideboard limits, it is likely that a larger portion of the B season GOA Pacific cod will be harvested by existing participants in the future. Given that sideboard exempt GOA Pacific cod participants may utilize more B season Pacific cod in future years, there may be a need for a higher level of protection from increased effort caused by the proposed B season sideboard exemption. The Council may want to take into consideration the potential increased effort by existing GOA Pacific cod participants when calculating the minimum tonnage or percent of TAC necessary for the exempt fishery.

In December 2009, the Council took final action on GOA Pacific cod sector splits that allocates western and central GOA Pacific cod TACs among the fixed gear sectors (hook-and-line catcher processors, hook-and-line catcher vessels, pot catcher processors, pot catcher vessels combined, jig sector, and trawl sectors based on recent sector catch histories. GOA Pacific cod sectors allocations would be based on the sector's historic catch levels. The Council recommended allocation to the pot CV/CP sector for western GOA Pacific cod TAC would be 38 percent with a seasonal apportionment of 52 percent for the A season and 48 percent reserved for the B season. In the central GOA, the potential allocation to the pot CV/CP sector would be 27.8 percent. The recommended seasonal apportionment for this subarea would be 63.9 percent for the A season and 36.1 percent for the B season.

The Council also included a provision that would allow any portion of an allocation that NMFS determines will not be harvested by the respective sectors during the remainder of the fishing year to be rolled over to CV sectors first, and then to all sectors as needed to harvest the remaining Pacific cod.

If implemented, the apportionment of GOA Pacific cod between sectors will likely require the Council to redesign the thresholds used for determining the annual sideboard exemption. As noted above, the thresholds (Suboptions 2.1 and 2.2 and Suboptions 3.1 and 3.2) are currently based on having a specific percentage or amount of GOA Pacific cod TAC prior to November 1 for inshore and offshore components of the western and central GOA. A better approach might be to design thresholds to apply at a newly defined sector level given that the exempt vessels will be limited by the available sector apportionment. This could be as simple as keeping the current percentages and changing the language to apply at the sector level rather than at the TAC level. By changing the threshold to apply at the sector level, only non-AFA crab vessels operating in that sector would be exempt from Pacific cod sideboards during the November 1 to December 31 period for that year. Another approach would be to eliminate the thresholds all together and defer management of the sideboard exemption during the November 1 to December 31 period to NMFS inseason management. The rationale for deferring management of the sideboard exemption to NMFS is based on the inseason management's experience in managing Pacific cod rollovers and the need to coordinate sideboard exemptions with sector rollovers to better utilize available Pacific cod. Allowing NMFS flexibility in managing sideboard exemption and rollovers may increase the potential for fully harvesting the Pacific cod TAC.

Finally, the Council in April 2009 took final action on fixed gear licenses, which limit entry into the directed Pacific cod fisheries in the Western and Central GOA. The Council's preferred alternative would add gear-specific Pacific cod endorsements to fixed gear licenses, which limit entry into the directed Pacific cod fisheries in the Western and Central GOA. Licenses may qualify for gear-specific Pacific cod endorsements based on directed Pacific cod landings during 2002 through 2008. The minimum thresholds are 10 metric tons for CV licenses with MLOA designation of <60 ft., and 50 metric tons for CP licenses and CV licenses with an MLOA designation of  $\geq 60$  ft. The Pacific cod endorsements will restrict licenses to using the gear type(s) (pot, hook-and-line, and/or jig) specified on the license. A substantial number of the CV licenses that will receive pot endorsements and have an MLOA of greater than 60 ft are subject to the non-AFA crab vessel sideboards (10 of 21 western GOA and 10 of 27 central GOA licenses). In addition, there are 4 western GOA and 4 central GOA fixed gear CP licenses that qualify for a pot and/or hook-and-line Pacific cod endorsement that are subject to the sideboards. Although the thresholds are minimal, the effect of Pacific cod endorsements will be to limit the number of licenses eligible to fish the western and central GOA Pacific cod sector allocations, and would effectively cap the number of participants in each sector. In essence, this action reduces the potential for latent participation in the western and central GOA Pacific cod fishery and would likely not affect the availability of Pacific cod during a November 1 to December 31 sideboard exemption fishery. In addition, the limited number of Pacific cod endorsed fixed gear licenses will also make it difficult for the GOA Pacific cod prohibited vessels and the Pacific cod sideboard vessels to participate in the proposed November 1 to December 31 sideboard exemption fishery.

## **2.5 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 non-AFA crab vessels that qualify for GOA Pacific cod exemption options under the proposed actions are not currently available. For this reason, a quantitative cost/benefit examination of the alternatives, or comparative net benefits conclusions concerning the alternatives and options under each of the three proposed actions are not possible.

An overall net benefit to the Nation is likely to accrue from reduced amounts of unharvested GOA Pacific cod. With the exception of those vessels already exempt from GOA Pacific cod sideboard limits, Alternative 2 would exempt all remaining non-AFA crab vessels from GOA Pacific cod sideboards from November 1 – December 31 if sufficient Pacific cod TAC is available. Alternative 3 would limit the

sideboard exempt to those non-AFA crab vessels that are currently permitted to target GOA Pacific cod but are restricted by sideboards. Although it is difficult to determine the impact on fishing effort from Alternative 2 or Alternative 3, there are indications that the sideboard exemption could increase fishing effort in the GOA Pacific cod fishery from November 1 to December 31, thus potentially reducing unharvested GOA Pacific cod. Given the universe of vessels exempt from November 1 to December 31 sideboard limit is greater under Alternative 2 and than Alternative 3, there is the potential that Alternative 2 would have a greater effect at reducing unharvested GOA Pacific cod.

### **3 Initial Regulatory Flexibility Analysis (IRFA)**

#### **3.1 Introduction**

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

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

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

The IRFA must contain:

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

### **3.2 Definition of a Small Entity**

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

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

The SBA has established size criteria for all major industry sectors in the U.S., including fish harvesting and fish processing businesses. A business “involved in fish harvesting” is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates), and if it has combined annual receipts not in excess of \$4.0 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation (including its affiliates) and employs 500 or fewer persons, on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it 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% or more of its voting stock, or a block of stock which affords control because it is large compared to other outstanding blocks of stock, or (2) If two or more persons each owns, controls or have the power to control less than 50% of the voting stock of a concern, with minority holdings that are equal or approximately equal in size, but the aggregate of these minority holdings is large as compared with any other stock holding, each such person is presumed to be an affiliate of the concern.

Affiliation may be based on common management or joint venture arrangements. Affiliation arises where one or more officers, directors, or general partners control the board of directors and/or the management of another concern. Parties to a joint venture also may be affiliates. A contractor and subcontractor are treated as joint venture 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.

### **3.3 Reason for considering the proposed action**

The Council developed a purpose and need statement defining the reasons for considering the proposed action (see Chapter 1). The original purpose of the non-AFA crab sideboard limit was to prevent those vessels with crab IFQ from disadvantaging participants in the GOA groundfish fisheries. To allow non-AFA crab vessels that were awarded small amounts of snow crab quota but had significant GOA Pacific cod history to continue fishing in the GOA Pacific cod fishery unrestricted, the Council exempted qualified vessels from GOA Pacific cod sideboard limits. However, it is not uncommon to see large amounts of cod go unharvested in both western GOA and central GOA during the B season for both the inshore and offshore sectors despite A season GOA Pacific cod being fully harvested. This action would exempt non-AFA crab vessels from GOA Pacific cod sideboard limits from November 1 to December 31 if sufficient TAC is available. The intent of this action is reduce unharvested B season GOA Pacific cod TAC while not impacting existing GOA Pacific cod participants.

### 3.4 Objectives of, and the legal basis for, the proposed rule

Under the current regulatory structure, BSAI groundfish species are managed by NOAA Fisheries, under the Bering Sea & Aleutian Islands Groundfish FMP. The authority for this action and the FMP are contained in the Magnuson-Stevens Act, as amended by the Magnuson-Stevens Fishery Conservation and Management Reauthorization (P.L. 109-479).

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

The proposed action directly regulates vessels that participate in the Pacific cod and pollock fisheries in the Gulf of Alaska. Of the 227 non-AFA crab vessels that made BS snow crab landings during the 1996 to 2000 period, 70 were active in the BS snow crab fishery during the 2006/2007 fishery. Of these 70 active non-AFA crab vessels, 58 harvested snow crab for a cooperative and 12 vessels harvested snow crab quota outside a cooperative. Given that the 58 non-AFA crab vessels that were harvesting snow crab quota during the 2006/2007 fishery year for a cooperative and vessels in cooperative are considered large entities for purposes of the RFA, these 58 vessels would be considered large entities. The remaining 12 non-AFA crab vessels that harvested BS snow crab during the 2006/2007 fishing year outside a cooperative are considered small entities. In addition, the remaining 157 non-AFA crab vessels that were not active in the BS snow crab fishery during the most recent fishing are also considered small entities.

### 3.6 Recordkeeping and Reporting Requirements

Implementation of the proposed action to change the GOA Pacific cod sideboard limit exemptions would not change the overall reporting structure and record keeping requirements for vessels in the GOA Pacific cod and pollock fisheries.

### 3.7 Description of Significant Alternatives

Under this action, there are three alternatives. Alternative 1 is status quo, which would not change the B season GOA Pacific cod sideboard limits. Alternative 2 would permit those non-AFA crab vessels/license that are prohibited from targeting GOA Pacific cod to now participate in the fishery during the November 1 to December 31 period. These vessels/licenses would also be exempt from any GOA Pacific cod sideboard limits during this period. Alternative 2 would also exempt those non-AFA crab vessels/licenses limited by GOA Pacific cod sideboards during the November 1 to December 31. Alternative 3 would exempt only those non-AFA crab vessels that are permitted to target GOA Pacific cod but are restricted by GOA Pacific cod sideboard limits from GOA Pacific cod sideboard limits. In each of the action alternatives, the Council included two options that would lift the catch restrictions if there was sufficient Pacific cod TAC available on November 1. These options would be applied individually to both the inshore and offshore waters and the western GOA and central GOA areas.

At this time of the preparation of this draft IRFA, the Council has not identified a preferred alternative/option. Table 3-1 summarizes the potential impacts of the alternatives/options on small entities.

**Table 3-1 IRFA comparison of alternatives/options for Action 3**

	Alternative 1 : no action	Alternative 2	Alternative 3
		GOA Pacific cod sideboard fishery qualified	GOA groundfish sideboard qualified
<b>Impacts on small entities</b>	Small entities sideboarded in the B season GOA Pacific	85 vessels would not be restricted by Pacific cod sideboards from November 1 thru December 31 of	222 vessels would not be restricted by Pacific cod sideboards from November 1 thru December 31 of

	Alternative 1 : no action	Alternative 2	Alternative 3
		GOA Pacific cod sideboard fishery qualified	GOA groundfish sideboard qualified
	cod fishery would continue to be constrained.	each year if sufficient TAC was available on November 1. Vessels would need to be named on a GOA groundfish LLP to participate in GOA Pacific cod fishery.	each year if sufficient TAC was available on November 1. Vessels would need to be named on a GOA groundfish LLP to participate in GOA Pacific cod fishery.
<b>Impacts compared to preferred alternative</b>	This section will be completed when a preferred alternative/option is identified	This section will be completed when a preferred alternative/option is identified	This section will be completed when a preferred alternative/option is identified
<b>Why chosen or not chosen?</b>	This section will be completed when a preferred alternative/option is identified	This section will be completed when a preferred alternative/option is identified	This section will be completed when a preferred alternative/option is identified

#### 4 Consistency with Applicable Law and Policy

##### 4.1 National Standards

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

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

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

Nothing in the proposed alternatives would undermine the current management system that prevents overfishing. The proposed action would potentially utilize more B season GOA Pacific cod TAC by exempting non-AFA crab vessels from GOA Pacific cod sideboards from November 1 to December 31 if sufficient TAC is available on November 1.

###### **National Standard 2**

Conservation and management measures shall be based upon the best scientific information available.

The analysis draws on the best scientific information that is available, concerning the GOA Pacific cod sideboard fisheries for the non-AFA crab vessels. The most up-to-date information that is available has been provided by the managers of these fisheries, as well as by members of the fishing industry.

###### **National Standard 3**

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

The proposed action is consistent with the management of individual stocks as a unit or interrelated stocks as a unit or in close coordination.

###### **National Standard 4**

Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation shall be (A) fair and equitable to all such fishermen, (B) reasonably calculated to promote conservation,



and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

The proposed alternatives would treat all participants the same, regardless of their residence. The proposed change would be implemented without discrimination among participants and is intended to contribute to the fairness and equity of the program by allowing participants to make full use of landed catch within the share allocations made under the program. The action will not contribute to an entity acquiring an excessive share of privileges.

**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 resource. The action does not allocate shares, but simply allows qualified non-AFA crab vessel participants to be exempt from GOA Pacific cod sideboard limits when sufficient TAC is available.

**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 alternatives would be expected to affect changes in the availability of GOA groundfish resources each year. Any such changes would be addressed through the annual allocation process, which is not affected by the alternatives.

**National Standard 7**

Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

This action does not duplicate any other measure and does not increase costs of enforcement actions in the fisheries.

**National Standard 8**

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

This action will not have adverse effects 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.

This action will have no effect on bycatch.

**National Standard 10**

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

The alternatives considered under this action do not affect safety of human life at sea.

#### **4.2 Section 303(a)(9) – Fisheries Impact Statement**

Section 303(a)(9) of the Magnuson-Stevens Act requires that any plan or amendment include a fishery impact statement which shall assess and describe the likely effects, if any, of the conservation and management measures on a) participants in the fisheries and fishing communities affected by the plan or amendment; b) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants taking into account potential impacts on the participants in the fisheries, as well as participants in adjacent fisheries.

The alternative actions considered in this analysis are described in Chapter 2 of this document. The impacts of these actions on participants in the fisheries are evaluated in the RIR, also Chapter 2.

#### **4.3 OMB Statement of Public Need**

OMB guidelines for preparation of an economic analysis under E.O. 12866 state, in relevant part, that, “... in order to establish the need for the proposed action, the analysis should discuss whether the problem constitutes a significant market failure. If the problem does not constitute a market failure, the analysis should provide an alternative demonstration of compelling public need, such as improving governmental processes or addressing distributional concerns. If the proposed action is a result of a statutory or judicial directive, that should be so stated.”

The action is intended to address distributional concerns that arise from existing sideboard limits. The limits were intended to protect Gulf cod participants from encroachment by beneficiaries of the exclusive allocations under the crab program. However when sufficient amounts of GOA Pacific cod TAC is available after November 1, sideboard vessels would be exempt from sideboards limits

### **5 List of Preparers, Persons Consulted, and References**

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