

Discussion Paper Management of the GOA Pacific Cod Jig Fishery

**Prepared by
Staff of the North Pacific Fishery Management Council
December 2010**

Introduction

The Council has recently taken two actions to revise management of the GOA Pacific cod fisheries. Both of these actions potentially increase opportunities for jig vessels by 1) exempting jig gear from the LLP requirement in the Western and Central GOA, and 2) allocating a percentage of the Western and Central GOA Pacific cod TACs to jig gear that is higher than the sector's historical catch levels, with a stairstep provision to increase the allocations if they are fully harvested. The Council's actions with respect to the GOA Pacific cod jig fishery are summarized here.

GOA Fixed Gear LLP Recency (April 2009)

- Exempts vessels using jig gear from the groundfish LLP requirement in the Western and Central GOA, subject to a gear limit of 5 jig machines, 1 line per machine, and 30 hooks per line.
- LLPs with at least 1 jig landing of Pacific cod (in the directed fishery) during 2002-2008 in the Western or Central GOA qualify for a jig gear Pacific cod endorsement. Vessels assigned to these LLPs are not subject to the gear limits that apply to vessels fishing under the LLP exemption.

GOA Pacific Cod Section Allocations (December 2009)

- Allocates 1% of the Central GOA Pacific cod TAC and 1.5% of the Western GOA Pacific cod TAC to jig gear.
- Stairstep provision to increase the jig allocation by 1%, if 90% of the allocation is harvested in any given year. Step down provision to decrease the jig allocation by 1%, if 90% of the previous allocation (prior to the most recent stairstep increase) is not harvested during two consecutive years. The allocation would not drop below its initial level.
- The jig allocation will be capped at 6% of the respective area TACs.
- The jig allocation will be apportioned 60%/40% to the A/B seasons.
- The A season will open on January 1 and will close when the A season jig allocation is reached or on March 15, whichever occurs first.
- The B season will open on June 10 or after the State GHF season closes, whichever occurs later.

The Council's final motion on sector allocations also outlined two options for revising management of the GOA Pacific cod jig fisheries, and tasked staff with developing a discussion paper addressing these two options. Both options would require coordination between the Council and the Board of Fisheries (BOF). The first option is to combine the State jig GHF and Federal/parallel jig TAC fisheries into a single account, managed under a parallel/Federal structure. This would occur if the

BOF rolls all or a portion of the State waters jig GHL into the Federal/parallel jig allocation¹. It is important to note that the Council's action with respect to this option is limited to making a recommendation to the BOF to relinquish all or a portion of the jig GHL, and if the GHL is relinquished, determining how to manage the combined jig GHL/TAC fishery. The Council outlined some of the management measures that would apply to the combined GHL/TAC fishery as part of the final motion on sector allocations. Specifically, the motion noted that the combined jig fishery would be apportioned between the A and B seasons. The fishery would open on January 1 and close when the jig gear A season allocation is reached. The B season would open on June 10. Jig vessels could fish in both State and Federal waters during the combined fishery. Vessels operating under the LLP exemption would be subject to the gear limits described above while fishing in Federal waters. Vessels with a jig gear Pacific cod LLP could fish in Federal waters without gear limits.

The second option is to implement a "reverse parallel fishery", which would allow LLP-exempt jig vessels to operate in Federal waters during the State GHL Pacific cod fishery, with harvests accruing to the State GHL. A January 2008 letter from NMFS is attached that generally describes how management authority for the jig fishery in Federal waters could be delegated to the State of Alaska. However, the letter addresses the issue of delegating management authority for the jig TAC to the State of Alaska, and does not specifically address the issue of delegating authority to the State to manage the State Pacific cod GHL fishery in Federal waters.

Background

The purpose of considering these two management options for the jig fishery is to address concerns that have been expressed during public testimony and Council deliberations during the past several years as the Council developed the GOA Pacific cod sector allocations. State Pacific cod GHLs have not been fully harvested in some years. Typically, pot GHLs are fully harvested, but jig harvests have been very low in some years. Unharvested jig GHL may be rolled over to the pot GHL fishery after the Federal/parallel TAC fishery closes in the fall. However, in some years, the parallel waters B season has remained open to vessels using fixed gear from September 1 until December 31, and the B season TACs have not been fully harvested. During these years, State managers did not have the opportunity to re-open the State waters season in the fall and roll over unused jig GHL to the pot GHL fishery. A summary of the State GHL Pacific cod fisheries, including an overview of allocations in each of the GOA management areas by gear type, and a summary of catches in recent years, is provided in Appendix A.

Consolidating the Federal and State jig allocations and managing them jointly may facilitate more efficient management of the fishery, while maximizing access to the Pacific cod resource by jig participants and other sectors. For example, rollovers of unharvested Pacific cod could be accomplished more easily. In addition, restructuring management of the jig fishery could ensure that the jig fleet has access to its allocation. The Federal/parallel waters Pacific cod TAC fishery has typically been conducted during compressed A and B seasons. Jig vessels have a slower harvest rate and are at a disadvantage during derby fisheries. The GOA Pacific cod sector allocations addressed this concern by providing the jig sector with an allocation that is higher than the sector's historical share of the catch, and by including a stairstep provision to increase the jig allocations in each management area if they are fully harvested.

¹ **The final motion on GOA Pacific cod sector allocations does not make it clear how the fishery would be managed if all of the jig GHL is relinquished vs. only a portion of the jig GHL.**

However, the timing of the jig fishery may still be a factor limiting jig catches. The Council's final action on sector allocations moved the jig B season start date to June 10, but the A season ends on March 15 (or earlier if the A season jig allocation is harvested), and the jig fleet may only fish in State waters from March 15 through June 10. During recent years, the jig sector has generally harvested less than 1% of the Western and Central GOA Pacific cod TACs (see Table 1 and Table 2). Most jig catches are typically made in the State waters fisheries during March through May (see Figure 1). Most jig vessels with Pacific cod catch during the Federal/parallel seasons in the GOA do not have LLP licenses and only have State parallel waters landings (see Table 3). Even vessels that hold a valid LLP license have mostly parallel waters landings. This indicates that LLP licenses may not be the most important factor limiting jig vessels from fishing in Federal waters. Inclement weather during the Pacific cod TAC fishery and small vessel size may be a more important factor limiting jig effort in Federal waters. The Council recently exempted jig gear from the LLP requirement as part of the GOA fixed gear recency action. This exemption alone may not result in a significant increase in jig participation in the Federal Pacific cod fisheries. However, if jig vessels are able to fish in Federal waters during March through May, jig effort and catch may increase.

Council Action

If the Council chooses to advance this action for analysis, it will need to develop a purpose and need statement. The statement could incorporate elements from the Council's motion on GOA Pacific cod sector allocations as well as issues discussed during public testimony. In order to advance this action, the Council will also need to formulate a set of alternatives for initial review. For example, the alternatives could include the following:

Alternative 1: Status quo. Distinct Parallel/Federal and State waters fisheries will continue to exist, and the two fisheries will be managed as follows when the GOA Pacific cod sector allocations action is implemented:

The Federal TAC will be divided into an A/B season of 60%/40%. The A season will open on Jan 1 and close when the TAC is reached or on March 15. The State jig fishery will open either when the Federal season closes due to TAC or on March 15. The Federal B season will open on June 10.

Alternative 2: Combined jig GHL/TAC fishery. The Council could recommend that the Alaska Board of Fisheries not take **all or a portion** of the State Pacific cod jig GHL, and it would roll into the Federal jig allocation. The combined GHL/TAC fishery would be managed by NMFS.

Alternative 3: Reverse parallel fishery. Federal management authority delegated to the State of Alaska to manage the Pacific cod jig GHL fisheries in the Western and Central GOA from 0-200 miles.

Preliminary discussion of alternatives

Until the Council's recent actions on fixed gear LLP recency and GOA Pacific cod sector allocations are implemented, it is difficult to assess the potential effects of alternative management measures for the jig fishery. The fixed gear LLP recency action, including the LLP exemption for jig gear, is tentatively scheduled for implementation in early 2011. The GOA Pacific cod sector allocations are tentatively

scheduled for implementation in January 2012. Both of these actions are likely to cause shifts in participation in the GOA Pacific cod fisheries, but the extent of these effects is not yet known. In particular, the LLP exemption for jig gear has the potential to result in an increase in jig effort, and the extended A season for jig gear (Jan 1-March 15) and June 10 start date to the jig gear B season that were recommended in the Council's final motion on sector allocations may also result in increased jig effort. In addition, the Board of Fisheries has initiated a call for proposals for regulatory changes to the State GHL Pacific cod fisheries (deadline April 8, 2011), and there is interest in addressing interactions between the State GHL fisheries and the sector allocations.

With these upcoming regulatory changes in mind, the potential effects of the three alternatives outlined above are discussed here in general terms:

Alternative 1

Under Alternative 1, distinct parallel/Federal and State GHL fisheries would continue to exist. Jig catch during the State waters fisheries will be accounted for by ADFG and will count against the GHLS. Jig catch in the parallel and Federal waters fisheries will be accounted for by NMFS and will count against the parallel/Federal jig allocations. Distinct State and Federal management measures will continue to exist. The parallel/Federal jig allocation is apportioned 60%/40% between the A and B seasons. The A season would open on January 1 and close when the TAC is reached or on March 15. The B season would open on June 10. Any allocation to the jig sector projected by NMFS to remain unharvested could be rolled over to other sectors during the B season.

Advantages to Alternative 1

- Distinct Federal and State management measures would continue to exist.
- Pot vessels participating exclusively in the State waters fishery may continue to have access to rolled over State waters jig GHLS.

Disadvantages to Alternative 1

- Limited time to access any rolled over jig TAC or jig GHLS, which may result in unharvested cod.
- Weather may limit jig vessel participation during the Federal and parallel waters fisheries. Federal waters would be closed to jig vessels from March 15 to June 10.

Alternative 2

Under this alternative, the State waters jig GHLS could (under subsequent action by the Alaska Board of Fisheries) be combined with the Federal jig allocation so that the jig sector fishes off of a single account, which would be managed under a parallel/Federal management structure. If the Board of Fisheries chooses not to take all or a portion of the jig GHLS, it would roll into the parallel/Federal jig allocation.

Currently, the State waters jig allocations include 50% of the Kodiak GHLS, 25% of the Cook Inlet GHLS, 15% of the South Alaska Peninsula GHLS, and 10% of the Chignik GHLS. In sum, these jig allocations amount to 8.06% of the Central GOA ABC and 3.75% of the Western GOA ABC (see Appendix A, Table A-1). Under current State regulations, unharvested jig GHLS may be rolled over to the pot sector on August 15 (Chignik) and September 1 (Kodiak and Cook Inlet). These rollovers would no longer be available to the pot GHLS fishery if the jig GHLS is combined with the jig TAC allocation.

Jig vessels fishing in Federal waters are currently required to hold a Federal Fisheries Permit and a groundfish LLP license with appropriate gear, area, and operation type endorsements. However, the

Council recently took final action on GOA fixed gear recency, which included a new exemption from the LLP requirement for vessels using jig gear in the GOA. The jig exemption applies to vessels using up to 5 jigging machines, 30 hooks per line, and 1 line per machine. Vessel operators fishing exclusively in parallel waters are not required to hold a Federal Fisheries Permit (FFP) or a groundfish LLP license, and are not required to comply with Federal reporting requirements. In addition, jig gear is exempt from some of the Federal requirements that apply to other gear types in Federal waters. Currently, this includes an exemption from the Vessel Monitoring System (VMS) requirement in Federal waters and an exemption from participating in the Federal Observer program.

This alternative has the potential to minimize the amount of unharvested jig GHL. Any unused jig GHL/TAC could be rolled over to other sectors participating in the Federal and parallel waters Pacific cod fisheries if NOAA fisheries determined that this allocation would otherwise remain unharvested. By consolidating the State and parallel/Federal jig allocations into a single allocation, the staircase up (and down) provisions recommended by the Council could be applied to this allocation, providing the jig sector with the flexibility to grow, but ensuring that any unharvested Pacific cod would be made available to other sectors during the fishing season. Depending on the timing of the fishery, this alternative may increase opportunities to fish in Federal waters during months when weather conditions are better.

Advantages to Alternative 2

- Creating a single, consolidated jig fishery may be more efficient to manage, may minimize the amount of unharvested Pacific cod TAC and GHL, and may increase attainment of OY (National Standard 1).
- Provides jig sector the opportunity to fish in Federal waters during months when weather conditions are more favorable.
- Avoids timing conflicts between State and Federal seasons.
- Facilitates rollover of unharvested jig allocation to other sectors.
- Facilitates staircase increases (or decreases) to the jig allocation.

Disadvantages to Alternative 2

- Pot vessels participating only in the State waters fishery may no longer have access to any rolled over jig GHL.

Alternative 3

This alternative proposes delegating management authority to the State of Alaska to manage the State GHL fisheries from 0-200 miles. In several cases, Federal management authority for a species or species complex has been transferred to the State of Alaska, and the species or species complex has been removed from the Federal Fisheries Management Plan (FMP). Removing a species or species complex from an FMP and transferring management authority to the State requires an FMP amendment. Such transfers have typically occurred for species that primarily occur in nearshore waters. For example, management of black rockfish and blue rockfish were transferred to the State and these species were removed from the GOA FMP, under Amendment 46 to the GOA Groundfish FMP. Similarly, management of dark rockfish was transferred to the State, and dark rockfish was removed from the respective Federal FMPs, under Amendment 73 to the BSAI FMP and Amendment 77 to the GOA FMP. Under these plan amendments, black, blue, and dark rockfish are managed exclusively by the State.

In other cases, Federal management authority for a species or species complex has been delegated to the State of Alaska and the species has remained in the FMP. For example, management authority for the demersal shelf rockfish species complex in southeast Alaska was delegated to the State of Alaska in 1986 under GOA Amendment 14, and the State's management authority was clarified in 1990 under GOA

Amendment 21. However, this species complex is retained in the Federal FMP and Federal TACs are set during the harvest specifications process. If a species is retained in the Federal FMP, the State must comply with Federal requirements for management of that species. These requirements may impose additional costs on management agencies.

The BSAI crab fisheries are managed jointly by the State of Alaska and the Federal government through the Federal BSAI Crab FMP. The shared management structure was developed to allow both the State and Federal agencies to contribute to decision making on issues for which each agency has management expertise. The BSAI Crab FMP establishes three categories of management measures. The three category structure was created to clearly delineate management responsibility between the State and Federal government. **Category 1** measures are fixed in the FMP and are under Council control. These include management measures required by the Magnuson-Stevens Act. Changes to Category 1 measures require an FMP amendment. **Category 2** measures are outlined in the FMP, but are deferred to the State. The FMP guides State decision making so that it complies with the Magnuson-Stevens Act. Changes to language in the FMP require an amendment, but the Board of Fish has the discretion to revise management measures within the guidelines in the FMP. **Category 3** measures are under the discretion of the State, and are not described in the FMP. Management measures are designed to meet the BSAI Crab FMP's management goals and objectives and the Magnuson-Stevens Act National Standards. The FMP defers most fishery management decisions to the State, but reserves some management decisions for the Council and NOAA fisheries, such as setting OFLs and ABCs.

Under this alternative, Pacific cod would remain in the GOA FMP and the Federal waters component of the State GHJ Pacific cod jig fishery would be managed jointly by the State of Alaska and the Federal government. NOAA General Counsel indicated in a letter to the Council in February 2008 (attached as Appendix B), that management authority for the GOA Pacific cod jig fisheries in Federal waters could be delegated to the State of Alaska. For this to occur, State and Federal management responsibilities would need to be delineated in the FMP. Additional management measures would likely be required in the jointly managed fisheries that are not required in the State waters Pacific cod fisheries. For example, vessels fishing in Federal waters would need to obtain Federal Fisheries Permits and comply with Federal reporting requirements. No observer coverage is currently required in the State GHJ fisheries, but if the State GHJ fishery is extended into Federal waters, the Council may wish to consider how this may interact with Council objectives for Federal observer coverage. Vessels using jig gear are not required to have an endorsement on their Federal Fisheries Permit to participate in the directed Pacific cod fisheries in the GOA. Consequently, vessels using jig gear are exempt from the Vessel Monitoring System (VMS) requirement (679.7(a)(18)).

Under this alternative, vessels could potentially fish in both State and Federal waters during the entire year. The key difference between the status quo (separate parallel/Federal and State GHJ fisheries, open essentially year-round to jig vessels) and Alternative 3 is that this alternative would allow jig vessels to fish in Federal waters during both fisheries (potentially year-round).

Advantages to Alternative 3

- Provides jig sector the opportunity to fish in Federal waters during months when weather conditions are more favorable.
- Increases the likelihood of harvesting the jig GHJ and attaining OY (National Standard 1).

Disadvantages to Alternative 3

- Elements of the current State waters fishery may not be permissible under the Magnuson-Stevens Act (e.g., superexclusive registration areas, vessel size restrictions)
- May increase ADFG management costs and staff burden.

- Delineating State and Federal management responsibilities may complicate management of the fisheries.

Summary

This discussion paper reviews options for revising management of the jig fishery in the context of recent changes to the LLP program and management of the GOA Pacific cod fishery. Two options for restructuring the jig fishery are outlined; both options would require coordination between the Council and Board of Fisheries. The Council could choose to take no further action at this time, could request additional information prior to initiating an analysis, or could approve a problem statement and a suite of alternatives for analysis.

Table 1 Retained catch of Pacific cod (mt) in the Western GOA, 1995-2009.

	HAL CP			HAL CV			Jig CV			Pot CP			Pot CV			Trawl CP			Trawl CV		
	Vessels	Catch	Percent of total	Vessels	Catch	Percent of total	Vessels	Catch	Percent of total	Vessels	Catch	Percent of total	Vessels	Catch	Percent of total	Vessels	Catch	Percent of total	Vessels	Catch	Percent of total
1995	18	5,632	26.2%	20	35	0.2%	13	48	0.2%	3	104	0.5%	58	2,352	11.0%	11	587	2.7%	104	12,704	59.2%
1996	17	4,369	20.8%	15	193	0.9%	14	45	0.2%	1	*	*	38	1,689	8.0%	19	787	3.7%	62	13,921	66.2%
1997	13	3,837	16.1%	20	34	0.1%	6	5	0.0%	0	0	0.0%	20	1,041	4.4%	17	295	1.2%	90	18,554	78.1%
1998	7	3,168	15.1%	16	22	0.1%	4	1	0.0%	1	*	*	53	2,533	12.0%	15	276	1.3%	98	15,007	71.3%
1999	20	5,116	21.8%	27	70	0.3%	0	0	0.0%	6	1,424	6.1%	34	1,591	6.8%	13	623	2.7%	78	14,673	62.4%
2000	14	4,706	21.5%	29	54	0.2%	4	5	0.0%	2	*	*	81	5,107	23.3%	13	751	3.4%	57	11,113	50.7%
2001	16	3,969	27.3%	29	31	0.2%	17	157	1.1%	3	1,038	7.1%	46	2,538	17.5%	13	670	4.6%	56	6,135	42.2%
2002	16	6,411	36.9%	30	38	0.2%	31	193	1.1%	2	*	*	48	4,805	27.7%	13	327	1.9%	48	5,073	29.2%
2003	19	4,242	27.0%	25	47	0.3%	11	46	0.3%	1	*	*	60	9,549	60.8%	11	340	2.2%	40	1,367	8.7%
2004	12	2,893	18.9%	32	28	0.2%	23	183	1.2%	1	*	*	81	9,718	63.4%	13	539	3.5%	34	1,717	11.2%
2005	10	724	5.9%	46	281	2.3%	9	46	0.4%	1	*	*	59	6,402	52.2%	13	217	1.8%	37	4,441	36.2%
2006	14	2,691	19.4%	37	106	0.8%	2	*	*	0	0	0.0%	51	5,918	42.7%	11	218	1.6%	37	4,917	35.5%
2007	12	3,069	23.2%	58	390	2.9%	4	2	0.0%	1	*	*	48	4,646	35.1%	12	529	4.0%	39	4,281	32.4%
2008	14	3,072	20.9%	74	506	3.4%	10	63	0.4%	1	*	*	60	6,009	40.8%	11	391	2.7%	29	4,601	31.2%
2009	15	4,297	29.1%	75	1,888	12.8%	10	157	1.1%	2	*	*	40	5,922	40.0%	14	424	2.9%	31	2,100	14.2%

Table 2 Retained catch of Pacific cod (mt) in the Central GOA, 1995-2009.

	HAL CP			HAL CV			Jig CV			Pot CP			Pot CV			Trawl CP			Trawl CV		
	Vessels	Catch	Percent of total	Vessels	Catch	Percent of total	Vessels	Catch	Percent of total	Vessels	Catch	Percent of total	Vessels	Catch	Percent of total	Vessels	Catch	Percent of total	Vessels	Catch	Percent of total
1995	8	134	0.3%	380	4,546	10.3%	29	51	0.1%	0	0	0.0%	122	13,760	31.2%	24	2,072	4.7%	114	23,548	53.4%
1996	4	710	1.7%	173	4,491	10.6%	17	34	0.1%	0	0	0.0%	87	10,539	24.8%	23	2,714	6.4%	112	23,975	56.5%
1997	2	*	*	308	6,401	15.4%	19	21	0.1%	0	0	0.0%	61	8,420	20.3%	21	770	1.9%	128	25,895	62.3%
1998	7	175	0.4%	270	5,815	14.2%	18	50	0.1%	0	0	0.0%	61	9,208	22.5%	17	4,447	10.9%	137	21,214	51.9%
1999	9	313	0.7%	313	6,174	14.3%	10	24	0.1%	11	2,938	6.8%	84	12,182	28.3%	15	1,595	3.7%	100	19,881	46.1%
2000	8	209	0.7%	340	6,529	20.4%	17	38	0.1%	4	910	2.8%	114	11,967	37.4%	10	1,387	4.3%	59	10,971	34.3%
2001	2	*	*	274	5,684	20.9%	15	11	0.0%	3	588	2.2%	62	3,505	12.9%	11	2,241	8.2%	73	15,169	55.8%
2002	7	1,638	7.0%	210	6,867	29.5%	8	3	0.0%	3	131	0.6%	45	3,228	13.9%	9	835	3.6%	67	10,568	45.4%
2003	8	1,462	6.1%	187	3,586	15.0%	12	16	0.1%	1	*	*	35	3,201	13.4%	12	1,219	5.1%	55	14,405	60.3%
2004	5	1,453	5.5%	192	5,423	20.6%	36	118	0.4%	0	0	0.0%	35	4,916	18.7%	10	770	2.9%	55	13,669	51.9%
2005	7	267	1.2%	192	4,271	19.3%	30	137	0.6%	0	0	0.0%	47	8,169	36.9%	11	719	3.2%	50	8,591	38.8%
2006	9	897	4.0%	208	6,183	27.6%	26	96	0.4%	0	0	0.0%	59	8,420	37.6%	11	877	3.9%	47	5,922	26.4%
2007	7	1,376	5.5%	238	6,341	25.2%	18	36	0.1%	1	*	*	63	8,286	32.9%	7	590	2.3%	39	8,220	32.6%
2008	13	1,755	6.9%	275	6,054	23.9%	11	19	0.1%	0	0	0.0%	57	5,208	20.5%	9	632	2.5%	45	11,680	46.1%
2009	9	1,154	5.7%	294	5,237	25.8%	13	37	0.2%	0	0	0.0%	50	5,417	26.7%	11	1,023	5.0%	40	7,455	36.7%

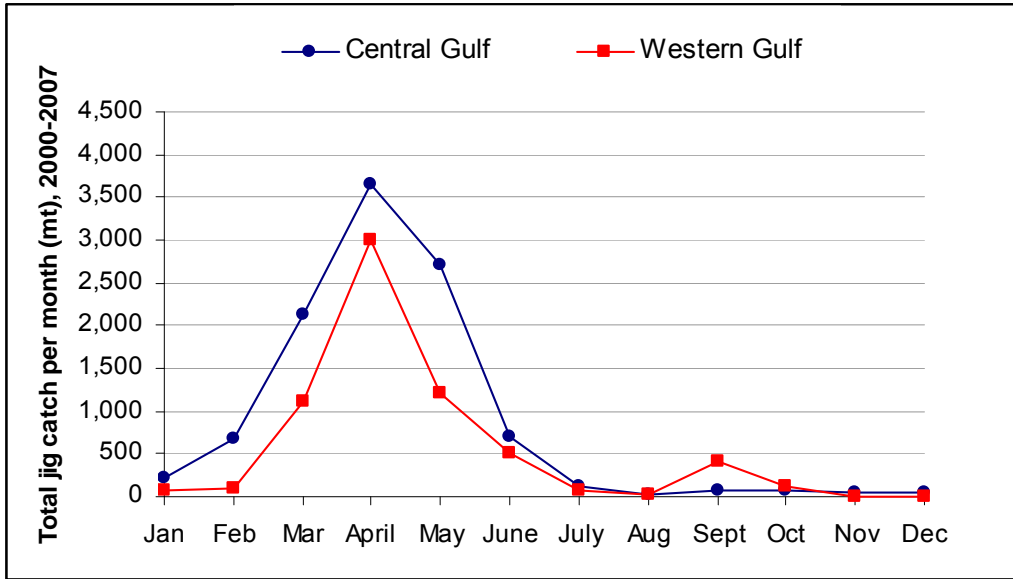


Figure 1 Total monthly Pacific cod catch (mt) by vessels using jig gear during 2000-2007.

Table 3 Number of jig vessels with groundfish and Pacific cod catch in the Western and Central GOA, and number of vessels that hold LLP licenses

Year	Central GOA				Western GOA			
	All groundfish		Pacific cod		All groundfish		Pacific cod	
	LLP	No LLP	LLP	No LLP	LLP	No LLP	LLP	No LLP
2000	13	20	5	12	3	3	3	1
2001	7	18	4	11	3	14	3	14
2002	10	12	3	4	10	23	9	21
2003	6	14	5	7	4	7	4	7
2004	10	34	7	28	8	15	8	15
2005	6	31	6	22	1	6	1	5
2006	9	19	7	17	1	1	0	1
2007	7	20	6	12	2	2	2	2

Source: ADFG fish tickets and RAM groundfish LLP license file, January 2008.

Note: 'No LLP' includes vessels that did not have a groundfish LLP license at the time of landing. It does not include vessels that held LLPs, but did not have the appropriate area endorsement or gear designation.

APPENDIX A STATE GHL PACIFIC COD FISHERIES

In 1997, the State of Alaska began managing its own Pacific cod fisheries inside of 3 nm (referred to as the ‘State waters fishery’), which are allocated a percentage of the Federal GOA Pacific cod ABC. State fisheries are managed under a guideline harvest level (GHL), which limits total catch in the fishery in a manner similar to the Federal TAC. If a GHL is fully harvested, it can be increased on an annual basis up to 25% of the Pacific cod ABC in each GOA management area, the maximum level permitted by State regulation. In 1997, 15% of the Pacific cod ABC in the Central GOA and Western GOA and 25% of the Eastern GOA was allocated among the State waters fisheries. State waters allocations in the Western and Central GOA have increased to 25% of the Pacific cod ABCs and are currently at the maximum level permitted by State regulation. The Eastern GOA allocation to state waters was lowered to 10% of the ABC in 2004, because this allocation had not been fully utilized by the fishery (see Table A-1). However, this has now increased to 25% under stair-step provisions.

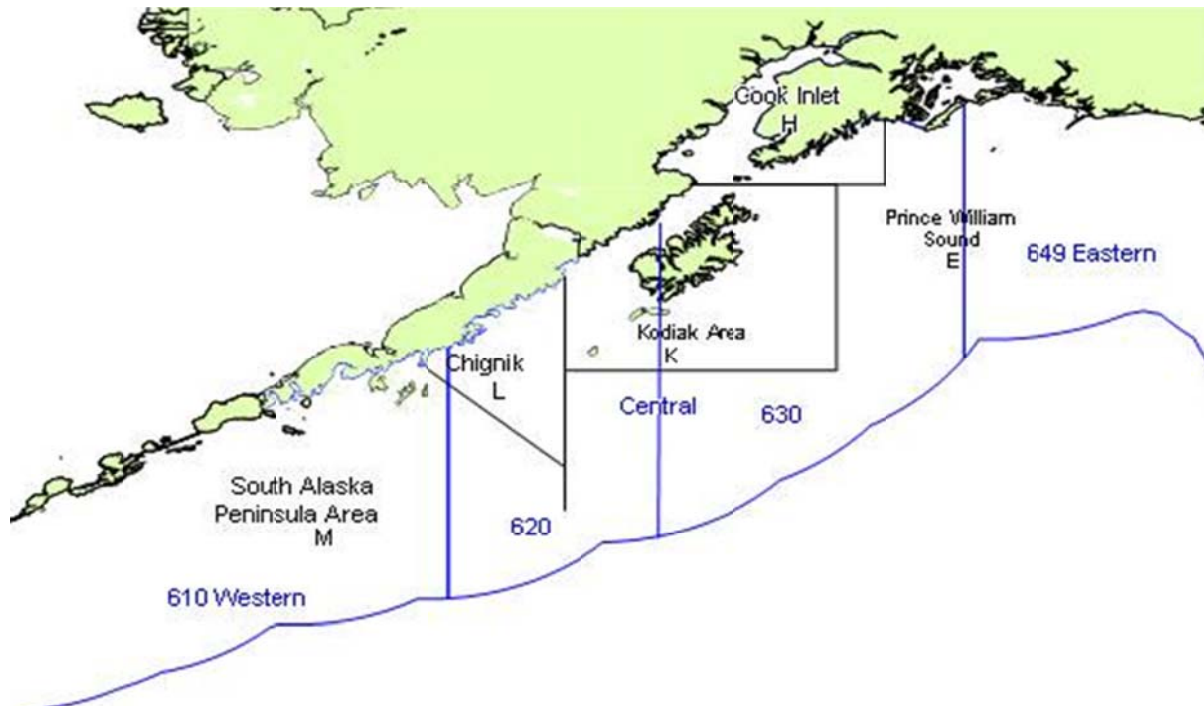


Figure A-1 Map of State management areas (South Alaska Peninsula, Chignik, Kodiak, Cook Inlet, and Prince William Sound) and Federal management areas (Western, Central, and Eastern) in the GOA.

Table A-1 Allocations of GOA State waters Pacific cod GHLs among management areas and gear types

Federal Management Area	State Management Area	Percent of Area ABC	Pot/Jig Allocation	Pot allocation as a percent of ABC	Jig allocation as a percent of ABC
Central GOA	Cook Inlet	3.75%	75/25	2.81%	0.94%
	Chignik	8.75%	90/10	7.88%	0.88%
	Kodiak	12.50%	50/50	6.25%	6.25%
	Total Central GOA	25%		16.94%	8.06%
Western GOA	Alaska Peninsula	25%	85/15 ¹	21.25%	3.75%
Eastern GOA	Prince William Sound ²	25%	none	n/a	n/a

¹ Pot gear is capped at 85%. ² Longline gear was allowed in the Prince William Sound area in 2009.

Table A-2 summarizes the GOA State waters Pacific cod fishery regulations. There is no LLP requirement in the State waters fisheries, but there are gear and vessel length restrictions. The GOA State waters Pacific cod fisheries are open only to pot and jig gear in all GOA management areas except Prince William Sound, which added longline gear in 2009. The GHGs in the other management areas are allocated between the pot and jig sectors, and vessel size restrictions limit harvests by vessels greater than 58 ft LOA in some areas or exclude these vessels from participating in the fisheries. Currently, the Kodiak allocation is apportioned 50% to the pot sector and 50% to the jig sector. In the Kodiak and Cook Inlet management area, vessels greater than 58 ft LOA are capped at 25% of the GHG, prior to September 1. The Cook Inlet allocation is apportioned 75% to the pot sector and 25% to the jig sector. The Chignik allocation is apportioned 90% to the pot sector and 10% to the jig sector, and the fishery is limited to vessels less than or equal to 58 ft LOA. The South Alaska Peninsula GHG is not explicitly allocated between pot and jig gear, but the pot sector is capped at 85% of the GHG, and the fishery is limited to vessels 58 ft LOA and under. In sum, the State waters fisheries allocate a total of 16.94% of the Central GOA ABC to the pot sector and 8.06% of the Central GOA ABC to the jig sector. In addition, the pot and jig sectors are allocated 21.25% and 3.75%, respectively, of the Western GOA ABC (see Table A-1).

Table A-2 Summary of GOA State waters Pacific cod fishery regulations.

Area	Pot allocation	Jig allocation	Allocation to ≤58 ft vessels	Allocation to >58 ft vessels	Super exclusive	Exclusive	Gear Limit
Kodiak	50%	50%	None	Capped at 25% prior to Sept 1	No	Yes-prior to Oct 31	60 pots/5 jigs
Cook Inlet	75%	25%	None	Capped at 25% prior to Sept 1	No	Yes-prior to Oct 31	60 pots/5 jigs
Chignik	90%	10%	100%	0%	Yes	No	60 pots/ 5 jigs
South Peninsula	Capped at 85%	none	100%	0%	No	Yes-prior to Oct 31	60 pots/ 5 jigs
Prince William Sound	60% before Oct. 1	None	None	None	No	Yes-prior to Oct 31	60 pots/ 5 jigs

Source: ADF&G, Nick Sagalkin.

In the Prince William Sound, Kodiak and South Alaska Peninsula areas, the State waters Pacific cod fisheries open 7 days after the parallel waters A seasons for the Central GOA (Prince William Sound and Kodiak) and Western GOA (South Alaska Peninsula) (Table A-3). The Cook Inlet fishery opens 24 hours after the Central GOA inshore A season closes, and the Chignik fishery opening date is set in regulation on March 1. The State waters fisheries close when the GHG has been harvested, or on September 1, when the parallel waters Pacific cod fishery opens. The Cook Inlet fishery has a seasonal closure from May 1 to June 15. There is no overlap between the parallel and State waters seasons in the Kodiak, Prince William Sound, Cook Inlet, and South Alaska Peninsula areas. The seasons may overlap in the Chignik area, if the Central GOA parallel waters A season extends past March 1.

Table A-3 Recent season opening dates of the GOA Pacific cod State waters fisheries

Year	Kodiak/PWS	Chignik	Cook Inlet	Alaska Peninsula
	Jig/Pot	Jig/Pot	Jig/Pot	Jig/Pot
2003	16-Feb	1-Mar	10-Feb	24-Feb
2004	7-Feb	1-Mar	1-Feb	2-Mar
2005	2-Feb	1-Mar	27-Jan	3-Mar
2006	7-Mar	1-Mar	1-Mar	9-Mar
2007	6-Mar	1-Mar	28-Feb	15-Mar
2008	27-Feb	1-Mar	21-Feb	7-Mar

State waters harvests from 1997 through 2009 are reported by State management area and gear type in Table A-4. Pot allocations have generally been fully harvested in all management areas except Prince William Sound. Jig harvests were relatively high in some areas during 2003 through 2005, but declined substantially in 2006 through 2008. A combination of poor weather conditions, difficulty finding fish in State waters, and high operating costs contributed to low levels of jig effort in those years. Total catch was substantially below the GHLS in all four Western and Central GOA management areas in 2006 and 2007; and in Kodiak and Cook Inlet during 2008. Most unharvested State waters GHLS was unused jig GHLS. However, in 2009 in the Kodiak management area, jig vessels harvested the entire jig GHLS, and more than 90% of the overall GHLS were harvested in all GOA management areas. Unharvested GHLS is rolled over to other sectors on August 15 (Chignik) or September 1 (Kodiak and Cook Inlet), if it is determined that an allocation will not be fully harvested. However, during 2005 through 2007, the parallel waters B season remained open to vessels using fixed gear from September 1 until December 31. During these years, State managers did not have the opportunity to re-open the State waters season in the fall and roll over unused jig GHLS to the pot sector.

Table A-4 Catch (mt) and percent of GHLS harvested in GOA State waters Pacific cod fisheries

Year	Jig catch (mt)	Pot catch (mt)	Total catch	GHLS (mt)	Percent of GHLS harvested	Jig catch (mt)	Pot catch (mt)	Total catch	GHLS (mt)	Percent of GHLS harvested
KODIAK						COOK INLET				
1997	898	2,533	3,431	3,856	89%	255	128	383	1,134	34%
1998	959	2,896	3,856	3,674	105%	87	249	336	1,089	31%
1999	1,041	3,828	4,869	5,307	92%	57	631	688	1,179	58%
2000	1,277	2,608	3,884	5,443	71%	6	515	521	998	52%
2001	569	1,659	2,228	4,808	46%	9	397	406	862	47%
2002	630	3,373	4,003	3,946	101%	8	508	516	726	71%
2003	1,447	2,248	3,696	3,629	102%	195	464	659	635	104%
2004	1,909	2,631	4,540	4,491	101%	147	838	985	1,089	90%
2005	2,073	1,804	3,877	4,128	94%	47	1011	1,058	1,225	86%
2006	656	2,214	2,870	4,717	61%	*	*	608	1,406	43%
2007	565	2,339	2,904	4,717	62%	n/a	n/a	654	1,406	47%
2008	895	2,462	3,357	4,736	71%	n/a	n/a	973	1,421	68%
2009	1,968	1,878	3,847	3,942	98%	n/a	n/a	1,086	1,158	94%
CHIGNIK						ALASKA PENINSULA				
1997	16	498	514	2,676	19%	158	4,162	4,320	4,264	101%
1998	76	2,327	2,403	2,586	93%	199	3,716	3,915	4,082	96%
1999	99	2,820	2,919	3,719	78%	321	5,042	5,362	5,897	91%
2000	17	797	814	3,039	27%	344	6,480	6,824	6,849	100%
2001	130	1,058	1,188	2,722	44%	1,376	4,727	6,103	6,078	100%
2002	147	1,771	1,918	2,223	86%	928	4,853	5,777	5,625	103%
2003	196	1,830	2,026	2,041	99%	1,647	3,590	5,237	5,171	101%
2004	64	2,537	2,601	2,631	99%	758	4,869	5,626	5,670	99%
2005	63	2,597	2,661	2,903	92%	558	4,608	5,165	6,713	99%
2006	*	*	1,560	3,311	47%	34	5,267	5,301	6,713	79%
2007	0	2,596	2,596	3,311	78%	109	5,641	5,750	6,713	86%
2008	*	*	3,035	3,316	92%	638	5,393	6,031	6,482	93%
2009	0	2,576	2,576	2,758	93%	443	4,738	5,181	5,393	96%

Source: Kodiak, Chignik, and South Alaska Peninsula management areas (Mattes and Stichert, 2008) and ADF&G preliminary catch reports online.

*confidential data



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21668

Juneau, Alaska 99802-1668

January 23, 2008

Eric Olson, Chairman
North Pacific Fishery Management Council
605 W. 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Dear Chairman Olson:

At its December 2007 meeting, the North Pacific Fishery Management Council requested that we provide guidance on legal considerations associated with State of Alaska (State) management of the Pacific cod jig gear fishery in Federal waters of the Gulf of Alaska (GOA). While a more specific proposal is required to fully assess legal, management, and policy considerations, we offer the following perspectives.

First, we assume the option under Council consideration would retain Pacific cod harvested by jig gear under management of the Council's Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). Given the widespread distribution of Pacific cod in the GOA, the importance of this resource to numerous Federal water fishery sectors, and Federal oversight of Steller sea lion protection measures associated with Pacific cod as a prey species, we do not believe legal justification exists to remove the jig gear fishery from the FMP. Thus, any State management in Federal waters would occur under delegated authority established in the FMP and not by removing the Pacific cod jig gear fishery and associated harvest from the FMP, as has been done for several rockfish species distributed primarily in State waters.

Second, any management authority delegated to the State under the FMP must be consistent with provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Section 306(a)(3)(B) of the MSA allows for state management of a fishery in Federal waters provided such management is consistent with the FMP authorizing such delegation, the MSA, and other applicable law. The specific statute language is enclosed.

As with the existing delegated authority for management of crab in the Bering Sea/Aleutians and demersal shelf rockfish in the Southeast Outside District of the GOA, the State would need to identify management measures it believes would be necessary to manage the Federal water jig gear fishery and demonstrate consistency of those measures with the MSA. This constraint likely would prohibit the State's use of some management measures in Federal waters that it currently employs to manage State water fisheries, such as vessel size restrictions, exclusive registration areas, or other measures that would limit



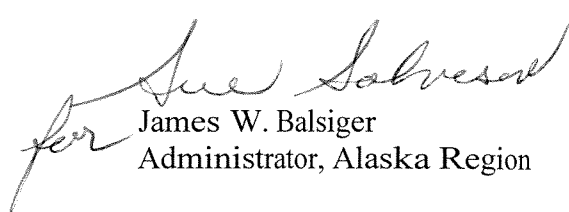
classes of vessels from participation in the Pacific cod jig gear fishery. Further, jig gear fishing for rockfish or other groundfish species could still occur under the FMP which creates complexity with respect to State management of incidental catch of Pacific cod by jig gear under a sector specific allocation.

Other management measures, such as exempting some or all jig gear vessels from Federal license limitation program requirements and the specification of a total allowable catch allocation to the jig gear sector must be developed by the Council and implemented by amendment to the FMP. Even under delegated management, Federal requirements necessary for the management and conservation of Federal water fisheries would continue to apply to jig gear vessels, such as the need for a Federal Fishing Permit and compliance with any relevant Steller sea lion protection measures such as season restrictions. Depending on the range of management measures delegated to the State, the FMP also may need to provide for Federal oversight of State management actions to ensure the fishery is managed consistent with the FMP, the MSA, and other applicable Federal law.

Finally, given the above considerations, the Council and the State of Alaska may wish to consider an alternative that would allow for Federal management of the jig gear fishery in State and Federal waters under a single TAC allocation which could remove the need for a separate State managed guideline harvest level for jig gear. An option to exempt some or all jig gear vessels from LLP requirements could be considered. We note that an increased harvest of Pacific cod in a new open access jig gear fishery could create additional management challenges under either Federal or State management authority that would need to be assessed in the analysis.

We would be pleased to offer additional guidance and perspective as the Council continues to refine its analysis of alternatives for management of Pacific cod sector allocations.

Sincerely,

The image shows a handwritten signature in cursive that reads "for Sue Salvendy". Below the signature, the name and title are printed: "James W. Balsiger" and "Administrator, Alaska Region".

James W. Balsiger
Administrator, Alaska Region

Enclosure

Magnuson-Stevens Fishery Conservation and Management Act

SEC. 306. STATE JURISDICTION 16 U.S.C. 1856

(3) A State may regulate a fishing vessel outside the boundaries of the State in the following circumstances:

(A) The fishing vessel is registered under the law of that State, and (i) there is no fishery management plan or other applicable Federal fishing regulations for the fishery in which the vessel is operating; or (ii) the State's laws and regulations are consistent with the fishery management plan and applicable Federal fishing regulations for the fishery in which the vessel is operating.

(B) The fishery management plan for the fishery in which the fishing vessel is operating delegates management of the fishery to a State and the State's laws and regulations are consistent with such fishery management plan. If at any time the Secretary determines that a State law or regulation applicable to a fishing vessel under this circumstance is not consistent with the fishery management plan, the Secretary shall promptly notify the State and the appropriate Council of such determination and provide an opportunity for the State to correct any inconsistencies identified in the notification. If, after notice and opportunity for corrective action, the State does not correct the inconsistencies identified by the Secretary, the authority granted to the State under this subparagraph shall not apply until the Secretary and the appropriate Council find that the State has corrected the inconsistencies. For a fishery for which there was a fishery management plan in place on August 1, 1996 that did not delegate management of the fishery to a State as of that date, the authority provided by this subparagraph applies only if the Council approves the delegation of management of the fishery to the State by a three-quarters majority vote of the voting members of the Council.

(C) The fishing vessel is not registered under the law of the State of Alaska and is operating in a fishery in the exclusive economic zone off Alaska for which there was no fishery management plan in place on August 1, 1996, and the Secretary and the North Pacific Council find that there is a legitimate interest of the State of Alaska in the conservation and management of such fishery. The authority provided under this subparagraph shall terminate when a fishery management plan under this Act is approved and implemented for such fishery.