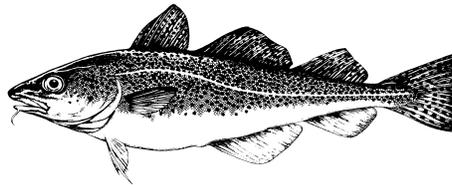


## Secretarial Review Draft

### ENVIRONMENTAL ASSESSMENT/REGULATORY IMPACT REVIEW/ INITIAL REGULATORY FLEXIBILITY ANALYSIS

for Proposed **AMENDMENT 85** to the  
Fishery Management Plan for Groundfish  
of the Bering Sea/Aleutian Islands Management Area

### **ALLOCATION OF PACIFIC COD AMONG SECTORS and APPORTIONMENT OF SECTOR ALLOCATIONS BETWEEN BERING SEA AND ALEUTIAN ISLANDS SUBAREAS**



Abstract: This Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis analyzes the impacts of revising the separate apportionments of the BSAI Pacific cod ITAC among the fixed gear sectors (hook-and-line catcher processors,  $\geq 60'$  hook-and-line catcher vessels, pot catcher processors,  $\geq 60'$  pot catcher vessels, and pot/hook-and-line vessels  $< 60'$  in length), jig sector, and trawl sectors based on recent sector catch histories. This action also proposes to implement a further split of the trawl CP sector allocation between the non-AFA and AFA trawl CP sectors. This action also proposes to increase the BSAI Pacific cod allocation to the western Alaska Community Development Quota Program and to modify that allocation such that it represents a directed fishing allowance. Finally, this amendment evaluates the effects of 1) apportioning halibut and crab prohibited species catch allowances among the Pacific cod trawl sectors, and 2) apportioning the halibut prohibited species catch allowance between the Pacific cod hook-and-line sectors. This amendment is intended to reduce uncertainty by establishing and modifying sector allocations such that they better reflect historic use, by sector, taking into account community and other socio-economic considerations.

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## EXECUTIVE SUMMARY

This document is an Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for proposed Amendment 85 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI FMP).

This action proposes to revise the sector allocations of the BSAI Pacific cod ITAC among the various fixed gear, trawl gear, and jig gear sectors. The ITAC refers to the portion of the total allowable catch (TAC) available to the industry sectors after the allocation to the western Alaska Community Development Quota (CDQ) Program has been subtracted.<sup>1</sup> For the purposes of this amendment, the fixed and jig gear sectors are defined as follows:

**hook-and-line catcher processor**  
**hook-and-line catcher vessel  $\geq 60'$**   
**pot catcher processor**  
**pot catcher vessel  $\geq 60'$**   
**hook-and-line and pot catcher vessel  $< 60'$**   
**jig vessel**

Currently, there exists one trawl catcher vessel allocation and one trawl catcher processor allocation. This action proposes options to further apportion the trawl vessel sector allocations between those vessels that are eligible under the American Fisheries Act (AFA) and those that are not. Thus, the potential trawl sectors that could receive BSAI Pacific cod allocations under this amendment are as follows:

**non-AFA trawl catcher vessel**  
**AFA trawl catcher vessel**  
**AFA trawl catcher processor**  
**non-AFA trawl catcher processor**

Thus, there are ten potential (non-CDQ) sectors that may be directly affected by this amendment. **In addition, the alternatives in this amendment also consider:**

- increasing the amount of the BSAI Pacific cod TAC allocated to the CDQ Program;
- modifying seasonal apportionments to the various sectors;
- apportioning the annual halibut and crab bycatch allowances to the trawl cod fishery group among the trawl sectors; and
- apportioning the annual halibut bycatch allowance to the hook-and-line cod fishery group between the hook-and-line catcher processor and hook-and-line catcher vessel sectors.

An environmental assessment (EA) is required by the National Environmental Policy Act of 1969 (NEPA) to determine whether the action considered will result in a significant impact on the human environment. NEPA requires a description of the purpose and need for the proposed action as well as a description of alternatives which may address the problem. This information is included in **Chapter 1** of this document. **Chapter 2** contains a description of the affected human environment and information on

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<sup>1</sup>Note that unless otherwise specified, the “BSAI Pacific cod ITAC” referenced throughout this document means the amount of the TAC that is distributed to various gear sectors after deducting the CDQ reserve.

the impacts of the alternatives on that environment, specifically addressing potential impacts on endangered species, marine mammals, and cumulative effects.

Executive Order 12866 (E.O. 12866) requires preparation of a Regulatory Impact Review (RIR) to assess the social and economic costs and benefits of available regulatory alternatives, in order to determine whether a proposed regulatory action is economically “significant” as defined by the order. **Chapter 3** contains a description and analysis of the economic and social impacts of each of the alternatives.

**Chapter 4** addresses the requirements of other applicable laws, including the Magnuson Stevens Act (MSA), Marine Mammal Protection Act, and Regulatory Flexibility Act (RFA), which includes the Initial Regulatory Flexibility Analysis (IRFA). The RFA requires analysis of adverse economic impacts on small entities which would be directly regulated by the proposed action.

The references and literature cited are in **Chapter 5**, the list of preparers is in **Chapter 6**, and the list of agencies and individuals consulted is in **Chapter 7**.

## Background

The BSAI Pacific cod resource supports a fully subscribed fishery. Cod is targeted by multiple gear types, primarily by trawl and hook-and-line catcher processors, with smaller amounts taken by hook-and-line catcher vessels, jig vessels, and catcher vessels employing pot gear. Final 2006 – 2007 harvest specifications, effective in early March 2006, set a 2006 BSAI Pacific cod TAC of 194,000 mt.<sup>2</sup> Under this TAC, the 7.5% reserve allocated to the western Alaska Community Development Quota (CDQ) Program was 14,550 mt and the (non-CDQ) ITAC was 179,450 mt. The BSAI Pacific cod TAC has been apportioned among the different gear sectors since 1994, and a series of amendments have modified or continued this allocation system. The CDQ reserve of BSAI Pacific cod was established in 1998.

### Cod allocations among the jig, trawl, and fixed gear sectors

Beginning in 1994, BSAI Amendment 24 allocated the TAC for non-CDQ BSAI Pacific cod to the various gear sectors as follows: 44% fixed gear (hook-and-line and pot); 54% trawl gear; and 2% jig gear. These percentages roughly represented the existing harvests of each sector during 1991 - 1993, with the exception of the jig sector. The two percent jig allocation exceeded the existing historical harvest by that sector and was intended to allow for growth in the jig sector.

Beginning in 1997, BSAI Amendment 46 allocated the BSAI Pacific cod ITAC among the same sectors as follows: **51% fixed gear; 47% trawl gear; and 2% jig gear. The amendment also split the trawl apportionment between catcher vessels and catcher processors 50/50, but did not split the fixed gear allocation among hook-and-line and pot sectors.** This action also included authorization for NMFS to reallocate any portion of the Pacific cod allocations that were projected to remain unused among the various sectors if necessary.

**The allocations under Amendment 46 have been in place since 1997.** While there is no sunset provision or regulatory requirement to review or modify these allocations, the Council’s motion on Amendment 46 included a provision to review the allocations four years after implementation. This review, originally intended at the end of 2000, is represented by this proposed amendment.

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<sup>2</sup>Note that the 2006 TAC was respecified by NMFS on March 14, 2006, to account for a new State managed Pacific cod fishery in State waters (within 3 nm) in the Aleutian Islands that the State established in late February 2006. This fishery was established for 2006 and 2007 only. The guideline harvest level for this fishery equals 3% of the BSAI Pacific cod ABC, thus, the 2006 TAC was adjusted to 188,180 mt. This analysis continues to use a 2006 TAC of 194,000 mt for illustrative purposes.

## Cod allocations among the fixed gear sectors

Vessels began fishing in Federal waters off Alaska under the License Limitation Program (LLP) on January 1, 2000. Since the LLP was approved, changes in the fixed gear fleets prompted industry to petition the Council to further allocate cod in the BSAI among the various sectors of the fixed gear fleets. Amendment 64, implemented September 1, 2000, further apportioned the 51% of the BSAI Pacific cod TAC allocated to fixed (hook-and-line and pot) gear. Because Amendment 64 was scheduled to expire at the end of 2003, Amendment 77 was initiated to continue or modify the fixed gear apportionments beyond 2003. Under Amendment 77, the Council approved continuing the same overall fixed gear allocations as under Amendment 64, but including a new apportionment between the pot sectors. The existing apportionment of the fixed gear portion of the BSAI Pacific cod ITAC is as follows:

- 80% hook-and-line catcher processor
- 0.3% hook-and-line catcher vessel
- 3.3% pot catcher processor
- 15.0% pot catcher vessel
- 1.4% hook-and-line and pot vessel <60' LOA<sup>3</sup>

With the exception of the pot split, the percentage allocations selected closely represent the harvests in this fishery during 1995 – 1998 or 1999, with an additional allocation for catcher vessels <60' LOA in order to allow for growth in the small boat sector. The pot sector allocations were based on harvests from 1998 – 2001. The percentage allocations under Amendments 64 or 77 did not reflect harvests of any quota that had been reallocated annually to the fixed gear sectors.

## Reallocations of BSAI Pacific cod among sectors

Note that all of the recent BSAI Pacific cod allocation amendments provide direction on how to reallocate quota that is projected to remain unused by a particular sector at the end of the year. Since the BSAI Pacific cod allocations have been in effect, NMFS has reallocated quota each year, from the trawl and jig sectors to the pot and hook-and-line sectors. In some years, quota has also been reallocated from the pot sectors to the hook-and-line sector. Reallocations between gear types (e.g., trawl CP to trawl CV, or hook-and-line CV to hook-and-line CP) have occurred less frequently and in lower amounts. In terms of metric tons, the majority of reallocations have been from the trawl sectors (CVs and CPs) since the gear specific allocations were established in 1994.

With the exception of the jig sector, because any unused *seasonal apportionment* to a particular sector is reallocated to the next seasonal allowance for that sector, reallocations from one gear sector to another occur in the last season. Typically, reallocations from trawl to the fixed gear sectors occur in October and November, and always during the trawl C season (June 10 – Nov. 1). **Table E - 1** provides a summary of reallocations by sector during 2000 - 2004. The amount and frequency of reallocations among sectors is one of the primary reasons for considering this action.

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<sup>3</sup>The hook-and-line and pot CV <60' sectors were allowed to fish off of the general hook-and-line CV allocation and general pot CV allocation when these fisheries were open, respectively. When these fisheries were closed, the <60' sector harvest accrued toward the <60' hook-and-line/pot CV allocation of 1.4%.

**Table E - 1 Average BSAI Pacific cod reallocations by sector, 2000 - 2004**

Average 2000 - 2004	Initial Allocation (mt)	Reallocations (mt)	Reallocation as % of initial allocation
Jig	3,715	-3,309	-89%
HAL/POT CV < 60	1,312	309	24%
HAL Catcher/Processors	75,006	16,861	22%
HAL Catcher Vessels	283	120	42%
Pot gear	17,244	-739	-4%
Trawl catcher/processors	43,649	-8,483	-19%
Trawl catcher vessels	43,469	-4,760	-11%
Average of total	184,678	17,291	9%

Source: NMFS Blend data (2000 – 2002) and catch accounting database (2003 – 2004).

The primary reason reallocations occur from the jig sector is due to insufficient effort in that sector in the BSAI. There are several reasons commonly cited for the trawl reallocations. These include increased difficulty catching cod with trawl gear late in the year when cod are less aggregated; seasonal apportionments for trawl gear under Steller sea lion mitigation measures starting in 2001; closure of the directed trawl fisheries due to the halibut bycatch cap; relatively high annual quotas of alternative trawl fisheries such as pollock (for AFA vessels); and high value alternative trawl fisheries such as yellowfin sole, rock sole, and flathead sole (for non-AFA catcher processors).

Note that the increased difficulty in harvesting cod in the second half of the year is not unique to one sector. All gear sectors have increased difficulty harvesting cod later in the year when cod are less aggregated. Weather is also a significant factor for the smaller vessel sectors in the fall season. The hook-and-line sectors (CPs and CVs) are also limited by halibut bycatch in the second half of the year, as these sectors do not have a halibut bycatch allowance from June 10 – August 15. In addition, while the fixed gear cod allocation was seasonally apportioned prior to 2001, these apportionments changed in 2001 with the Steller sea lion mitigation measures, and thus also reduced the amount of cod that the fixed gear sectors could harvest in the first half of the year. Finally, incidental take of seabirds by the hook-and-line sector is lower in the first half of the year compared to the second half. Thus, the hook-and-line sector would also prefer to harvest its cod allocation earlier in the year to decrease incidental take of seabirds.

The primary change from the status quo with regard to reallocations under Amendment 77 was to apportion the jig sector's allocation (2% of the BSAI Pacific cod ITAC) on a trimester basis and reallocate any unused jig quota to the <60' vessels using hook-and-line or pot gear on a *seasonal basis*, as opposed to only in the last season. This allows the <60' pot and hook-and-line vessels to receive additional quota during the spring and summer months when it is most advantageous for the small boat fleet. It was also intended to reduce the risk of having to close the fishery intermittently while waiting for a potential reallocation from the jig sector. Previously, both unused jig and trawl quota was reallocated 95% to the hook-and-line catcher processors and 5% to pot sectors. Amendment 77 retained this distribution for reallocating unused *trawl* quota, with an additional split for the pot sectors (0.9% to pot catcher processors; and 4.1% to pot catcher vessels).

**In sum**, the existing overall allocations to the trawl, fixed, and jig gear sectors have been in place for nine years (since 1997), and the further split among the fixed gear sectors has been in place for a little over five years (since September 2000). The separate allocations between the pot catcher processor and pot catcher vessel sectors have been in place for two years (since 2004).

## Cod allocation to the CDQ Program

The western Alaska CDQ Program was implemented in November 1992 as part of the inshore/offshore allocations of pollock in the BSAI. In 1996, amendments to the Magnuson Stevens Act institutionalized the program. Originally, the CDQ Program was only allocated an annual BSAI pollock reserve. The CDQ Program has since been amended several times and now includes allocations of halibut, sablefish, crab, pollock, and most of the remaining groundfish species in the BSAI. The percentages of the CDQ reserves are as follows: 10% of crab species (with the exception of Norton Sound red king crab at 7.5%); 20% of fixed gear sablefish; 20% to 100% of halibut; 10% of pollock; and 7.5% of most other groundfish and prohibited species. The 7.5% allocation of BSAI Pacific cod to the CDQ Program was established when the multi-species reserves were implemented in 1998.

Note that the President signed the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) into law on July 11, 2006, after the Council selected a final preferred alternative for Amendment 85. Among other actions, this Act amends Section 305(i) of the Magnuson Stevens Act, which pertains to the CDQ Program. The MSA amendments include a change to make the CDQ Program Pacific cod allocation a directed fishing allocation of 10% upon the establishment of sector allocations (Section 305(i)(1)(B)(ii)(1)). As Amendment 85 establishes sector allocations of BSAI Pacific cod, the MSA thus requires that, at the same time these sector allocations are established, the allocation of BSAI Pacific cod to the CDQ Program must increase to 10% as a directed fishing allocation. The regulatory and FMP amendments necessary to implement this change are thus included in this amendment package, in order for the Council's proposal for Amendment 85 to be consistent with the MSA. Further FMP and regulatory amendments resulting from the Act are undergoing analysis and legal interpretation by NOAA GC.

## State water Pacific cod fishery in the Aleutian Islands

Note that while the ABC and TAC were 194,000 mt at the beginning of 2006, the Alaska Board of Fisheries (Board) took action in late February 2006 to establish a State waters Pacific cod fishery in the Aleutian Islands west of 170° W longitude. The Board's action established this fishery for two years: 2006 and 2007. This fishery has a guideline harvest level (GHL) equal to 3% of the BSAI Pacific cod ABC, which represents about 5,820 mt (or 12,830,772 lbs) in 2006. Accounting for the GHL reduced the 2006 BSAI Pacific cod TAC to 188,180 mt.<sup>4</sup>

As the 2006 TAC had originally been specified by January 2006, and sectors were already fishing under specified allocations, NMFS effected an inseason adjustment under Federal regulations (50 CFR 679.25) to re-specify the TAC to accommodate the 3% reduction for the GHL on March 14. This necessitated recalculating the sector allocations and seasonal apportionments published in Federal regulations.<sup>5</sup> The State action also necessarily affects the 2006 BSAI Pacific cod CDQ reserve, as that reserve is currently calculated as 7.5% of the BSAI Pacific cod TAC. Thus, all sectors realized a proportional reduction of 3% of their current Federal allocations as a result of this action.

The State AI fishery is established such that it will start on or after March 15, and only after the Federal Pacific cod trawl catcher vessel A season is closed. NMFS closed the directed trawl catcher vessel Pacific cod fishery in the BSAI on March 8, 2006, in order to avoid exceeding the A season allocation, and the 2006 State water AI fishery began at noon on March 15. The first season of this fishery ended on March

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<sup>4</sup>Under a revised 2006 TAC of 188,180 mt, the CDQ reserve (7.5% in 2006) was 14,114 mt and the ITAC was 174,067 mt.

<sup>5</sup>See Table 5 (*2006 and 2007 Gear Shares and Seasonal Allowances of the BSAI Pacific cod TAC*) in 71 FR 10870, March 3, 2006.

24. The second and last season started on June 10 and was closed September 1, with less than 10% of the quota harvested (Bowers, pers. comm).

**The primary elements of the State water AI Pacific cod fishery are outlined in Section 3.3.2 of the analysis.** Note again that the Board’s action established this fishery only for 2006 and 2007. Thus, while the overall effect on the Federal BSAI Pacific cod fishery is that the ABC would be reduced by 3% prior to the TAC and sector allocations being established, this action may be limited to two years. In that case, the State water AI Pacific cod fishery may or may not overlap with the action being considered under Amendment 85, depending on the timing of implementation. This analysis continues to use the 2006 TAC of 194,000 mt and the projected 2007 TAC of 148,000 mt for illustrative purposes, without the 3% deduction for the State water GH. However, the effects of the State water fishery, in terms of reducing the remaining quota available to participants in the Federal BSAI Pacific cod fishery and impacts on seasonal apportionments, are provided in the analysis.

It is important to recognize that 89.5% of the total BSAI Pacific cod TAC is currently allocated to the non-CDQ sectors. This percentage reflects the deductions for the CDQ Program allocation (7.5%) and the State water AI fishery (3%). Under the 2006 Coast Guard Act (approved July 11, 2006), the CDQ allocation increases to 10% and is specified as a “directed fishing allocation,” upon implementation of new sector allocations. Therefore, NMFS interprets the Act to require that some additional percentage (to be determined in the annual groundfish specifications process) must be allocated for CDQ incidental catch of cod in the other CDQ groundfish fisheries. While this will only be implemented at such time as Amendment 85 is effective, NMFS plans for the first year ICA to be 0.5% to 1.0% of the Pacific cod TAC. **Thus, upon implementation of the Coast Guard Act provisions through this amendment, the amount of the total TAC allocated among the non-CDQ sectors (i.e., the ITAC) will be reduced to between 86% and 86.5% of the BSAI Pacific cod TAC, assuming the State water fishery continues beyond 2007.** (See Appendix H for NOAA General Counsel’s legal opinion on this issue).

## **Problem Statement**

Amendment 85 was initiated, in large part, due to the substantial reallocations of quota that occur late in the season each year from the trawl and jig sectors to the fixed gear sectors (primarily the hook-and-line catcher processor sector). The non-CDQ Pacific cod allocations have not been revisited since 1997, and the CDQ Pacific cod reserve has not been revisited since it was established in 1998.

### **BSAI Amendment 85 Problem Statement**

The BSAI Pacific cod fishery is fully utilized and has been allocated among gear groups and to sectors within gear groups. The current allocations among trawl, jig, and fixed gear were implemented in 1997 (Amendment 46) and the CDQ allocation was implemented in 1998. These allocations are overdue for review. Harvest patterns have varied significantly among the sectors, resulting in annual inseason reallocations of TAC. As a result, the current allocations do not correspond with actual dependency and use by sectors.

Participants in the BSAI Pacific cod fishery who have made significant investments and have a long-term dependence on the resource need stability in the allocations to the trawl, jig, fixed gear, and CDQ sectors. To reduce uncertainty and provide stability, allocations should be adjusted to better reflect historic use by sector. The basis for determining sector allocations will be catch history, as well as consideration of socio-economic and community factors.

As other fisheries in the BSAI and GOA are incrementally rationalized, historical participants in the BSAI Pacific cod fishery may be put at a disadvantage. Each sector in the BSAI Pacific cod fishery currently has different degrees of license requirements and levels of participation. Allocations to the sector level are a necessary step on the path towards comprehensive rationalization. Prompt action is needed to maintain stability in the BSAI Pacific cod fisheries.

In October 2005, the Council approved the above problem statement, to address concerns that the allocations should be adjusted to better reflect historic use by sector. This amendment is also intended to establish more refined allocations to the BSAI Pacific cod sectors, by evaluating the potential for establishing separate and distinct allocations for the non-AFA trawl CP and AFA trawl CP sectors and the non-AFA trawl CV and AFA trawl CV sectors. The overall effort to constrain and protect the harvest distribution among all of the BSAI Pacific cod sectors is noted as a necessary step toward comprehensive rationalization.

### Alternatives under Consideration

Two primary alternatives were considered in Amendment 85. Table E - 2 outlines the suite of alternatives, components, and options. Both alternatives are comprised of the same eight components. Alternative 1 does not include options under each component, as it represents the no action alternative (status quo). Alternative 2 includes multiple options under each component. This means that an option must be selected under each component in Alternative 2 in order for it to be whole. **In effect, while the primary action represented by Alternative 2 is a change in the overall allocation regime, Alternative 2 represents a multitude of potential outcomes, depending on the different combination of options selected under each element.**

**Table E - 2 Summary of the Alternatives**

BSAI PACIFIC COD SECTOR ALLOCATIONS				
Components	Alternative 1 (No Action)		Alternative 2 (Revise allocations)	
<b>1. Sectors for which allocations are established</b>	Trawl CP Trawl CV Hook-and-line CP Hook-and-line CV	Pot CP Pot CV H&L/pot CV <60' Jig CV	AFA Trawl CP AFA Trawl CV Non-AFA Trawl CP Non-AFA Trawl CV Pot CV ≥60'	Pot CP Hook-and-line CP Hook-and-line CV ≥60' H&L/pot CV <60' Jig CV (Note: sectors could also be combined under Alt. 2)
<b>2. Sector allocations</b>	51% fixed gear: (80% hook-and-line CP) (0.3% hook-and-line CV) (3.3% pot CP) (15.0% pot CV) (1.4% hook-and-line/pot <60')  47% trawl gear: (50% trawl CP) (50% trawl CV)  2% jig gear		Six options to revise sector allocations based on sector's average annual harvest share during the years: 1995 – 2002 1997 – 2000 1997 – 2003 1998 – 2002 1999 – 2003 2000 – 2003 Drop year provisions exist under each option. The Council can select any allocations within the range provided. Options exist to provide allocations (combined or separate) to the <60' fixed gear and jig gear sectors not to exceed: 2.71%, 3%, or 4%.	

<b>BSAI PACIFIC COD SECTOR ALLOCATIONS</b>		
<b>Components</b>	<b>Alternative 1 (No Action)</b>	<b>Alternative 2 (Revise allocations)</b>
<b>3. Seasonal apportionments</b>	<p><u>Trawl CV:</u> 70% (Jan. 20 - Apr. 1) 10% (Apr. 1 - June 10) 20% (June 10 - Nov. 1)</p> <p><u>Trawl CP:</u> 50% (Jan. 20 - Apr. 1) 30% (Apr. 1 - June 10) 20% (June 10 - Nov. 1)</p> <p><u>H&amp;L gear &gt;60':</u> 60% (Jan. 1 - June 10) 40% (June 10 - Dec. 31)</p> <p><u>Pot gear &gt;60':</u> 60% (Jan. 1 - June 10) 40% (Sept. 1 - Dec. 31)</p> <p><u>Fixed gear &lt;60':</u> no seasonal apportionments</p> <p><u>Jig gear:</u> 40% (Jan. 1 - Apr. 30) 20% (Apr. 30 - Aug. 31) 40% (Aug. 31 - Dec. 31)</p>	<p>Option to maintain status quo seasons (see Alt. 1).</p> <p>Option to maintain the current % of ITAC allocation to the A and B seasons for trawl gear and the A season for fixed gear.</p> <p>Option to maintain the current % of the ITAC allocated to the A season for trawl gear.</p> <p>Three suboptions exist to apportion the reduction to the trawl sectors' allocations between the B and C season.</p> <p>Option 3.4: to modify the jig apportionments to: 60% (Jan. 1 - Apr. 30) 20% (Apr. 30 - Aug. 31) 20% (Aug. 31 - Dec. 31)</p>
<b>4. Rollovers</b>	<p>Unused trawl sector allocations are first considered for reallocation to other trawl sector</p> <p>Unused pot sector allocations are first considered for reallocation to other pot sector</p> <p>Reallocation from trawl to fixed gear: 0.9% pot CP 4.1% pot CV 95% hook-and-line CP</p> <p>Reallocation from jig to &lt;60' fixed gear on seasonal basis</p> <p>Unused &lt;60' fixed gear, pot, and hook-and-line CV quota is reallocated to hook-and-line CP sector</p>	<p>Options to generally maintain status quo rollover provisions, with accommodation of new trawl sectors.</p> <p>Options to modify the rollovers from trawl to fixed gear according to the new fixed gear allocations determined under Component 2.</p> <p>Options to reallocated unused quota from an inshore sector to the other inshore sectors before reallocating to offshore sectors.</p>
<b>5. CDQ allocation</b>	7.5% of the BSAI Pacific cod TAC	Options exist to maintain 7.5% BSAI Pacific cod CDQ allocation or to increase to 10% or 15%.
<b>6. Apportionment of trawl halibut and crab PSC to cod trawl fishery group</b>	The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process.	The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process.
<b>7. Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors</b>	No apportionment of cod trawl halibut and crab PSC between the trawl sectors.	Options to apportion the cod trawl halibut and crab PSC among the trawl sectors determined in Component 1 according to their cod allocations or according to their directed cod harvest.
<b>8. Apportionment of cod non-trawl halibut PSC</b>	No apportionment of the cod non-trawl halibut PSC between hook-and-line CP and CV sectors.	Apportion the cod non-trawl halibut PSC between hook-and-line CP and CV sectors either 1) in proportion to their cod allocations, or 2) 10 mt for CVs, remainder for CPs.

## Alternative 1

Under **Alternative 1 (no action)**, there would be no change to the current sector allocations of the BSAI Pacific cod ITAC. Sector allocations would remain as follows:

<b>51% fixed gear:</b> (80% hook-and-line catcher processors) (0.3% hook-and-line catcher vessels) (3.3% pot catcher processors) (15.0% pot catcher vessels) (1.4% hook-and-line/pot vessels <60' LOA)	<b>47% trawl gear:</b> (50% trawl catcher vessels) (50% trawl catcher processors)	<b>2% jig gear</b>
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The overall split between fixed, trawl, and jig gear mirrors the circumstances present in the fishery since 1997, and the further fixed gear split has been in place since September 2000, with the exception of the pot split, which was implemented in 2003. No further split would be made between the AFA and non-AFA trawl sectors; the AFA trawl CV and CP sectors would continue to be subject to a BSAI Pacific cod sideboard, as opposed to having their own separate allocation of Pacific cod.

Under Alternative 1, the CDQ reserve of BSAI Pacific cod would continue to be 7.5% of the BSAI Pacific cod TAC, and this reserve would come off the top of the overall TAC prior to the apportionment to the non-CDQ sectors. The current seasonal apportionments would apply. Under Alternative 1, it is expected that a substantial portion of the cod quota would continue to be reallocated on an annual basis due to projections that the quota would remain used. Unused quota from the trawl sectors would continue to be reallocated to the fixed gear sectors, with 95% to the hook-and-line CP sector, 0.9% to the pot CP sector, and 4.1% to the pot CV sector. Unused jig quota would first be considered for reallocation to the <60' fixed gear sector at the end of each jig season, before being considered for reallocation to the other fixed gear sectors above. The trawl sectors would continue to share halibut and crab bycatch allowances established for the trawl cod fishery group as a whole. Similarly, the hook-and-line sectors would continue to share an annual halibut bycatch allowance for the hook-and-line cod trawl fishery group.

## Alternative 2

Under Alternative 2, the sector allocations of the BSAI Pacific cod TAC would be revised. There are multiple combinations of options that could result in various allocation scenarios, the range of which is provided below in **Table E - 3**. The effects of all of the options are detailed in Section 3.4.2.

Which sectors receive a separate BSAI Pacific cod allocation is the issue addressed in **Component 1**. Allocations could be made to the currently defined sectors, or the AFA and non-AFA trawl sectors could receive separate allocations. The allocation established for each (non-CDQ) sector is the issue addressed in **Component 2** (see Table E - 3 below). The remaining components under Alternative 2 affect the seasonal apportionment of the resulting allocations (**Component 3**); how unused quota is reallocated inseason (**Component 4**); the CDQ reserve (**Component 5**); and sector apportionments of PSC allowances (**Components 6 – 8**).

In brief, the BSAI Pacific cod allocations to the hook-and-line sectors would increase under Alternative 2 compared to status quo (Alternative 1). The allocations to the trawl sectors would generally decrease under Alternative 2 compared to the status quo, with the exception of the AFA trawl CV sector if Component 1, Option 1.1 is applied. The allocations to the pot sectors could increase or decrease under the proposed options. The allocations to the <60' fixed gear and jig gear sectors would decrease under any of the options based on catch history in Alternative 2, compared to the status quo. However,

Alternative 2, Option 2.8 would make no changes to the jig sector allocation and would either maintain or increase the distinct allocation to the <60' fixed gear sector compared to Alternative 1.

Note that under Alternative 2, each sector's allocation would be represented in the regulations as a percentage of the overall BSAI Pacific cod ITAC. This is in contrast to the status quo, in which overall fixed gear (51%), trawl gear (47%), and jig gear (2%) allocations are established, and each subsector allocation is represented in the regulations as a percentage of each gear allocation. In addition, under Alternative 2, each individual sector's harvest is only applied toward its own allocation. Under the status quo, <60' hook-and-line/pot catcher vessel harvest accrues toward the general hook-and-line and pot catcher vessel allocations, respectively, by gear type, when those directed fisheries are open.

**Table E - 3 Range of proposed BSAI Pacific cod allocations (as % of BSAI Pacific cod ITAC) by sector under Alternative 2, compared to historical catch and status quo allocations**

Sectors	Range of potential sector allocations under Alternative 2	Current allocation (Alternative 1)	Difference between proposed and status quo allocations	Annual share of retained cod harvests, average 1995–2003 <sup>1</sup>
<60' hook-and-line/pot CV	0.1% – 2%	0.7%	-0.6% to 1.3%	0.4%
AFA trawl CP	0.9% – 3.7%	23.5% (AFA CP sector is subject to sideboard of 6.1%)	-2.4% to -5.2%	1.7%
Non-AFA trawl CP	12.7% – 16.2%		n/a	13.6%
Jig CV	0.1% – 2%	2%	-1.9% to 0%	0.1%
Hook-and-line CP	45.8% – 50.3%	40.8%	5% to 9.5%	49.6%
Hook-and-line CV ≥60'	0.1% – 0.4%	0.2%	0% to 0.3%	0.1%
AFA trawl CV	17.8% – 24.4%	23.5% (non-exempt AFA CV sector is subject to sideboard of 20.2%)	-2.4% to 4.2%	21.7%
Non-AFA trawl CV	0.5% – 3.1%		n/a	2.1%
Pot CP	1.4% – 2.3%	1.7%	-0.3% to 0.6%	2.1%
Pot CV ≥60'	7.3% – 9.2%	7.6%	-0.4% to 1.5%	8.6%

<sup>1</sup>Source: ADF&G fishtickets and weekly production reports, 1995 – 2003. Retained BSAI Pacific cod harvests are based on retained catch, excluding cod destined for meal production and excluding the AFA 9. If meal were included, the average share of the AFA trawl CP sector increases to 2.2% and the AFA trawl CV sector increases to 21.9%. The non-AFA trawl CP sector share is reduced to 13.4%, and the hook-and-line CP sector share is reduced to 49.1%.

Note: The <60' fixed gear sector is currently allocated 0.71% of the BSAI Pacific cod ITAC. However, this sector can currently fish off the general hook-and-line CV and pot CV Pacific cod allocations when those directed fisheries are open, respectively, by gear type. The proposed amendment would allow the <60' fixed gear sector to only fish off its direct allocation.

There are four options of note under **Component 3** that address seasonal apportionments. The first three options (Options 3.1 – 3.3) are mutually exclusive and provide direction on how allocations determined in Component 2 would be seasonally apportioned. Option 3.1 retains the current seasonal apportionments for each sector (see Table E - 2). The current apportionments are primarily a result of the temporal dispersion measures resulting from the 2001 Biological Opinion on Steller sea lions. These measures are implemented to meet a seasonal target of 70% (Jan. 1 – June 10) and 30% (June 10 – Dec. 31).

Option 3.2 under Component 3 would change the seasonal apportionments by sector compared to the status quo, but would not change the percentage of the BSAI Pacific cod ITAC harvested by each gear sector in the first half of the year. In effect, any reduction to the trawl sectors' allocation would be applied only to their C season allocations. This option maintains the 70% apportionment of the overall BSAI Pacific cod TAC to the first half of the year. Under the current range of proposed allocations, however, Option 3.2 would result in a negative C season allocation for the trawl CP sectors. In effect, the proposed options in Component 2 do not result in a large enough allocation to the trawl CP sectors that would

support maintaining both their current A and B season allocations and attributing the entire reduction in their overall allocation to the C season.

Option 3.3 under Component 3 would change the seasonal apportionments by sector compared to the status quo, but would not change the percentage of the BSAI Pacific cod ITAC currently harvested by the trawl sector in the A season. In effect, any reduction to the trawl sectors' allocations would be applied to their B and C season allocations. Any increase in the fixed gear sectors' allocation would be applied to both their A and B seasons. In addition, there are three suboptions that address how the reduction to the trawl sectors' allocations would be applied: Suboption 1) proportionately between the B and C seasons; Suboption 2) equally between the B and C seasons; and Suboption 3) taking the maximum from the trawl sectors' C season before reducing the trawl sectors' B season, and increasing the fixed gear sectors' A season to the extent possible without exceeding the 70% - 30% Steller sea lion seasonal apportionment measures.

Option 3.3 does not create any negative C season apportionments, as discussed above. Suboption 1 and Suboption 2 slightly exceed the 70% target for the first half of the year under some of the proposed allocation options in Component 2. Suboption 3 provides that if the 70% target is exceeded, the hook-and-line CP sector's A season allocation is reduced to the extent necessary to meet the 70% threshold. In general, Suboption 3 results in exceeding the 70% far more so than Suboption 1 or 2, as the entire reduction to the trawl allocations is taken from their C season allocations only, and thus, the hook-and-line CP sector's A season is reduced under this suboption.

Finally, Option 3.4 proposes to modify the jig seasonal apportionment to 60% - 20% - 20%. In effect, this would shift an additional 20% of the jig allocation, which currently represents 0.4% of the BSAI Pacific cod ITAC, to the first season. This would likely benefit the <60' fixed gear fleet compared to the status quo, due to the larger potential reallocation of cod in the first trimester. Notwithstanding a considerable increase in effort in the jig sector, the jig sector would be minimally affected, if at all. Upon selection of a preferred alternative, it will be easier to discern the potential effects of the resulting combination of Components 2 and 3.

**Component 4** addresses how to reallocate BSAI Pacific cod quota that is projected to remain unused. Options exist in Alternative 2 to reallocate unused quota first among the inshore sectors before reallocating to the offshore sectors. This represents a change from the status quo, but would continue to retain flexibility for NMFS to consider the likelihood of a sector's capability to harvest reallocated quota.

**Component 5** proposes to either maintain the 7.5% CDQ allocation of the BSAI Pacific cod TAC or increase the allocation to 10% or 15% under Alternative 2. Pacific cod is currently the second most important species to the CDQ Program in terms of volume, and is typically the second or third most important in terms of value (royalties). An increase to a 10% or 15% reserve would potentially increase CDQ royalties generated from Pacific cod harvest by one-third or one-half, respectively. In addition, a subset of the hook-and-line catcher processor sector that harvests the non-CDQ Pacific cod fishery currently partners with the CDQ groups to also prosecute the CDQ Pacific cod fishery. Current CDQ allocations of non-target species harvested incidentally in the target CDQ Pacific cod fishery appear sufficient to support an increase in the CDQ Pacific cod allocation. Selection of either option to increase the CDQ allocation would reduce the amount of the BSAI Pacific cod TAC allocated to the non-CDQ sectors, effectively reducing their allocations proportionately, by 2.5% or 7.5%. (Note that amendments to Section 305(i)(1)(B)(ii)(1) of the MSA in July 2006, require that the CDQ Program Pacific cod allocation is to be a directed fishing allocation of 10% upon the establishment of sector allocations. Thus, to be consistent with these MSA amendments, the CDQ allocation must be increased to a directed fishing allocation of 10% upon implementation of Alternative 2.)

**Components 6 and 7** address apportioning the crab and halibut PSC allowances among the trawl sectors. Under Alternative 1, there is a shared amount of halibut PSC established annually, for example (3,400 mt) that is then further divided among the trawl fishery groups (e.g., Pacific cod trawl fisheries, rock sole/other flatfish/flathead sole trawl fisheries, etc.). Component 6 addresses the amount of the trawl halibut PSC and crab PSC that is established overall for the trawl fisheries. Alternatives 1 and 2 are the same in this regard, and do not propose to change the process for determining these amounts. Component 7, however, proposes to further split the amount of the halibut and crab PSC apportioned to the *trawl cod fishery group* among the various trawl sectors that are proposed to receive Pacific cod allocations under this amendment. This issue is complicated further by the simultaneous consideration of BSAI Amendment 80, which proposes to establish flatfish allocations for the non-AFA trawl CP sector, as well as *PSC allocations for all fisheries* associated with that sector, including Pacific cod. While not yet approved by the Secretary, potential effects of Amendment 80 are taken into account in the analysis of these components. The Council selected a final preferred alternative on Amendment 80 at its June 2006 meeting. This action, and its implications on the preferred alternative in Amendment 85, is described in detail in Sections 3.4.3.5 and 3.4.3.6.

In brief, the ongoing assumption of Amendment 85 is that any allocation of PSC established under Amendment 80 for the non-AFA trawl CP sector will take precedence over any PSC allocation established under Amendment 85 for this sector, should these amendments be approved by the Secretary. Halibut PSC is provided as an example here, as it is more of a limiting factor in the Pacific cod fishery than crab PSC. The Council’s preferred alternative under Amendment 80 allocates 2,525 mt of halibut PSC to the non-AFA trawl CP sector and the remaining 875 mt to the remaining three trawl sectors (for all of their target fishery groups). See **Table E - 4** below.

**Table E - 4 Estimates of halibut PSC allocations to the non-AFA trawl CP sector under proposed Amendment 80**

	Halibut PSC allocations under Amendment 80	Non-AFA CP Trawl Sector allocation as a percent of trawl halibut PSC	Average halibut PSC usage (1995 - 2003) (mt)
Non-AFA CP Trawl Sector allocation (mt) (assuming 3,400 mt trawl PSC allocation)	2,525	74%	2,362
PSC (mt) remaining for other trawl sectors, all fisheries (assuming 3,400 mt trawl PSC allocation)	875	26%	1,094
Total 2006 - 07 Halibut PSC allowance (mt)	3,400	100%	3,456

Source: NPFMC PSC data files, 1995 – 2003.

Component 7 under Amendment 85 provides two options for allocating PSC among the trawl sectors, whether the PSC allocations are made to the trawl sectors excluding the non-AFA trawl CP sector (at such time Amendment 80 is effective), or to all trawl sectors including the non-AFA trawl CP sector (in the case that there is lag time between implementation of Amendment 80 and 85)), assuming both are approved. Under Amendment 85, PSC can be divided either based on each trawl sector’s Pacific cod allocation determined in Component 2, or based on each trawl sector’s allocation and percentage of *directed* (i.e., targeted) Pacific cod harvest during the years selected to determine the allocation. The effect of these two options on halibut PSC allocations to each trawl sector is projected below.

**Table E - 5 Estimates of halibut PSC allocations to the trawl sectors under Amendment 85**

Sector	Option 7.1				Option 7.2			
	Minimum halibut (mt)	Minimum % of total halibut	Maximum halibut (mt)	Maximum % of total halibut	Minimum halibut (mt)	Minimum % of total halibut	Maximum halibut (mt)	Maximum % of total halibut
AFA Trawl CP	33	2.3%	127	8.8%	36	2.5%	135	9.4%
AFA Trawl CV	688	48.0%	862	60.1%	830	57.9%	1,004	70.0%
Non-AFA Trawl CP	477	33.2%	607	42.3%	325	22.7%	429	29.9%
Non-AFA Trawl CV	17	1.2%	113	7.9%	22	1.5%	146	10.2%
Total for AFA CP & Trawl CV sectors	738	51.5%	1,102	76.8%	888	61.9%	1,286	89.7%

Note: The estimates of halibut mortality in metric tons are based on the current halibut PSC limit of 1,434 mt allocated to the BSAI cod trawl fishery group.

**Table E - 4** shows that the total trawl halibut PSC amount remaining after the Amendment 80 allocation to the non-AFA trawl CP sector is 875 metric tons. This residual would be used to support both Pacific cod and all other fisheries for the three remaining trawl sectors. In effect, 875 mt is on the lower end of the range of halibut PSC allocations considered for the other trawl sectors under Amendment 85 (see the last row of **Table E - 5**, between 738 mt and 1,286 mt), and these options are only intended to support the other three trawl sector's *Pacific cod* fisheries.

**Table E - 6** shows historic use of halibut PSC for selected trawl sectors and fisheries. Overall, the 875 mt residual amount is approximately 80% of the average use of the three other trawl sectors in all fisheries (1,094 mt).

**Table E - 6 Historic halibut PSC usage (1995-2003)**

	maximum	minimum	average
Non-AFA trawl CP sector (all fisheries)	2,802	1,586	2,362
All other trawl sectors (all fisheries)	1,863	472	1,094
Pacific cod trawl fishery	1,640	672	1,234
Pacific cod trawl fishery excluding non-AFA CP trawl sector	1,359	267	775
All trawl fisheries except Pacific cod	2,573	2,005	2,223
Non-AFA trawl CP sector - all fisheries except Pacific cod	2,368	1,234	1,904
All trawl fisheries except Pacific cod excluding non-AFA trawl CP sector	782	84	319

Source: NPFMC PSC data files, 1995 – 2003.

Establishing separate PSC allocations to each sector is expected to better allow the trawl sectors that operate under a cooperative management system (the AFA sectors, and potentially, the non-AFA trawl CP sector) to manage their fisheries and incidental catch internally. However, there may be some economic impacts associated with further dividing PSC among the various sectors. Currently, Federal regulations do not include specific provisions for reallocating PSC among different fishery categories within the same gear sector. Nevertheless, reallocating unutilized PSC, specifically halibut PSC, by a specific fishery group has been an important economic benefit of in-season management adjustments, routinely administered by NMFS, toward the end of each fishing year. Movement of halibut PSC within

the trawl fisheries, primarily from the cod trawl fishery group to the flatfish trawl fishery group, has enabled late season flatfish fisheries that otherwise could not have occurred. Allocating PSC by individual trawl sector, as proposed under Alternative 2, reduces the flexibility to shift PSC among trawl sectors and fisheries to some extent, as the PSC allocated to one trawl sector cannot be allocated outside of that sector. However, Amendment 85 does not contain any options to explicitly prohibit inseason managers from continuing to have the flexibility to shift PSC from within one trawl sector fishery group to another fishery group within the same sector, if necessary. (Note that this will not be an issue for the non-AFA trawl CP sector, should Amendment 80 be implemented, as this sector's PSC would not be allocated to separate fishery groups. Instead, the sector would be able to use its PSC allocation as needed for any of its target fisheries, as determined by the sector through the cooperative structure.)

Exceeding the trawl crab PSC allowance has not been of great concern in the BSAI Pacific cod trawl fisheries in most years, because the historical use has been less than the amount available. However, areas have been closed occasionally due to crab PSC in the past. The effect of Alternative 2 on the crab PSC apportionments is addressed in Section 3.4.2.7.

Note also that the Amendment 85 options only distribute the PSC allowance among the different trawl sectors in the *Pacific cod fishery group*. The amount of the Pacific cod PSC allowance to the trawl sectors continues to be determined in the specification process, which allows for periodic adjustments in response to changing circumstances.

**Component 8** under Alternative 2 proposes to apportion the shared halibut PSC allowance for the Pacific cod hook-and-line sectors between the hook-and-line catcher processor and catcher vessel sectors. Halibut PSC allowances have not typically constrained the hook-and-line Pacific cod fishery in the past. The options to split the allowance would potentially allow for different seasonal allowances of halibut PSC for each of the sectors in the future, and prevent one sector from being constrained by the other's halibut PSC catch. There is currently no halibut bycatch allowance for these sectors during the summer months (June 10 – Aug. 15), however, the hook-and-line catcher vessel sector may prefer to fish in the summer, due to better weather and in order to compete with the <60' pot catcher vessels for the <60' fixed gear allocation of Pacific cod that is not seasonally apportioned. In recent years, the <60' pot catcher vessels have harvested the vast majority of the <60' fixed gear allocation, about a third of which has been harvested from May through August.

Depending on the overall BSAI allocations selected under Component 2, Option 8.1 would apportion a range of 3 mt – 34 mt to the hook-and-line catcher vessel cod sector, leaving the remaining 741 mt – 772 mt for the hook-and-line catcher processor cod fishery. Option 8.2 would apportion 10 mt of halibut mortality to the hook-and-line catcher vessel cod sector and 765 mt to the hook-and-line catcher processor cod sector. (The results of both options assume the current halibut mortality allowance of 775 mt for the hook-and-line cod fishery group.) Given halibut mortality rates per metric ton of BSAI Pacific cod estimated for each hook-and-line sector, the proposed apportionments may be slightly less than necessary for the hook-and-line catcher vessel sector to fully prosecute the upper range of its potential BSAI Pacific cod allocation under this amendment. The proposed amounts appear sufficient for the hook-and-line catcher processor sector.

### **Council Preferred Alternative**

The Council recommended Alternative 2 as its preferred alternative at the April 2006 Council meeting. The Council selected specific options under each component of Alternative 2, thus, the preferred alternative is one derivation of Alternative 2. The following table outlines the various components that comprise the preferred alternative to revise the BSAI Pacific cod sector allocations based on catch history

and other socio-economic and community considerations. The discussion and analysis of the Council's preferred alternative is in Section 3.4.3.

**Table E - 7 Summary of the Council's Preferred Alternative in BSAI Amendment 85**

<b>BSAI PACIFIC COD SECTOR ALLOCATIONS</b>			
<b>Components</b>	<b>Council preferred alternative – Alternative 2</b>		
<p><b>1. Sectors for which allocations are established</b></p> <p><b>2. Sector allocations (as % of BSAI Pacific cod ITAC)</b></p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>AFA Trawl CP - 2.3%</p> <p>Non-AFA Trawl CP – 13.4%</p> <p>Trawl CV – 22.1%</p> <p>Pot CV ≥60' – 8.4%</p> </td> <td style="width: 50%; vertical-align: top;"> <p>Pot CP – 1.5%</p> <p>Hook-and-line CP – 48.7%</p> <p>Hook-and-line CV ≥60' – 0.2%</p> <p>H&amp;L/pot CV &lt;60' – 2.0%</p> <p>Jig CV – 1.4%</p> </td> </tr> </table>	<p>AFA Trawl CP - 2.3%</p> <p>Non-AFA Trawl CP – 13.4%</p> <p>Trawl CV – 22.1%</p> <p>Pot CV ≥60' – 8.4%</p>	<p>Pot CP – 1.5%</p> <p>Hook-and-line CP – 48.7%</p> <p>Hook-and-line CV ≥60' – 0.2%</p> <p>H&amp;L/pot CV &lt;60' – 2.0%</p> <p>Jig CV – 1.4%</p>
<p>AFA Trawl CP - 2.3%</p> <p>Non-AFA Trawl CP – 13.4%</p> <p>Trawl CV – 22.1%</p> <p>Pot CV ≥60' – 8.4%</p>	<p>Pot CP – 1.5%</p> <p>Hook-and-line CP – 48.7%</p> <p>Hook-and-line CV ≥60' – 0.2%</p> <p>H&amp;L/pot CV &lt;60' – 2.0%</p> <p>Jig CV – 1.4%</p>		
<p><b>3. Seasonal apportionments</b></p>	<p>Maintain the current percentage of the ITAC allocated to the A and B seasons for trawl gear and the A season for fixed gear. The reduction in the overall trawl allocation is applied in the C season; if necessary, remaining reductions are taken from the trawl B season. The increase in the overall fixed gear allocation is applied to the B season for fixed gear. Combined with Components 1 and 2, this component results in seasonal apportionments of each sector's <u>allocation</u> as shown below. The &lt;60' fixed gear sector is not affected by this component. The jig gear sector apportionments are also modified as shown below.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><u>Trawl CV:</u> 74% (Jan. 20 - Apr. 1) 11% (Apr. 1 - June 10) 15% (June 10 - Nov. 1)</p> <p><u>Trawl CP:</u> 75% (Jan. 20 - Apr. 1) 25% (Apr. 1 - June 10) 0.0% (June 10 - Nov. 1)</p> <p><u>H&amp;L CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (June 10 - Dec. 31)</p> </td> <td style="width: 50%; vertical-align: top;"> <p><u>Pot CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (Sept. 1 - Dec. 31)</p> <p><u>Fixed gear &lt;60':</u> no seasonal apportionments</p> <p><u>Jig gear:</u> 60% (Jan. 1 - Apr. 30) 20% (Apr. 30 - Aug. 31) 20% (Aug. 31 - Dec. 31)</p> </td> </tr> </table>	<p><u>Trawl CV:</u> 74% (Jan. 20 - Apr. 1) 11% (Apr. 1 - June 10) 15% (June 10 - Nov. 1)</p> <p><u>Trawl CP:</u> 75% (Jan. 20 - Apr. 1) 25% (Apr. 1 - June 10) 0.0% (June 10 - Nov. 1)</p> <p><u>H&amp;L CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (June 10 - Dec. 31)</p>	<p><u>Pot CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (Sept. 1 - Dec. 31)</p> <p><u>Fixed gear &lt;60':</u> no seasonal apportionments</p> <p><u>Jig gear:</u> 60% (Jan. 1 - Apr. 30) 20% (Apr. 30 - Aug. 31) 20% (Aug. 31 - Dec. 31)</p>
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<p><b>4. Rollovers</b></p>	<p>Projected unused allocation in the <b>jig</b> sector is considered for reallocation to the &lt;60' fixed gear CV sector on a seasonal basis. The third trimester jig rollover should be available to the &lt;60' fixed gear CV sector on September 1.</p> <p>Any unused allocation from an <b>inshore</b> sector will first be considered for reallocation to the jig sector and/or &lt;60' fixed gear CV sector; then to the hook-and-line CV ≥60' or pot CV ≥60' sector; then to the trawl CV sectors. Any CV allocation that is not likely to be harvested through this hierarchy will be reallocated as outlined below.</p> <p>Projected unused <b>trawl</b> sector allocations are considered for reallocation to other trawl sectors (AFA trawl CP; non-AFA trawl CP; trawl CV) before being reallocated to the fixed gear sectors (hook-and-line CP; pot CP; pot CV ≥60').</p> <p>Reallocation of TAC from the <b>trawl</b> sectors to the pot CP, ≥60' pot CV, and hook-and-line CP sectors will be proportional to the new fixed gear allocations: 83.1% to the hook-and-line CP sector, 14.3% to the ≥60' pot CV sector, and 2.6% to the pot CP sector.</p> <p>Projected unused <b>pot</b> sector allocations (CPs and ≥60' CVs) are considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.</p> <p>Projected unused allocations in the <b>&lt;60' fixed gear CV</b> sector, both <b>pot</b> sectors (CP and ≥60' CV), and <b>hook-and-line CV ≥60'</b> are reallocated to the hook-and-line CP sector.</p>		
<p><b>5. CDQ allocation</b></p>	<p>10% of the BSAI Pacific cod TAC as a directed fishing allocation<sup>1</sup></p>		

<b>BSAI PACIFIC COD SECTOR ALLOCATIONS</b>	
<b>Components</b>	<b>Council preferred alternative – Alternative 2</b>
<b>6. Apportionment of trawl halibut and crab PSC to cod trawl fishery group</b>	The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process.
<b>7. Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors</b>	The annual halibut and crab PSC allocation to the trawl cod fishery group will be apportioned to the cod trawl sectors (AFA CP; non-AFA CP; AFA CV) based on the sectors' directed cod harvests. To determine PSC, the percent of cod harvested in the cod target fishery by the trawl sectors is calculated on the basis of all cod catch during 1999 – 2003, including that designated for fishmeal production. <b>Result:</b> staff calculated each sector's percentage of the PSC allowance to the <i>trawl cod fishery group</i> as: AFA trawl CP (4.4%), trawl CV (70.7%), and non-AFA trawl CP (24.9%). <sup>6</sup>
<b>8. Apportionment of cod non-trawl halibut PSC</b>	The halibut PSC allocated to the hook-and-line cod trawl fishery group will be apportioned: 10 mt for CVs and the remainder for CPs. The halibut PSC amount for each category shall be set in the annual specifications process.
<b>Other provisions</b>	<p>Trawl sector allocations of Pacific cod will be managed as currently, with a soft cap with a directed fishing allowance and incidental catch allowance for each trawl sector, determined by NMFS inseason management. When BSAI Amendment 80 is implemented, the Pacific cod sector allocation for the non-AFA trawl CP sector will be divided between cooperative and non-cooperative vessels using the same formula as other allocated species in Amendment 80, and operate as a hard cap.</p> <p>AFA trawl catcher vessel cod sideboards would be maintained.</p> <p>A review of the effects of BSAI Amendment 85 on the &lt;60' hook-and-line and pot catcher vessel sectors will be conducted when the combined harvest of those sectors (including parallel, Federal and State fishery harvests) reaches a total of 3% of the BSAI Pacific cod ITAC.</p>

<sup>6</sup>While the Council ultimately maintained the current 7.5% CDQ cod allocation as its preferred alternative, it recognized that Congressional action was imminent to increase this allocation. The Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) was signed into law on July 11, 2006. This effectively increases the CDQ Program Pacific cod allocation to 10% (as a directed fishing allocation or DFA) upon effectiveness of new Pacific cod sector allocations. Thus, this amendment package includes FMP and regulatory amendments to increase the CDQ Pacific cod allocation (as a DFA) to 10% per the statute. An additional amount of BSAI Pacific cod will be annually reserved for the CDQ Program to provide for the incidental catch of Pacific cod in other CDQ groundfish fisheries.

## **BS/AI TAC split**

At the time the Council took action on this amendment, the analysis also contained a second, separate action (Part II). This part proposed four alternatives to establish a methodology by which to maintain sector allocations and minimize competition among gear groups, should the BSAI Pacific cod ABC and TAC be apportioned into separate BS and AI subarea ABCs and TACs in a future TAC specifications process. **As part of the overall motion on Amendment 85, the Council voted to remove Part II from BSAI Amendment 85 and initiate a new, separate analysis that examines alternative approaches to apportion the BSAI Pacific cod sector allocations between the BS and AI subareas.**

There were several reasons identified for the Council's action regarding Part II. The primary basis for this decision was that there were considerable problems associated with all of the alternatives. The Council

<sup>6</sup>Note that BSAI Amendment 80 (final Council action June 2006) includes flatfish species allocations and halibut and crab PSC allocations to the non-AFA trawl CP sector, which supercedes the PSC methodology in Amendment 85 for only that sector. Upon implementation of Am. 80, the remaining PSC allowance to the *trawl cod fishery group* will only be apportioned between the trawl CV sector and the AFA trawl CP sector. In that event, the percentages in Component 7 would be refined as follows: trawl CV sector (94.1%) and AFA trawl CP sector (5.9%).

received extensive public testimony on this issue, almost all of which recommended that future analysis be completed to evaluate additional alternatives. In order to avoid delaying action on the BSAI Pacific cod sector allocations overall, the Council voted to remove Part II of the analysis at this time. Thus, while the result is effectively no action on the BS and AI subarea allocation split, it was not for want of addressing the problem or due to a lack of recognition that the concern continues to exist. The Council determined that, because of the substantial effect of the proposed action on all sectors of the fishery, further analysis was warranted to attempt to identify an alternative that was more suitable to a majority of participants.

Section 1.6 of the analysis outlines the alternatives that were considered under Part II in April 2006, and the primary concerns associated with those alternatives. As part of its overall motion on Amendment 85, the Council initiated a new amendment package to address the BSAI Pacific cod sector allocation split, which will use the previously considered alternatives as a starting point. A discussion paper on this issue and potential new alternatives or variations of the existing alternatives is tentatively scheduled for the October 2006 Council meeting.

## Environmental Effects

Overall, the environmental analysis of the alternatives did not identify significant effects on the biological, physical, and human environment. The current fishery management program was analyzed in detail in the Groundfish Programmatic Supplemental Environmental Impact Statement (NOAA 2004a), and is updated in the annual TAC-setting Environmental Assessment. The effects of Alternative 1 (no action) on Steller sea lions have been analyzed in the 2001 Biological Opinion and found not to cause jeopardy or adverse modification of critical habitat.

Alternative 2 changes sector and potentially seasonal allocations of Pacific cod to reflect average annual harvest share by sector. These catch patterns have been analyzed in the Programmatic SEIS (2004a) and in the biological opinions, and have been shown to have no adverse impact on marine mammals, including Steller sea lions. Under Alternative 2, the overall effort in the Pacific cod fishery will remain similar to recent years, as the TAC will continue to be set in accordance to Pacific cod biomass. The effect of the options related to seasonal apportionments range from a slight increase or decrease in the percentage of the ITAC that the hook-and-line CP sector may harvest in the first half of the year (A season) compared to status quo. These same options result in either no change or a slight decrease in the percentage of the ITAC that the trawl sectors may harvest in the first half of the year compared to status quo. The Council's preferred alternative maintains the same percentage of the ITAC in the first half of the year that is allowed to be harvested by the overall fixed and trawl gear sectors under the status quo; any changes in the overall fixed and trawl gear allocations are almost wholly applied in the second half of the year.

There is a slight difference between the hook-and-line and trawl fisheries in terms of mean annual mortality rate of marine mammals and seabirds. The analysis also indicates that the number of seabirds taken in the hook-and-line CP sector, and the rate at which seabirds are taken, is higher in the B season than in the A season. However, the likely change in catch by these gear types is minimal, and is not of such a degree as to have a significant impact at a population level. No significant impacts on marine mammals, seabirds, habitat, or the ecosystem are identified.

As discussed previously, some options under Alternative 2 would allow changes to the seasonal apportionments of Pacific cod catch that may, at their extreme, change the ratio of catch in the first half of the year to slightly exceed 70% of the TAC. This would exceed the objective of the 2001 Steller sea lion protection measures, to limit Pacific cod catch during the first half of the year to 70% of the overall

allowable harvest. The Council's preferred alternative does not change the allowable harvest in the first half of the year such that it exceeds the current 70% threshold.

Under any of the proposed sector allocation alternatives, it is not expected that the BSAI Pacific cod TAC will be exceeded, and thus no significant impact to the Pacific cod stock is expected. Existing spatial and temporal dispersion measures will continue to protect Steller sea lion habitat and forage availability under any of the alternatives.

## Economic Effects

Production efficiency, as defined by the difference between production revenues and production costs, is not expected to change significantly under either alternative; however, there are some potential increases in Alternative 2 worth noting compared to Alternative 1. Under the no action alternative, for the most part, production efficiency is limited by the race for fish in the current limited access fishery. Among the groundfish fisheries off Alaska, only the AFA trawl CV and CP sectors currently operate under a cooperative system, in this case, for the BSAI pollock fishery. Separate allocations of Pacific cod to those sectors, under Alternative 2, could provide additional production efficiency benefits, such that both AFA sectors and potentially the non-AFA catcher processor sector (upon implementation of proposed Amendment 80) should be able to better manage direct Pacific cod allocations through cooperatives. The Council's preferred alternative creates separate allocations for the AFA trawl CP and non-AFA trawl CP sectors, thus, some increase in production efficiency could be expected.

Overall, the intent of Alternative 2 is to revise the BSAI Pacific cod allocation such that the initial allocations established at the beginning of the year better reflect the actual historical harvests by sector. Meaning, under Alternative 1, one would expect that substantial amounts of Pacific cod quota would continue to be reallocated among sectors near the end of the fishing year, in order to prevent foregone catch. To the extent that the options under Alternative 2 establish distinct BSAI Pacific cod allocations that limit the need to reallocate catch during the year, participants in the sectors receiving those reallocations could benefit from the increased ability to plan their fishing year. Instead of being uncertain of the level and timing of reallocated quota from the trawl sectors late in the year, the harvest history that represents the reallocations would be incorporated in the initial allocations. This would reduce overall uncertainty and allow these sectors, particularly the hook-and-line catcher processor sector, to better plan their annual operations.

The allocations proposed under the Council's preferred alternative (Alternative 2) are intended to reflect actual retained catch over a series of years, including reallocated quota. Production mixes are not anticipated to change significantly from previous years. Some minor quality improvement could occur because of 1) the direct sector allocation made to sectors that operate under cooperatives (AFA trawl CP sector and potentially the non-AFA trawl CP sector) and 2) the increase in allocation made to sectors that have the benefit of a rationalized system (CDQ Program). However, these improvements are unlikely to be substantial. Overall, U.S. consumers could realize a minor benefit from the improved product quality, but are unlikely to realize any notable change in benefits under this action.

In sum, a few factors could potentially contribute to an increase in net benefits to the Nation under Alternative 2. The increased certainty in the total annual allowable harvest by sector and the reduction in reallocated quota could increase the ability of participants to plan the fishing year, potentially increasing net benefits in production. In addition, given that ex-vessel and first wholesale prices are slightly higher for fixed gear compared to trawl gear, to the extent that this action provides the fixed gear sector with a more certain future allocation (by moving unused trawl quota that has historically been reallocated from the trawl sectors to the fixed gear sectors into the fixed gear sector's *initial* allocation) this may result in increased revenues. Absent cost data, however, whether this potential increase in revenues results in a net benefit to the Nation cannot be established. However, this action primarily represents a redistribution of

the Pacific cod TAC that is allocated at the beginning of the year among the various industry sectors, thus significant changes in net benefits overall are not expected.

#### ***Effects on Management, Monitoring, and Enforcement Costs***

No changes are expected to the existing management system under Alternative 1, thus, no effects on management, monitoring, or enforcement would be expected. NMFS would continue to monitor eight separate sector allocations, with seasonal apportionments for each sector, with the exception of the <60' hook-and-line catcher vessel sector, which does not have seasonal apportionments. NMFS would also be expected to continue its current practice of reallocating Pacific cod quota inseason that is projected to remain unused by a particular sector.

Options existed under Alternative 2 to create up to ten sector allocations, meaning NMFS would be required to monitor ten allocations of BSAI Pacific cod, as opposed to the current eight under Alternative 1. This results from splitting the current trawl CV and trawl CP allocations by AFA and non-AFA sectors. The Council's preferred alternative creates a separate AFA and non-AFA trawl CP allocation, but retains the combined trawl CV allocation. The decision to retain a combined trawl CV allocation was determined in part by the complexity of the negotiated cooperative cod agreement for the AFA trawl CV sector, and the fact that the terms of the agreement hold only if the AFA trawl CV cod sideboards and associated exemptions are in place. In addition, concern was expressed that a separate non-AFA trawl CV sector allocation based on catch history may risk being too small to open a directed fishery at times. Thus, the preferred alternative results in nine separate allocations compared to eight under the status quo. However, the frequency and level of inseason reallocations of cod quota among sectors is expected to decline, as the allocations are adjusted under Alternative 2 to better reflect actual catch history.

The sectors identified under Alternative 2 that continue to operate in a competitive limited access system, specifically the non-trawl sectors, would not expect any changes in agency management or monitoring. Under the Council's preferred alternative, trawl sector allocations of Pacific cod would also be managed similarly to the status quo, with NMFS inseason management determining a directed fishing allowance and incidental catch allowance for each trawl sector, if necessary. Note that upon implementation of BSAI Amendment 80, the Pacific cod sector allocation to the non-AFA trawl CP sector will be divided between cooperative and non-cooperative vessels using the same formula as other allocated species in Amendment 80, and operate as a hard cap. Thus, while the allocations to each sector are modified under the Council's preferred alternative, and it will likely be necessary to establish incidental catch allowances for each of the trawl sectors (this has not been necessary in the past), the overall monitoring system is not changed as a result of this action.

Another important issue under Alternative 2 is the potential to divide the trawl cod fishery group halibut and crab bycatch allowances among the trawl sectors. While it may be beneficial to the AFA sectors and non-AFA trawl CP sector to be able to manage a certain apportionment of the halibut and crab bycatch allowances, more refined apportionments can also make it difficult for a sector whose bycatch needs are relatively variable from year to year. While a further apportionment of the non-trawl halibut bycatch allowance is also proposed under Alternative 2 between the hook-and-line CP and CV sectors, the historical level and rate of halibut bycatch in the non-trawl sectors reduces this concern. Under the Council's preferred alternative, NMFS would monitor separate crab and halibut PSC apportionments to each of three cod trawl sectors (AFA trawl CP; non-AFA trawl CP; trawl CV) instead of one combined apportionment. Similarly, under the Council's preferred alternative, NMFS would monitor separate halibut PSC apportionments to each Pacific cod hook-and-line sector (CP and CV) as opposed to the current combined apportionment.

Finally, note that the President signed the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) into law on July 11, 2006. Among other actions, this Act amends Section 305(i) of the

Magnuson Stevens Act, including a change to make the CDQ Program Pacific cod allocation a directed fishing allocation (DFA) of 10% upon establishment of new Pacific cod sector allocations. In brief, this requirement means that 10% of the BSAI Pacific cod TAC must be provided to the CDQ Program for directed fishing by vessels fishing on behalf of the CDQ groups, and an amount of Pacific cod in addition to the 10% must be provided to the CDQ Program to provide for incidental catch of Pacific cod in other groundfish CDQ fisheries. Thus, this amendment also proposes management changes for CDQ Pacific cod, such that NMFS and the Council will establish an amount of BSAI Pacific cod needed for incidental catch in the CDQ fisheries in the annual specifications process. This amount will be combined with the CDQ Pacific cod directed fishing allocation of 10%, and the total would be divided among the CDQ groups based on the percentage allocations in effect under Section 305(i)(1)(C) of the MSA.

# TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY</b> .....	<b>II</b>
<b>1 INTRODUCTION</b> .....	<b>1</b>
1.1 PURPOSE AND NEED FOR THE ACTION .....	2
1.1.1 <i>Background</i> .....	2
1.1.2 <i>Problem Statement</i> .....	12
1.2 ALTERNATIVES CONSIDERED.....	13
1.3 COUNCIL PREFERRED ALTERNATIVE .....	22
1.4 PROPOSED CHANGES TO THE BSAI FMP .....	24
1.5 CONSISTENCY WITH THE PROBLEM STATEMENT.....	25
1.6 BERING SEA/ALEUTIAN ISLANDS SECTOR ALLOCATION SPLIT (PART II).....	26
<b>2 ENVIRONMENTAL ASSESSMENT</b> .....	<b>31</b>
2.1 PURPOSE AND NEED.....	31
2.2 ALTERNATIVES CONSIDERED .....	31
2.2.1 <i>Council's preferred alternative</i> .....	34
2.3 PROBABLE ENVIRONMENTAL IMPACTS.....	36
2.3.1 <i>Criteria Used to Evaluate the Alternatives</i> .....	37
2.3.2 <i>Pacific Cod</i> .....	37
2.3.3 <i>Groundfish and Other Fish Species Caught Incidentally in the Pacific Cod Target Fishery</i> .....	40
2.3.4 <i>Marine Mammals</i> .....	44
2.3.5 <i>Seabirds</i> .....	48
2.3.6 <i>Benthic Habitat and Essential Fish Habitat</i> .....	52
2.3.7 <i>Economic and Socioeconomic</i> .....	54
2.3.8 <i>Ecosystem</i> .....	58
2.3.9 <i>Cumulative Effects</i> .....	59
<b>3 REGULATORY IMPACT REVIEW: ECONOMIC IMPACTS OF THE ALTERNATIVES</b> .....	<b>71</b>
3.1 PURPOSE AND NEED FOR THE ACTION .....	71
3.2 DESCRIPTION OF THE ALTERNATIVES .....	74
3.2.1 <i>Council Preferred Alternative</i> .....	82
3.3 DESCRIPTION OF THE PACIFIC COD FISHERY.....	84
3.3.1 <i>History of the Pacific cod sector allocations</i> .....	93
3.3.2 <i>Aleutian Islands Pacific Cod Fishery in State Waters</i> .....	96
3.3.3 <i>Description of the harvesting and at-sea processing gear sectors</i> .....	99
3.3.4 <i>Eligibility Requirements by Sector</i> .....	104
3.3.5 <i>Catch History and Participants in the (non-CDQ) BSAI Pacific Cod Fisheries</i> .....	109
3.3.6 <i>CDQ Program</i> .....	134
3.3.7 <i>Ex-vessel prices and revenues (non-CDQ)</i> .....	140
3.3.8 <i>Products produced from Pacific cod</i> .....	141
3.3.9 <i>First Wholesale Prices and Revenues</i> .....	141
3.3.10 <i>Percent of Sector Estimated Revenues Attributed to BSAI Pacific Cod</i> .....	142
3.3.11 <i>Other sources of Pacific cod mortality</i> .....	145
3.3.12 <i>Overview of the Steller sea lion measures for the BSAI Pacific cod fishery</i> .....	146
3.3.13 <i>NMFS catch accounting system</i> .....	149
3.3.14 <i>Harvest Cooperative Formation</i> .....	150
3.3.15 <i>Capacity Reduction Programs</i> .....	151
3.4 EXPECTED EFFECTS OF THE ALTERNATIVES .....	153
3.4.1 <i>ALTERNATIVE 1: No Action</i> .....	154
3.4.2 <i>ALTERNATIVE 2: Modify BSAI Pacific Cod Allocations</i> .....	185
3.4.3 <i>Council Preferred Alternative</i> .....	283
3.4.4 <i>Net Benefit Implications</i> .....	320

<b>4</b>	<b>CONSISTENCY WITH OTHER APPLICABLE LAWS.....</b>	<b>327</b>
4.1	CONSISTENCY WITH NATIONAL STANDARDS.....	327
4.2	MSA SECTION 303(A)(9) – FISHERIES IMPACT STATEMENT.....	334
4.3	INITIAL REGULATORY FLEXIBILITY ANALYSIS (IRFA).....	336
4.3.1	<i>Definition of a small entity.....</i>	338
4.3.2	<i>Reason for considering the proposed action.....</i>	338
4.3.3	<i>Objectives of, and legal basis for, the proposed action.....</i>	339
4.3.4	<i>Number and description of directly regulated small entities.....</i>	340
4.3.5	<i>Recordkeeping and reporting.....</i>	341
4.3.6	<i>Relevant Federal rules that may duplicate, overlap, or conflict with proposed action.....</i>	341
4.3.7	<i>Description of significant alternatives to the proposed action.....</i>	341
4.4	MARINE MAMMAL PROTECTION ACT (MMPA).....	343
4.5	COASTAL ZONE MANAGEMENT ACT.....	344
4.6	EXECUTIVE ORDER 12898.....	344
<b>5</b>	<b>REFERENCES.....</b>	<b>347</b>
<b>6</b>	<b>LIST OF PREPARERS.....</b>	<b>350</b>
<b>7</b>	<b>AGENCIES AND INDIVIDUALS CONSULTED.....</b>	<b>350</b>

<b>APPENDIX A:</b>	<b>Participation patterns within the sectors</b>
<b>APPENDIX B:</b>	<b>Letter from NMFS AK region to NPFMC</b>
<b>APPENDIX C:</b>	<b>Market conditions for Pacific cod</b>
<b>APPENDIX D:</b>	<b>Proposed FMP amendment language</b>
<b>APPENDIX E:</b>	<b>Council final motion on Amendment 85 (April 2006)</b>
<b>APPENDIX F:</b>	<b>BS and AI subarea retained harvest by sector, 1995 – 2003</b>
<b>APPENDIX G:</b>	<b>BSAI retained Pacific cod harvest by sector, including meal, 1995 – 2003</b>
<b>APPENDIX H:</b>	<b>NOAA GC legal opinion on amendments to Section 305(i)(1)(B)(ii)(1) of the Magnuson Stevens Act</b>
<b>APPENDIX I:</b>	<b>Handouts provided by staff to the NPFMC during review of the public review draft of BSAI Amendment 85, April 8, 2006</b>

## LIST OF TABLES

Table 1-1	2005 and 2006 Gear Shares and Seasonal Allowances of the BSAI Pacific Cod ITAC and TAC (Amounts are in metric tons).....	9
Table 1-2	BSAI Pacific Cod Allocation and Endorsement Amendments.....	10
Table 1-3	Summary of the Alternatives Considered.....	21
Table 2-1	Summary of the Alternatives Considered: BSAI Pacific Cod Sector Allocations.....	32
Table 2-2	Range of proposed BSAI Pacific cod allocations by sector under Alternative 2, compared to status quo.....	33
Table 2-3	Summary of Council’s Preferred Alternative.....	34
Table 2-4	BSAI Pacific cod allocations by sector (as % of BSAI Pacific cod ITAC) under the Council’s preferred alternative, compared to status quo allocations and historical catch.....	36
Table 2-5	Criteria Used to Evaluate the Alternatives.....	37
Table 2-6	Biomass (mt, in EBS survey area, from survey data), pre-season catch specifications (mt), and total catches (mt, including discards) of Pacific cod in the BSAI, 1981–2006.....	38
Table 2-7	Distribution of catch in the 2004 Pacific cod target fisheries; Pacific cod (mt and as percent of total) and incidental catch (mt and percent retained) in target hauls.....	40
Table 2-8	Incidental catch, by gear type, of squid, ‘other species’ (skate, sculpin, shark, octopus), and certain non-specified species <sup>1</sup> in eastern Bering Sea (EBS) and Aleutian Islands (AI) Pacific cod target fisheries, 2003- 04.....	41
Table 2-9	Prohibited species catch (PSC) limits and mortality in the Pacific cod target fisheries, for halibut and crab.....	43
Table 2-10	ESA-listed marine mammal species that range in the management area.....	45
Table 2-11	Spatial and temporal dispersion measures for the protection of Steller sea lions which apply to the Pacific cod fishery.....	46
Table 2-12	Summary of incidental mortality of Steller sea lions (western U. S. stock) due to BSAI Pacific cod target fisheries from 1999 through 2003, based on observer data, and calculation of the mean annual mortality rate.....	47
Table 2-13	ESA-listed and candidate seabird species that range in the management area.....	49
Table 3-1	Existing Non-CDQ <sup>1</sup> BSAI Pacific cod allocations.....	72
Table 3-2	Summary of the alternatives considered.....	81
Table 3-3	Summary of the Council’s preferred alternative.....	83
Table 3-4	BSAI Pacific cod ABCs, TACs, and catch (1,000 mt round weight), 1991 – 2006.....	85
Table 3-5	Number of BSAI Pacific cod endorsements issued for the ≥60’ fixed gear sectors.....	94
Table 3-6	Amendment 67 BSAI Pacific cod endorsement criteria for the ≥60’ fixed gear sectors.....	94
Table 3-7	Number of permits issued to participate in the sectors of the Federal BSAI Pacific cod fishery.....	107
Table 3-8	Number of BS/AI LLPs by sector and GOA and crab endorsements.....	108
Table 3-9	BSAI Pacific cod annual harvest (retained mt, excluding meal) by sector, 1995 – 2003.....	110
Table 3-10	BSAI Pacific cod annual harvest share by sector (retained harvest, excluding meal) including AFA 9 catch history, 1995–2003.....	111
Table 3-11	BSAI Pacific cod annual harvest share by sector (retained harvest, excluding meal) excluding AFA 9 history, 1995–2003.....	111
Table 3-12	BSAI Pacific cod retained catch by sector, 2004 - 2005.....	112
Table 3-13	Retained BSAI Pacific cod harvest by <60’ fixed gear sector, 1999 – 2003.....	114
Table 3-14	Amount of each fixed gear CV sector’s harvest attributed to its allocation, 2003-2004.....	114

Table 3-15	Closure summaries for pot and hook-and-line catcher vessels, 2001–2005 .....	116
Table 3-16	Number of vessels in each sector that accounted for various percentages of the sector’s retained BSAI Pacific cod harvest, 1999 – 2003 .....	118
Table 3-17	Current seasonal apportionments by gear type .....	119
Table 3-18	Comparison of initial allocation <sup>1</sup> and total catch (mt) of BSAI Pacific cod by season and sector, 2001–2002 .....	121
Table 3-19	Comparison of initial allocation <sup>1</sup> and total catch (mt) of BSAI Pacific cod by season and sector, 2003 – 2004 .....	122
Table 3-20	Trawl CP seasonal harvest percentages and reallocations of BSAI Pacific cod, average 2001–2004 .....	123
Table 3-21	Trawl CV seasonal harvest percentages and reallocations of BSAI Pacific cod, average 2001–2004 .....	123
Table 3-22	Percent of BSAI Pacific cod ITAC harvested by trawl gear, average 2001–2004.....	124
Table 3-23	Percent of BSAI Pacific cod ITAC harvested by fixed and jig gear, average 2001–2004.....	124
Table 3-24	BSAI Pacific cod ITAC, catch, and reallocations (1995-2005).....	126
Table 3-25	Average BSAI Pacific cod reallocations by sector, 2000–2004 .....	128
Table 3-26	Dates of reallocations between gear sectors, 1997–2006.....	129
Table 3-27	BSAI PSC halibut mortality (mt) by sector, 1995-2003 .....	131
Table 3-28	Harvest of BSAI Pacific cod sideboards (mt) in the AFA sectors, 2000 – 2004 .....	134
Table 3-29	CDQ Group Revenues, Expenses, and Increase in Net Assets, 1999-2003.....	139
Table 3-30	CDQ Group Liabilities and Net Assets, 1999-2003.....	139
Table 3-31	Price per pound of Pacific cod products in the fisheries of the BSAI of Alaska by processing sector, 2000-2004 (dollars).....	141
Table 3-32	Production and gross value of BSAI Pacific cod products by at-sea processors, 2000–2004 (1,000 metric tons product weight and million dollars).....	142
Table 3-33	Production and gross value of BSAI Pacific cod products by shoreside processors, 2000–2004 (1,000 metric tons product weight and million dollars).....	142
Table 3-34	Estimated ex-vessel value by catcher vessel sector and fishery, 1999 - 2003 .....	143
Table 3-35	Estimated first wholesale value by catcher processor sector and groundfish fishery, 1999 – 2003.....	144
Table 3-36	Estimated ex-vessel value of crab and halibut harvested by the fixed gear CP sector vessels while assumed operating as CVs <sup>1</sup> , average 1999 - 2003 .....	145
Table 3-37	Current seasonal apportionments by gear sector.....	161
Table 3-38	Reallocations (in mt and as a % of the sector's annual allocation) of BSAI Pacific cod from the trawl sectors and jig sector, 2000–2004.....	162
Table 3-39	Temporal distribution of cod harvest by trawl sectors, average 2001–2004.....	163
Table 3-40	Temporal distribution of cod harvest by fixed and jig gear sectors, average 2001–2004.....	163
Table 3-41	BSAI Pacific cod CDQ reserve (mt), catch, and percent harvested, 2001–2004.....	166
Table 3-42	CDQ royalties for all groups combined, 2001–2003 .....	166
Table 3-43	Projected CDQ royalties from BSAI Pacific cod under Alternative 1 (no action) .....	167
Table 3-44	2005 and 2006 Prohibited Species Bycatch Allowances for the BSAI Trawl and Non-Trawl Fisheries .....	169
Table 3-45	Halibut mortality in the BSAI Pacific cod trawl fishery, 2000 – 2004 .....	172
Table 3-46	Crab mortality (# animals) in the BSAI Pacific cod trawl fishery, 2000 – 2004 .....	172
Table 3-47	Halibut mortality in the CDQ fisheries, 2000 – 2004 .....	173
Table 3-48	Crab mortality (# animals) in the CDQ fisheries, 2000 – 2004 .....	173
Table 3-49	BSAI PSC halibut mortality (mt) by trawl sector, 1995–2003 .....	176
Table 3-50	BSAI PSC red king crab mortality (in # crab) by trawl sector, 1995-2002 .....	177
Table 3-51	BSAI C. Bairdi zone 1 and zone 2 C. Bairdi mortality, 1995–2002 .....	178

Table 3-52	BSAI PSC C. <i>Opilio</i> mortality (# of crab) by trawl sector, 1995–2002.....	179
Table 3-53	2005 and 2006 Prohibited species bycatch allowances for the BSAI non-trawl fisheries.....	181
Table 3-54	Halibut mortality in the BSAI Pacific cod hook-and-line fishery, 2000 – 2005.....	182
Table 3-55	Harvest of BSAI Pacific cod sideboards (mt) in the AFA sectors, 2000–2004.....	188
Table 3-56	AFA 9 retained catch (mt) in the BSAI Pacific cod fishery, 1995–1998.....	189
Table 3-57	BSAI Pacific cod annual harvest share by sector (including AFA 9 catch history), 1995–2003.....	190
Table 3-58	BSAI Pacific cod annual harvest share by sector (excluding AFA 9 catch history), 1995–2003.....	190
Table 3-59	Retained harvest (mt) of non-AFA trawl catcher vessels that qualify under Option 1.1, 1995–2003.....	193
Table 3-60	BSAI Pacific cod annual harvest share by sector (excluding AFA 9 catch history), 1995–2003.....	196
Table 3-61	BSAI Pacific cod annual harvest share by sector (including AFA 9 catch history), 1995–2003.....	196
Table 3-62	BSAI Pacific cod sector allocations under Component 2, Options 2.1 – 2.6, and Suboption 1 (drop year).....	197
Table 3-63	Range of potential BSAI Pacific cod allocations by sector using catch history (Component 2, Options 2.1–2.6, and Suboption 1).....	198
Table 3-64	BSAI Pacific cod annual harvest share by AFA trawl CV and non-AFA trawl CV sector under Component 1, Option 1.1, 1995 – 2003.....	201
Table 3-65	BSAI Pacific cod sector allocations under Component 2, Options 2.1–2.6, Suboption 1 and Component 1, Option 1.1.....	203
Table 3-66	Effect of 2.71% small boat allocation on the BSAI Pacific cod sector allocations (Component 2, Options 2.1–2.6, Suboption 1, and Component 2, Option 2.8, Suboption 2).....	204
Table 3-67	Effect of 3% small boat allocation on the BSAI Pacific cod sector allocations (Component 2, Options 2.1–2.6, Suboption 1, and Component 2, Option 2.8, Suboption 3).....	205
Table 3-68	Effect of 4% small boat allocation on the BSAI Pacific cod sector allocations (effect of Component 2, Options 2.1–2.6, Suboption 1, and Component 2, Option 2.8, Suboption 4).....	206
Table 3-69	Range of proposed BSAI Pacific cod allocations (as % of BSAI Pacific cod ITAC) by sector under Alternative 2, compared to historical catch and status quo allocations.....	207
Table 3-70	Current seasonal apportionments for trawl CP and trawl CV sectors.....	209
Table 3-71	Current seasonal apportionments for ≥60’ fixed gear and jig gear sectors, and total for all sectors.....	209
Table 3-72	Example of maximum effect of Component 2 and Component 3, Option 3.1, moving 10% of ITAC from trawl to fixed gear.....	210
Table 3-73	Example of maximum effect of Component 2 and Component 3, Option 3.2, moving 10% of ITAC from trawl to fixed gear.....	213
Table 3-74	Example of maximum effect of Component 2 and Component 3, Option 3.3, Suboption 1 moving 10% of ITAC from trawl to fixed gear.....	215
Table 3-75	Example of maximum effect of Component 2 and Component 3, Option 3.3, Suboption 2 moving 10% of ITAC from trawl to fixed gear.....	218
Table 3-76	Example of first step of implementation of Component 2 and Option 3.3, Suboption 3, showing 10% of ITAC moved from trawl gear to fixed gear.....	219
Table 3-77	Example of second step of implementation of Component 2 and Option 3.3, Suboption 3, showing 10% of ITAC moved from trawl gear.....	221

Table 3-78	Percent of BSAI Pacific cod ITAC allocated to the hook-and-line CP sector by season, status quo compared to example under Option 3.3, Suboption 3 .....	221
Table 3-79	Example of seasonal apportionments to the hook-and-line CP sector and all other >60' fixed gear sectors under Option 3.3, Suboption 3 .....	222
Table 3-80	Example of effect of options in Component 2 and Option 3.3, Suboption 3, on the trawl CP sectors .....	223
Table 3-81	Example of effect of options in Component 2 and Option 3.3, Suboption 3, on the trawl CV sectors.....	224
Table 3-82	Allocation, catch, and number of vessels participating in the BSAI Pacific cod fishery using jig gear, 1995 – 2003 .....	229
Table 3-83	Percent of each sector's BSAI Pacific cod harvest by trimester, average 2002–2004.....	231
Table 3-84	Effect of Option 3.4 and current allocations .....	232
Table 3-85	Potential distribution of reallocated trawl quota among the hook-and-line CP and pot sectors under Option 4.1 (provision 4.1.2, Suboption 1) compared to status quo .....	236
Table 3-86	Reallocations harvested by hook-and-line CP and pot sectors, 2001–2004.....	237
Table 3-87	CDQ royalties for all groups combined, 2001, 2002, & 2003 .....	242
Table 3-88	Groundfish CDQ harvests (mt), 1999–2005 .....	243
Table 3-89	Groundfish PSQ harvests, 1999–2005 .....	244
Table 3-90	BSAI Pacific cod CDQ reserve (mt), catch, and percent harvested, 2001–2004.....	244
Table 3-91	CDQ group ownership interest in vessels that participate in the (CDQ and non-CDQ) BSAI Pacific cod fisheries .....	246
Table 3-92	Projected 2006 and 2007 CDQ Pacific cod allocations under Options 5.1 – 5.3.....	248
Table 3-93	Projected incidental catch needs in the CDQ Pacific cod fishery based on 2005 catch rates .....	249
Table 3-94	Example of trawl halibut PSC allocations under Option 7.1 resulting from Pacific cod sector allocations.....	255
Table 3-95	Range of trawl halibut PSC allocations under Option 7.1 associated with the range of proposed Pacific cod sector allocations .....	256
Table 3-96	Range of trawl red king crab PSC allocations under Option 7.1 associated with the range of proposed Pacific cod sector allocations .....	258
Table 3-97	Range of trawl <i>C. Opilio</i> crab PSC allocations under Option 7.1 associated with the range of proposed Pacific cod sector allocations .....	258
Table 3-98	Range of trawl Zone 1 Bairdi crab PSC allocations under Option 7.1 associated with the range of proposed Pacific cod sector allocations .....	259
Table 3-99	Range of trawl Zone 2 Bairdi crab PSC allocations under Option 7.1 associated with the range of proposed Pacific cod sector allocations .....	259
Table 3-100	Percent of (retained) BSAI Pacific cod harvested in the Pacific cod target, trawl CV sectors .....	260
Table 3-101	Percent of (retained) Pacific cod harvested in the Pacific cod target, by trawl CP sector .....	261
Table 3-102	Example of trawl halibut PSC allocations under Option 7.2 resulting from Pacific cod sector allocations.....	262
Table 3-103	Range of trawl halibut PSC allocations under Option 7.2 associated with the range of proposed Pacific cod sector allocations .....	263
Table 3-104	Comparison of range of trawl sector halibut PSC allocations under Option 7.1 and Option 7.2.....	263
Table 3-105	Example of crab PSC allocations under Option 7.2 resulting from one example of Pacific cod sector allocations* .....	264
Table 3-106	Range of red king crab PSC allocations to the trawl sectors under Option 7.2 .....	265
Table 3-107	Range of <i>C. Opilio</i> crab PSC allocations to the trawl sectors under Option 7.2.....	266
Table 3-108	Range of Zone 1 <i>C. bairdi</i> crab PSC allocations to the trawl sectors under Option 7.2 .....	266

Table 3-109	Range of Zone 2 <i>C. bairdi</i> crab PSC allocations to the trawl sectors under Option 7.2.....	267
Table 3-110	Comparison of Option 7.1 and 7.2: red king crab PSC.....	268
Table 3-111	Comparison of Option 7.1 and 7.2: <i>C opilio</i> PSC allocations.....	268
Table 3-112	Comparison of Option 7.1 and 7.2: Zone 1 <i>C. bairdi</i> PSC allocations.....	268
Table 3-113	Comparison of Option 7.1 and 7.2: Zone 2 <i>C. bairdi</i> PSC allocations.....	269
Table 3-114	Halibut mortality in the BSAI Pacific cod trawl fishery, 1995 - 2005.....	270
Table 3-115	2005 and 2006 non-trawl halibut PSC allowances.....	271
Table 3-116	Halibut mortality in the BSAI Pacific cod hook-and-line sectors, 1999 - 2003 .....	273
Table 3-117	Estimated projections of halibut bycatch needs in the BSAI Pacific cod hook-and-line CP and CV sectors, based on proposed allocations in Alternative 2, Component 2.....	274
Table 3-118	Summary of the Council’s preferred alternative.....	284
Table 3-119	BSAI Pacific cod sector allocations (as % of BSAI Pacific cod ITAC) in the Council’s preferred alternative, compared to historical catch and status quo allocations .....	289
Table 3-120	Seasonal apportionments resulting from Council preferred alternative.....	296
Table 3-121	Distribution of reallocated trawl quota among the hook-and-line CP and pot sectors under the Council’s preferred alternative (compared to status quo) .....	301
Table 3-122	Percent of crab PSC allowances allocated to the non-AFA trawl CP and limited access trawl sectors under Amendment 80 .....	309
Table 3-123	Percent of trawl cod PSC allowance allocated to each trawl sector under the Council’s preferred alternative.....	311
Table 3-124	Trawl cod PSC allowances for each trawl sector under the Council’s preferred alternative, using 2006 total trawl cod fishery group PSC allowances.....	312
Table 3-125	Percent of trawl cod PSC allowance allocated to the trawl CV and AFA CP sectors under the Council’s preferred alternative in Am. 85, combined with Am. 80.....	314
Table 3-126	Estimated projections of halibut bycatch needs in the BSAI Pacific cod hook-and-line CP and CV sectors, based on the Pacific cod allocations in the preferred alternative.....	317
Table 4-1	Percent of each CV sector’s BSAI Pacific cod estimated ex-vessel values by port groupings, 1999 - 2003 .....	333

## LIST OF FIGURES

Figure 2-1	Federal reporting areas in the BSAI.....	38
Figure 2-2	Biomass (mt), Catch (mt) and Year Class (millions of fish) Statistics for BSAI Pacific Cod, 1978-2005.....	39
Figure 2-3	Seabird catch rates in the hook-and-line CP sector by season, 1995-2004.....	50
Figure 2-4	Observed seabird incidental take in the hook-and-line CP sector by season, 1995-2004.....	51
Figure 2-5	Surficial Sediment Textural Characteristics, according to Naidu (1988) .....	53
Figure 3-1	BSAI Federal management areas.....	85
Figure 3-2	Location of hook-and-line catcher processor sector Pacific cod catch, 2001–2003 .....	87
Figure 3-3	Location of hook-and-line catcher processor sector Pacific cod catch, 1995–2000 .....	87
Figure 3-4	Location of hook-and-line catcher vessel sector Pacific cod catch, 2001–2003.....	88
Figure 3-5	Location of hook-and-line catcher vessel sector Pacific cod catch, 1995–2000.....	88
Figure 3-6	Location of pot catcher processor sector Pacific cod catch, 2001–2003.....	89
Figure 3-7	Location of pot catcher processor sector Pacific cod catch, 1995–2000.....	89
Figure 3-8	Location of pot catcher vessel sector Pacific cod catch, 2001–2003 .....	90
Figure 3-9	Location of pot catcher vessel sector Pacific cod catch, 1995–2000 .....	90
Figure 3-10	Location of trawl catcher processor sector Pacific cod catch, 2001–2003 .....	91
Figure 3-11	Location of trawl catcher processor sector Pacific cod catch, 1995–2000 .....	91
Figure 3-12	Location of trawl catcher vessel sector Pacific cod catch, 2001–2003 .....	92
Figure 3-13	Location of trawl catcher vessel sector Pacific cod catch, 1995–2000 .....	92
Figure 3-14	Establishment and distribution of groundfish CDQ reserves.....	138
Figure 3-15	<i>C. opilio</i> PSC limitation zone .....	170
Figure 3-16	Red king and <i>C. bairdi</i> PSC zones .....	170
Figure 3-17	2004 temporal distribution of CDQ and non-CDQ BSAI Pacific cod harvest by hook-and-line CP sector.....	245
Figure 3-18	2003 temporal distribution of CDQ and non-CDQ BSAI Pacific cod harvest by hook-and-line CP sector.....	245

## LIST OF ACRONYMS AND ABBREVIATIONS

%	percent	kg	kilogram(s)
'	minutes	lb(s)	pound(s)
<	less than	LLP	license limitation program
>	greater than	LOA	length overall
ABC	acceptable biological catch	m	meter(s)
ADF&G	Alaska Department of Fish and Game	MMPA	Marine Mammal Protection Act
AFA	American Fisheries Act	MRA	maximum retainable amount
AI	Aleutian Islands	MSA	Magnuson-Stevens Fishery Conservation and Management Act
APICDA	Aleutian Pribilof Islands Community Development Association	mt	metric ton(s)
BBEDC	Bristol Bay Economic Development Corporation	N.	North
BiOp	Biological Opinion	nm	nautical miles
BS	Bering Sea	NMFS	National Marine Fisheries Service
BSAI	Bering Sea and Aleutian Islands	NOAA Fisheries	National Marine Fisheries Service
C.F.R.	Code of Federal Regulations	NPFMC	North Pacific Fishery Management Council
CAI	Central Aleutian Islands District	°	degrees
CBSFA	Central Bering Sea Fishermen's Association	PBR	potential biological removal
CDQ	Community Development Quota	POP	Pacific ocean perch
Council	North Pacific Fishery Management Council	PSC	prohibited species catch
CP	catcher processor vessel	PSQ	prohibited species quota
CV	catcher vessel	RFA	Regulatory Flexibility Act
CVRF	Coastal Villages Region Fund	RIR	Regulatory Impact Review
E.	East	SEIS	Supplemental Environmental Impact Statement
EA	Environmental Assessment	SOC	Secretary of Commerce (or Secretary)
EBS	eastern Bering Sea	TAC	total allowable catch
EFH	essential fish habitat	U.S.C.	United States Code
ESA	Endangered Species Act	USFWS	United States Fish and Wildlife Service
F/V	Fishing Vessel	VMS	Vessel monitoring system
FMP	fishery management plan	W.	West
FR	Federal Register	WAI	Western Aleutian Islands District
ft	foot/feet	WPR	Weekly Production Report
FY	Federal Year	YDFDA	Yukon Delta Fisheries Development Association
GOA	Gulf of Alaska		
H&L	hook and line		
ICA	incidental catch allowance		
IFQ	individual fishing quota		
IPHC	International Pacific Halibut Commission		
IR/IU	Improved Retention/Improved Utilization Program		
IRFA	Initial Regulatory Flexibility Analysis		
ITAC	initial total allowable catch		



# 1 INTRODUCTION

The groundfish fisheries in the Exclusive Economic Zone (3 to 200 miles offshore) of the Bering Sea and Aleutian Islands off Alaska are managed under the Bering Sea/Aleutian Islands Groundfish Fishery Management Plan (BSAI FMP), as developed by the North Pacific Fishery Management Council (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 1982.

This document is an Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for proposed Amendment 85 to the BSAI FMP. This action proposes to revise the sector allocations of the BSAI Pacific cod TAC among catcher processors (CPs) and catcher vessels (CVs) using hook-and-line, pot, trawl, and jig gear. For the purposes of this amendment, the fixed gear sectors are defined as follows: hook-and-line catcher processors, hook-and-line catcher vessels  $\geq 60'$ , pot catcher processors, pot catcher vessels  $\geq 60'$ , and hook-and-line and pot catcher vessels  $< 60'$  length overall. This action also proposes to further apportion the trawl CP sector allocation between those vessels that are eligible under the American Fisheries Act (AFA) and those that are not. This action also proposes to apportion the BSAI halibut and crab PSC allowances to the trawl Pacific cod fishery group among the trawl CV sector, AFA trawl CP sector, and non-AFA trawl CP sector. Similarly, this action proposes to apportion the BSAI halibut PSC allowance to the hook-and-line Pacific cod group between the hook-and-line CP and hook-and-line CV sectors. Finally, this action proposes to make the BSAI Pacific cod allocation to the western Alaska Community Development Quota (CDQ) Program a directed fishing allocation of 10% of the BSAI Pacific cod TAC. This means that 10% of the TAC, plus some additional amount to provide for the incidental catch of Pacific cod in other groundfish CDQ fisheries, would be taken off the top of the BSAI Pacific cod TAC. All other sector allocations are represented as a percentage of the remaining TAC, or ITAC.

An environmental assessment is required by the National Environmental Policy Act of 1969 (NEPA) to determine whether the action considered will result in a significant impact on the human environment. If the action is determined not to be significant based on an analysis of relevant considerations, the EA and resulting finding of no significant impact (FONSI) would be the final environmental documents required by NEPA. An environmental impact statement (EIS) must be prepared for major Federal actions significantly affecting the human environment.

The purpose of the EA is to analyze the environmental impacts of the proposed Federal action to apportion the BSAI Pacific cod TAC among the fixed, trawl, and jig gear sectors and the CDQ Program according to the historical harvest distribution and other considerations. The human environment is defined by the Council on Environmental Quality as the natural and physical environment and the relationships of people with that environment (40 CFR 1508.14). This means that economic or social effects are not intended by themselves to require preparation of an EA. However, when an EA is prepared and socio-economic and natural or physical environmental impacts are interrelated, the EA must discuss all of these impacts on the quality of the human environment. NEPA requires a description of the purpose and need for the proposed action as well as a description of alternatives which may address the problem. This information is included in **Chapter 1** of this document.

**Chapter 2** contains a description of the affected human environment and information on the impacts of the alternatives on that environment, specifically addressing potential impacts on endangered species, marine mammals, and cumulative effects.

Executive Order 12866 (E.O. 12866) requires preparation of a Regulatory Impact Review (RIR) to assess the social and economic costs and benefits of available regulatory alternatives, in order to determine whether a proposed regulatory action is economically “significant”, as defined by the order. **Chapter 3**

contains a systematic description and analysis of the economic and social impacts of each of the alternatives to allocate the BSAI Pacific cod TAC among the various gear sectors and CDQ Program.

**Chapter 4** addresses the requirements of other applicable laws, including the Magnuson Stevens Act (MSA), Marine Mammal Protection Act, and Regulatory Flexibility Act (RFA). The RFA requires an analysis of each of the proposed alternatives to an action, with specific reference to the potential for adverse economic impacts on small entities which would be directly regulated by the proposed action. The major goals of the RFA are to: (1) increase agency awareness and understanding of the impact of their regulations on small businesses, (2) require that agencies communicate and explain their findings to the public, and (3) encourage agencies to use flexibility and provide regulatory relief to small entities. The preparation of an Initial Regulatory Flexibility Analysis (IRFA) emphasizes predicting significant adverse economic impacts on small regulated entities as a group, distinct from other entities, and on the consideration of alternatives that may minimize these impacts, while still achieving the stated objective of the action.

The references and literature cited are in **Chapter 5**, the list of preparers is in **Chapter 6**, and the list of agencies and individuals consulted is in **Chapter 7**.

## **1.1 Purpose and Need for the Action**

### **1.1.1 Background**

The BSAI Pacific cod resource is targeted by multiple gear types and operating modes, primarily trawl gear and hook-and-line catcher processors, and smaller amounts by hook-and-line catcher vessels, jig vessels, and pot gear. This is a fully subscribed fishery, with a 2006 ABC and TAC of 194,000 mt.<sup>7</sup> Excluding the 7.5% allocated to the CDQ Program reserve, the 2006 non-CDQ TAC (or ITAC) was 179,450 mt. The BSAI Pacific cod TAC has been apportioned among the different gear sectors since 1994, and the CDQ Program has received a BSAI Pacific cod allocation since 1998.

A series of amendments have modified or continued the allocation system, and the current BSAI Pacific cod allocations were established using a step-wise approach. Currently, Federal regulations at 50 CFR 679.20(a)(7) authorize distinct BSAI Pacific cod allocations of the ITAC for the following sectors:

- Jig vessels
- Trawl catcher processors
- Trawl catcher vessels
- Hook-and-line catcher processors
- Hook-and-line catcher vessels
- Pot catcher processors
- Pot catcher vessels
- Hook-and-line and pot catcher vessels <60' LOA<sup>8</sup>

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<sup>7</sup>Note that the 2006 TAC was respecified by NMFS on March 14, 2006, to account for a new State managed Pacific cod fishery in State waters (within 3 nm) in the Aleutian Islands that the State established in late February 2006. This fishery was established for 2006 and 2007 only. The guideline harvest level for this fishery equals 3% of the BSAI Pacific cod ABC, thus, the 2006 TAC was adjusted to 188,180 mt. This analysis continues to use a 2006 TAC of 194,000 mt for illustrative purposes.

<sup>8</sup>While the <60' fixed gear (hook-and-line and pot) catcher vessels receive a separate allocation of BSAI Pacific cod, harvest by vessels in this sector accrues to the general hook-and-line catcher vessel and pot catcher vessel allocations, respectively by gear type, when those directed fisheries are open.

The remainder of this section outlines the amendments that have authorized the various (non-CDQ) BSAI Pacific cod allocations among industry sectors. Table 1-2 provides a reference sheet for each of the past amendments and its primary provisions. Additional detail on the purpose and effects of these amendments is provided in Chapter 3.

### *State water Pacific cod fishery in the Aleutian Islands*

Note that while the 2006 ABC and TAC currently equal 194,000 mt, the Alaska Board of Fisheries (Board) took action in late February 2006 to establish a State waters Pacific cod fishery in the Aleutian Islands, west of 170° W longitude. This fishery has a guideline harvest level (GHL) equal to 3% of the BSAI Pacific cod ABC, which represents about 5,820 mt (or 12,830,772 lbs) in 2006. This action resulted in a decision to reduce the Federal 2006 BSAI Pacific cod TAC to 188,180 mt.<sup>9</sup> The State AI fishery is seasonally apportioned such that the A season of the fishery starts on or after March 15, and only after the Federal Pacific cod trawl catcher vessel A season has closed. The second season starts June 10. NMFS closed the directed trawl catcher vessel Pacific cod fishery in the BSAI on March 8, 2006, in order to avoid exceeding the A season allocation, thus, the 2006 State water AI fishery began at noon on March 15.

As the 2006 TAC had already been specified and sectors were fishing under those specified allocations, NMFS effected an inseason adjustment under Federal regulations (50 CFR 679.25) to re-specify the TAC to accommodate the 3% reduction for the GHL on March 14. This required re-calculating the sector allocations and seasonal apportionments published for the 2006 season in Federal regulations.<sup>10</sup> The State action also necessarily affects the 2006 BSAI Pacific cod CDQ reserve, as that reserve is calculated as 7.5% of the BSAI Pacific cod TAC. Thus, all sectors realized a proportional reduction of 3% of their 2006 Federal allocations, as a result of this action.

**The primary elements of the State water AI Pacific cod fishery are outlined in Section 2.3.9.2 of this analysis. Note that the Board's action established this fishery only for 2006 and 2007.** Thus, while the overall effect on the Federal BSAI Pacific cod fishery is that the ABC is reduced by 3% prior to the TAC and sector allocations being established, this action is currently limited to two years. In that case, the State water AI Pacific cod fishery would not overlap with the action being considered under Amendment 85, as implementation of Amendment 85 is expected in 2008, if approved by the Secretary. Note that the 2006 and 2007 BSAI Pacific cod TACs are used throughout this document for illustrative purposes. Because of the potential two-year timeframe for the State waters AI Pacific cod fishery, the analysis continues to use the 2006 TAC of 194,000 mt and the projected 2007 TAC of 148,000 mt for illustrative purposes, without the 3% reduction for the State water GHL.

### *Cod allocations among the jig, trawl, and fixed gear sectors*

Beginning in 1994, **BSAI Amendment 24** allocated the total allowable catch for non-CDQ BSAI Pacific cod (or ITAC) to the various gear sectors as follows:

- 44% fixed gear (hook-and-line and pot)
- 54% trawl gear
- 2% jig gear

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<sup>9</sup>Under a revised 2006 TAC of 188,180 mt, the CDQ reserve (7.5%) would be 14,114 mt and the ITAC would be 174,067 mt.

<sup>10</sup>See Table 5 (2006 and 2007 Gear Shares and Seasonal Allowances of the BSAI Pacific cod TAC) in 71 FR 10870, March 3, 2006.

These percentages roughly represented the existing cod harvests of each sector during 1991–1993, with the exception of the jig sector. The two percent jig allocation exceeded the existing historical harvest by that sector and was intended to allow for growth in the jig sector. The Council designed this allocation such that it would expire in three years, at the end of 1996. Amendment 24 also authorized NMFS to divide the fixed gear allocation of Pacific cod into three seasons of four months duration. The intent of Amendment 24 was to provide stability in the trawl, fixed, and jig gear fisheries by establishing designated allocations of the Pacific cod TAC, which were expected to increase the net benefits received from the harvest of Pacific cod.

In 1995, the Council initiated **BSAI Amendment 46**, to extend the allocations authorized by Amendment 24 beyond 1996. To guide the analysis of alternatives for Amendment 46, the Council adopted the following problem statement:

*The BSAI Pacific cod fishery continues to manifest many of the problems that led the Council to adopt Amendment 24 in 1993. These problems include compressed fishing seasons, periods of high bycatch, waste of resource, and new entrants competing for the resource due to crossovers allowed under the Council's moratorium program. Since the allocation of BSAI Pacific cod TAC between fixed gear, jig, and trawl gear was implemented in January 1994 when Amendment 24 went into effect, the trawl, jig and fixed gear components have harvested the TAC with demonstrably differing levels of PSC mortality, discards, and bycatch of non-target species. Management measures are needed to ensure that the Pacific cod TAC is harvested in a manner which reduces discards in the target fisheries, reduces PSC mortality, reduces nontarget bycatch of Pacific cod and other groundfish species, takes into account the social and economic aspects of variable allocations and addresses impacts of the fishery on habitat. In addition, the amendment will continue to promote stability in the fishery as the Council continues on the path towards comprehensive rationalization.*

Under Amendment 46, the general BSAI Pacific cod allocations were modified as follows in 1997:

- 51% fixed gear
- 47% trawl gear (50% trawl catcher vessels/50% trawl catcher processors)
- 2% jig gear

The overall allocations under Amendment 46 were proposed by an industry negotiating committee appointed by the Council, which selected percentages that closely represented the prevailing harvest percentages taken by the trawl and fixed gear sectors under the existing halibut prohibited species catch (PSC) limits. The 2% jig allocation was also retained as part of this agreement. In addition to the overall split among sectors, Amendment 46 also split the trawl sector portion of the BSAI Pacific cod TAC between trawl catcher processors (50%) and trawl catcher vessels (50%), meaning each sector receives 23.5% of the annual BSAI Pacific cod TAC. The further trawl apportionments were the result of a separate negotiation by representatives of the different trawl fleets. This action also included authorization for NMFS to reallocate any portion of the Pacific cod allocations that were projected to remain unused among the various sectors, if necessary. Amendment 46 specified that any unused trawl allocation (catcher processor or catcher vessel) would first be made available to the other trawl sector before it would be reallocated to any other gear type.

The allocations under Amendment 46 have been in place since 1997. While there is no sunset provision or regulatory requirement to review or modify these allocations, the Council's motion on Amendment 46 included a provision to review the allocations four years after implementation. This review, originally intended at the end of 2000, has not yet occurred.

### *Cod allocations among the fixed gear sectors*

Vessels began fishing in Federal waters off Alaska under the License Limitation Program (LLP) on January 1, 2000. Since the LLP was approved, changes in the fixed gear fleets prompted industry to petition the Council to further allocate cod in the BSAI among the various sectors of the fixed gear fleets. The following problem statement guided the analysis of alternatives for **BSAI Amendment 64**:

*The hook-and-line and pot fisheries for Pacific cod in the BSAI are fully utilized. Competition for this resource has increased for a variety of reasons, including increased market value of cod products and a declining acceptable biological catch and total allowable catch.*

*Longline and pot fishermen who have made significant long-term investments, have long catch histories, and are significantly dependent on the BSAI cod fisheries need protection from others who have little or limited history and wish to increase their participation in the fishery. This requires prompt action to promote stability in the BSAI fixed gear cod fishery until comprehensive rationalization is completed.*

Amendment 64, approved by the Council in October 1999, and implemented September 1, 2000, further apportioned the 51% of the BSAI Pacific cod ITAC allocated to fixed (hook-and-line and pot) gear as follows:

- 80% hook-and-line catcher processors
- 0.3% hook-and-line catcher vessels
- 18.3% pot vessels (CP and CV)
- 1.4% hook-and-line and pot vessels <60' LOA<sup>11</sup>

The percentage allocations selected closely represent the harvests in this fishery during 1995–1998, with an additional allocation for catcher vessels <60' LOA in order to allow for growth in the small boat sector. The percentage allocations did not reflect harvests of any quota that had been reallocated annually to the fixed gear sectors. In addition to the fixed gear apportionments, Amendment 64 addressed how to reallocate quota that was projected to remain unused by specific sectors. Any unused hook-and-line catcher vessel or <60' vessel allocation would be reallocated to the hook-and-line catcher processor sector, in part because that sector primarily 'funded' the <60' allocation. In addition, any unused jig or trawl allocations would be reallocated 95% to hook-and-line catcher processors and 5% to pot gear. This split reflected the actual harvest of reallocated quota from the trawl and jig sectors harvested by each sector during 1996–1998. The amendment expired December 31, 2003.

At the same time the Council approved Amendment 64, it acknowledged that a further split between the pot sectors was potentially necessary to stabilize the harvests of pot catcher processors and pot catcher vessels in the BSAI Pacific cod fishery. Concern was expressed that the pot sector needed the same stability of direct fleet allocations, such as was done for the hook-and-line fleets. With several years of reduced *C. opilio* guideline harvest levels, the BSAI Pacific cod fishery realized an influx of pot vessels that previously fished primarily crab in the BSAI. The pot catcher processor sector petitioned the Council for a further split between the pot sectors, recognizing that a pot split would enable the pot catcher processor sector to avoid competing with a fluctuating and increasing number of pot catcher vessels moving into the cod fishery, and allow the sector to determine its best time to fish according to market factors. Increased competition for 'A season' Pacific cod was the driving factor in the need for the overall

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<sup>11</sup>The hook-and-line and pot CV <60' sectors were allowed to fish off of the general hook-and-line CV allocation and general pot CV allocation when these fisheries were open, respectively. When these fisheries were closed, the <60' sector harvest accrued toward the <60' hook-and-line/pot CV allocation of 1.4%.

pot split and the split between the pot sectors. However, because the public had not been given specific notice that this action might be taken under Amendment 64, the Council decided to delay action on the pot split and instead include the proposal in a follow-up amendment.

Further changes to the BSAI fixed gear cod fishery were approved by the Council in April 2000 under **BSAI Amendment 67**. Amendment 67 requires that fixed gear vessels  $\geq 60'$  participating in the BSAI Pacific cod fishery must qualify for a Pacific cod endorsement, which would be part of the participant's LLP. Eligibility for a cod endorsement is based on past participation in the BSAI fixed gear fisheries during specific combinations of the years 1995-1999. Four different endorsements are available, depending on the gear used to harvest cod (hook-and-line or pot) and whether the cod was processed onboard the harvesting vessel (catcher vessel or catcher processor). Amendment 67 exempts catcher vessels  $< 60'$  LOA from the requirement to have a cod endorsement to participate in the directed BSAI fixed gear Pacific cod fisheries. Amendment 67 effectively granted exclusive access to longtime participants in the BSAI fixed gear cod fishery, and thus reduced the number of allowable participants. This amendment became effective January 1, 2003.

Subsequent to the decision on Amendment 64, the Council initiated the follow-up amendment to apportion the pot gear share of the BSAI Pacific cod TAC between the pot catcher processor sector and the pot catcher vessel sector. **Amendment 68** proposed to further split the 18.3% of the fixed gear Pacific cod ITAC allocated to pot gear according to "recent" catch histories from 1995 to 1999. The Council reviewed the analysis for Amendment 68 in June 2002, and decided to take no action on the amendment at that time, partly due to the potential implications of the Pacific cod endorsement required under BSAI Amendment 67, which was effective January 1, 2003. The Council also noted the pending expiration of BSAI Amendment 64. Because Amendment 64 was designed to sunset on December 31, 2003, it necessitated approval of a new plan amendment to either continue or modify the fixed gear apportionments beyond 2003. The Council thus decided to defer action on the separate allocations to the pot sectors until they could be considered within the new amendment package that would be necessary to continue the overall fixed gear allocations.

**Amendment 77** represented the new plan amendment to continue or modify the fixed gear apportionments beyond 2003. Amendment 77 was initiated to respond to concerns that, absent a gear split, there is no mechanism to prevent one sector from increasing its effort in the fishery and eroding another sector's relative historical share. Amendment 77 proposed to continue the Pacific cod allocations among the fixed gear sectors, with an additional alternative that would create separate allocations for the pot catcher processor and pot catcher vessel sectors. Because Amendment 77 addressed both the overall fixed gear split and proposed to split the pot sectors' share of the TAC, the following two problem statements were adopted to guide analysis of Amendment 77:

*Problem Statement 1: Overall fixed gear allocations*

*The fixed gear fisheries for Pacific cod in the BSAI are fully utilized. The fishermen who hold licenses in the BSAI Pacific cod fisheries have made substantial investments and are significantly dependent on BSAI Pacific cod.*

*The longline and pot gear allocations currently in place for the BSAI Pacific cod fishery under Amendment 64 expire December 31, 2003. Without action by the North Pacific Fishery Management Council, serious disruption to the BSAI Pacific cod fixed gear fisheries will occur. Prompt action is required to maintain stability in the BSAI fixed gear Pacific cod fishery until comprehensive rationalization is completed.*

Problem Statement 2: Separate allocations for pot catcher processors and pot catcher vessels

*The catcher processor and catcher vessel pot fisheries for Pacific cod in the Bering Sea/Aleutian Islands are fully utilized. Pot catcher processors who have made significant long-term investments, have long catch histories, and are significantly dependent on the BSAI cod fisheries need protection from pot catcher vessels who want to increase their Pacific cod harvest. This requires prompt action to promote stability in the BSAI pot cod fishery until comprehensive rationalization is completed.*

Under Amendment 77, the Council approved continuing the same overall fixed gear allocations under which the fixed gear Pacific cod fisheries had been operating since 2000. The apportionment among the hook-and-line catcher processors, hook-and-line catcher vessels, and pot vessels were based closely on 1995–1998 or 1995–1999 harvests by each sector, and the new apportionment between the pot sectors was based on catch history during 1998–2001. The catch history on which the allocations were based excluded any quota that was reallocated from another gear sector during the fishing year. The allocation to the <60' sector continued to represent an increase over historical harvests, in order to allow for growth in this small boat, shorebased sector.

The allocations approved under **Amendment 77** are as follows:

- 80% hook-and-line catcher processors
- 0.3% hook-and-line catcher vessels
- 15.0% pot catcher vessels
- 3.3% pot catcher processors
- 1.4% hook-and-line and pot vessels <60' LOA<sup>12</sup>

BSAI Amendment 77, with the exception of the alternative to split the pot share of the BSAI Pacific cod ITAC, did not include any other fundamentally different alternatives than were considered under the original Amendment 64. While the availability of more recent data spurred the inclusion of new options for determining the split among the fixed gear sectors, the basic alternatives remained the same. This amendment did not affect the jig or trawl apportionment of BSAI Pacific cod, nor did it affect the size of the overall BSAI Pacific cod TAC.

Note that all of the recent BSAI Pacific cod allocation amendments also provide direction on how to reallocate quota that is projected to remain unused by a particular sector at the end of the year (see Table 1-2). Since the BSAI Pacific cod allocations have been in effect starting in 1994, NMFS has reallocated quota each year from the trawl and jig sectors to the pot and hook-and-line sectors. Reallocations between gear types (e.g., trawl CP to trawl CV, or hook-and-line CV to hook-and-line CP) have occurred less frequently and in lower amounts. In terms of metric tons, the majority of reallocations have been from the trawl sectors (CVs and CPs) since the gear specific allocations were established in 1994. With the exception of the jig sector, because any unused *seasonal apportionment* to a particular sector is reallocated to the next seasonal allowance for that sector, reallocations from one gear sector to another occur in the last season. Typically, reallocations from trawl to the fixed gear sectors occur in October and November, and always during the trawl C season (June 10 – Nov. 1).

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<sup>12</sup>This sector can currently fish off of the general hook-and-line CV allocation and general pot CV allocation when these fisheries are open, respectively. When these fisheries are closed, the <60' sector harvest accrues to the <60' hook-and-line/pot CV allocation of 1.4%.

There are several reasons commonly cited for the trawl reallocations. These include increased difficulty catching cod with trawl gear late in the year when cod are less aggregated (lower CPUE); seasonal apportionments for trawl gear under Steller sea lion mitigation measures starting in 2001; closure of the directed trawl fisheries due to the halibut bycatch cap; relatively high annual quotas of alternative trawl fisheries such as pollock (for AFA vessels); and high value alternative trawl fisheries such as yellowfin sole, rock sole, and flathead sole (for non-AFA catcher processors).

Note that the increased difficulty in harvesting cod in the second half of the year is not unique to one sector. All gear sectors have increased difficulty harvesting cod later in the year when cod are less aggregated, and weather is a significant factor for the smaller vessel sectors in the fall season. The hook-and-line sectors (CPs and CVs) are also limited by halibut bycatch in the second half of the year, as these sectors do not have any halibut bycatch allowance from June 10 – August 15. This effectively delays the start of the cod hook-and-line season until August 15, when a halibut bycatch allowance becomes available. And, while the fixed gear cod allocation was seasonally apportioned prior to 2001, these apportionments changed in 2001 with the Steller sea lion mitigation measures, and also reduced the amount of cod that the fixed gear sectors could harvest in the first half of the year. Detail on the historical level of and reason for reallocations is provided in Chapter 3.0.

The primary reason reallocations occur from the jig sector is due to insufficient effort in that sector in the BSAI. Note that the primary change from the status quo with regard to reallocations under Amendment 77 was to apportion the jig sector's allocation (2% of the BSAI Pacific cod TAC) on a trimester basis (40%–20%–40%) and reallocate any unused jig quota to the <60' vessels using hook-and-line or pot gear on a seasonal basis, as opposed to once, at the end of the year. This allows the <60' pot and hook-and-line vessels to receive additional quota during the spring and summer months when it is most advantageous for the small boat fleet.<sup>13</sup> It was also intended to reduce the risk of having to close the fishery intermittently while waiting for a potential reallocation from the jig sector. Previously, both unused jig and trawl quota was reallocated 95% to the hook-and-line catcher processors and 5% to pot sectors. Amendment 77 retained this distribution for reallocating unused *trawl* quota, with an additional split for the pot sectors (0.9% to pot catcher processors; and 4.1% to pot catcher vessels).

In sum, the existing overall allocations to the trawl, fixed, and jig gear sectors have been in place for nine years (since 1997), and the further split among the fixed gear sectors has been in place for a little over five years (since September 2000). The separate allocations between the pot catcher processor and pot catcher vessel sectors have been in place for two years (since 2004). The 2005 and 2006 gear shares and seasonal apportionments of the BSAI Pacific cod ITAC and TAC are provided in Table 1-1.

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<sup>13</sup>Note that the hook-and-line Pacific cod vessels do not have a halibut PSC allowance during the period June 10 – August 15, so any <60' fixed gear quota available in the summer months primarily supports a <60' pot fishery.

**Table 1-1 2005 and 2006 Gear Shares and Seasonal Allowances of the BSAI Pacific Cod ITAC and TAC (Amounts are in metric tons)**

Gear Sector	Percent	2005 Share of gear sector total	2005 Subtotal percentages for gear sectors	2005 Share of gear sector total	2005 Seasonal apportionment <sup>1</sup>		2006 Share of gear sector total	2006 Subtotal percentages for gear sectors	2006 Share of gear sector total	2006 Seasonal apportionment <sup>1</sup>	
					Date	Amount				Date	Amount
Total hook-and-line/pot gear	51	97,181	.....	.....	.....	.....	91,520	.....	.....	.....	.....
Hook-and-line/pot ICA	.....	.....	.....	500	.....	.....	.....	.....	500	.....	.....
Hook-and-line/pot sub-total	.....	96,681	.....	.....	.....	.....	91,020	.....	.....	.....	.....
Hook-and-line C/P	.....	.....	80	77,344	Jan 1-Jun 10 Jun 10-Dec 31	46,407 30,938	.....	80	72,816	Jan 1-Jun 10 Jun 10-Dec 31	43,690 29,126
Hook-and-line CV	.....	.....	0.3	290	Jan 1-Jun 10 Jun 10-Dec 31	174 116	.....	0.3	273	Jan 1-Jun 10 Jun 10-Dec 31	164 109
Pot C/P	.....	.....	3.3	3,190	Jan 1-Jun 10 Sept 1-Dec 31	1,914 1,276	.....	3.3	3,004	Jan 1-Jun 10 Sept 1-Dec 31	1,803 1,201
Pot CV	.....	.....	15	14,502	Jan 1-Jun 10 Sept 1-Dec 31	8,701 5,801	.....	15	13,653	Jan 1-Jun 10 Sept 1-Dec 31	8,192 5,461
CV < 60 feet LOA using Hook-and-line or Pot gear	.....	.....	1.4	1,354	.....	.....	.....	1.4	1,274	.....	.....
Total Trawl Gear	47	89,559	.....	.....	.....	.....	84,342	.....	.....	.....	.....
Trawl CV	.....	.....	50	44,779	Jan 20-Apr 1 ..... Apr 1-Jun 10 ..... Jun 10-Nov 1	31,345 4,478 8,956	.....	50	42,171	Jan 20-Apr 1 ..... Apr 1-Jun 10 ..... Jun 10-Nov 1	29,520 4,217 8,434
Trawl CP	.....	.....	50	44,779	Jan 20-Apr 1 ..... Apr 1- Jun 10 ..... Jun 10-Nov 1	22,390 13,434 8,956	.....	50	42,171	Jan 20-Apr 1 ..... Apr 1- Jun 10 ..... Jun 10-Nov 1	21,086 12,651 8,434
Jig	2	3,811	.....	.....	Jan 1-Apr 30 ..... Apr 30-Aug 31 ..... Aug 31-Dec 31	1,524 762 1,524	3,589	.....	.....	Jan 1-Apr 30 ..... Apr 30-Aug 31 ..... Aug 31-Dec 31	1,436 718 1,435
Total ITAC <sup>2</sup>	92.5	190,550	.....	.....	.....	.....	179,450	.....	.....	.....	.....
CDQ	7.5	15,450	.....	.....	.....	.....	14,550	.....	.....	.....	.....
Total TAC	100	206,000	.....	.....	.....	.....	194,000	.....	.....	.....	.....

<sup>1</sup> For most non-trawl gear the first season is allocated 60 percent of the ITAC and the second season is allocated 40 percent of the ITAC. For jig gear, the first season and third seasons are each allocated 40 percent of the ITAC and the second season is allocated 20 percent of the ITAC. No seasonal harvest constraints are imposed for the Pacific cod fishery by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear. For trawl gear, the first season is allocated 60 percent of the ITAC and the second and third seasons are each allocated 20 percent of the ITAC. The trawl catcher vessels' allocation is further allocated as 70 percent in the first season, 10 percent in the second season and 20 percent in the third season. The trawl catcher/processors' allocation is allocated 50 percent in the first season, 30 percent in the second season and 20 percent in the third season. Any unused portion of a seasonal Pacific cod allowance will be reapportioned to the next seasonal allowance.

<sup>2</sup> The ITAC is the TAC minus the 7.5% for the CDQ reserve.

**Note: This table does not account for the State waters AI Pacific cod fishery GHL, approved by the Alaska Board of Fisheries in late February 2006. The GHL is calculated as 3% of the BSAI Pacific cod ABC (in 2006 ABC = TAC), thus, a 3% reduction (5,820 mt) would be subtracted from the 2006 TAC prior to all other allocations being made. NMFS effected an inseason adjustment of the 2006 TAC on March 14. The State waters AI Pacific cod fishery is currently limited to 2006 and 2007.**

**Table 1-2 BSAI Pacific Cod Allocation and Endorsement Amendments**

Amendments	Am. 24	Am. 46	Am. 64	Am. 67	Am. 77
<b>Action</b>	Allocation of BSAI P.cod TAC among trawl gear, fixed gear, and jig gear.	Allocation of BSAI P.cod TAC among trawl gear, fixed gear, and jig gear. Allocation between trawl CP and CV.	Allocation of <b>fixed gear</b> BSAI P.cod TAC (51%) among pot gear, hook-and-line CPs, hook-and-line CVs, and <60' vessels.	LLP Pacific cod endorsement requirements for >60' <b>fixed gear vessels</b> in the directed BSAI P.cod fishery.	Revised allocation of <b>fixed gear</b> P.cod TAC (51%) among pot CPs, pot CVs, hook-and-line CPs, hook-and-line CVs, and <60' vessels.
<b>Allocations</b>	Trawl: 54% Fixed: 44% Jig: 2%	Trawl: 47% Trawl CP (50%) Trawl CV (50%) Fixed: 51% Jig: 2%	Of fixed gear 51%: H&L CPs 80.0% H&L CVs 0.3% pot (CP and CV) 18.3% <60' pot/H&L 1.4%	Endorsement requirement (based on participation and landings criteria) for the following sectors: hook-and-line CP, hook-and-line CV, pot CP and pot CV. Not required for <60' fixed gear vessels.	Of fixed gear 51%: H&L CPs 80.0% H&L CVs 0.3% pot CPs 3.3% pot CVs 15.0% <60' pot/H&L 1.4%
<b>Allocation basis</b>	Approximate harvest during 1991 - 1993, with exception of increased jig allocation	Industry negotiation: based closely on harvest percentages of each sector under existing halibut PSC limits	Based closely on 1995 - 1998 harvests by each sector, with the additional allocation to the <60' vessels.	N/A	Hook-and-line CP, hook-and-line CV, and pot gear split based closely on 1995-1998 harvests. Pot CP and CV split based on 1998-2001 harvests. Additional allocation to <60' vessels.
<b>Other actions</b>	Authorized three seasons for fixed gear sector. <u>Reallocations:</u> 1) Authorized NMFS to reallocate unused P.cod from trawl to fixed gear and vice versa.  2) Reallocation of unused jig allocation to other gear sectors on or about Sept. 1.	Authorized three seasons for fixed gear sectors. <u>Reallocations:</u> 1) Authorized NMFS to reallocate unused P.cod within gear types and then between trawl and fixed gear.  2) Reallocation of unused jig allocation to fixed gear sectors specified for Sept. 15.	Authorized three seasons for fixed gear sectors. <u>Reallocations:</u> 1) Unused hook-and-line CV and <60' vessel allocation will be reallocated to hook-and-line CP sector.  2) Reallocation of unused jig allocation to fixed gear sectors specified for Sept. 15.  3) Unused trawl or jig allocations are reallocated: 95% to hook-and-line CP and 5% to pot sectors.	N/A	Authorized two seasons for fixed gear sectors. <u>Reallocations:</u> 1) Unused hook-and-line CV and <60' vessel allocation will be reallocated to hook-and-line CP sector.  2) Established 3 seasons for jig gear allocation. Any unused portion of a seasonal jig allocation will be reallocated to <60' fixed gear CVs. 3) Unused trawl allocations are reallocated: 95% to hook-and-line CPs; 0.9% to pot CPs; 4.1% to pot CVs.  4) Unused pot CP or CV quota will be reallocated to the other pot sector before it is reallocated to other fixed gear sectors.
<b>Date effective</b>	Feb. 28, 1994	Jan. 1, 1997	Sept. 1, 2000	Jan. 1, 2003	Jan. 1, 2004
<b>Sunset date</b>	Dec. 31, 1996	none	Dec. 31, 2003	none	none

Note: The fixed gear allocations established under Am. 64 and Am. 77 were determined excluding quota reallocated from other gear (trawl or jig) sectors. Including reallocated quota would have reduced the percentage of catch harvested in 1995 - 1999 by the pot sector by about 0.5 percentage points and increased the percentage of catch harvested by the longline catcher processor sector by the same amount.

## *Cod allocation to the CDQ Program*

The western Alaska CDQ Program was created by the Council in 1992, as part of the inshore/offshore allocations of pollock in the BSAI. As stated in the BSAI FMP, the purpose of the program is as follows:

*The Western Alaska Community Development Quota Program is established to provide fishermen who reside in western Alaska communities a fair and reasonable opportunity to participate in the Bering Sea/Aleutian Islands groundfish fisheries, to expand their participation in salmon, herring, and other nearshore fisheries, and to help alleviate the growing social economic crisis within these communities...*

*Through the creation and implementation of community development plans, western Alaska communities will be able to diversify their local economies, provide community residents with new opportunities to obtain stable, long-term employment, and participate in the Bering Sea/Aleutian Islands fisheries which have been foreclosed to them because of the high capital investment needed to enter the fishery.*

The FMP language above, which outlines the intent of the program, was based on a 1992 document entitled, “Western Alaska Community Development Quota Program Criteria and Procedures.” This document, developed by the State of Alaska, was adopted by the Council with several revisions and provided the basis for the initial Federal regulations governing the program. The corresponding NMFS regulations (50 CFR 679.1(e)), stating the goal of the program, are as follows:

*The goals and purpose of the CDQ Program are to allocate CDQ to eligible western Alaska communities to provide the means for starting or supporting commercial fisheries business activities that will result in an ongoing, regionally-based, fisheries-related economy.*

The original CDQ Program regulations were effected November 18, 1992, and have been amended numerous times since then. In general, the program allows for a percentage of the BSAI TACs to be allocated to the CDQ Program as a CDQ reserve, and the majority of these CDQ reserves are then allocated among non-profit corporations representing eligible communities. Currently, 65 communities in western Alaska participate in the CDQ Program, based on eligibility criteria listed in the MSA and Federal regulations. The eligible communities have formed six non-profit corporations (CDQ groups) to manage and administer the CDQ allocations, investments, and economic development projects.

In 1996, amendments to the Magnuson Stevens Act institutionalized the program. Originally, the CDQ Program was only allocated an annual pollock reserve. Since 1992, the CDQ Program has expanded several times and now includes allocations of halibut, sablefish, crab, pollock, and most of the remaining groundfish species. The percentage of the CDQ reserve allocated to the CDQ Program for each species is authorized in various statutes and regulations. Currently, the pollock CDQ allocation is 10% under the American Fisheries Act. The percentages of other CDQ reserves are as follows: 10% of crab species (with the exception of Norton Sound red king crab at 7.5%); 20% to 100% of halibut; 20% of fixed gear sablefish; and 7.5% of most other groundfish and prohibited species. Thus, the current annual CDQ Program reserve of Pacific cod is 7.5% of the BSAI Pacific cod TAC. This allocation was implemented in 1998.

Note that the President signed the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) into law on July 11, 2006. Among other actions, this Act amends Section 305(i) of the Magnuson Stevens Act, pertaining to both the fisheries management and government oversight aspects of the CDQ Program. This includes a change to make the CDQ Program Pacific cod allocation a directed fishing allocation of 10% upon establishment of new Pacific cod sector allocations (Section

305(i)(1)(B)(ii)(1)). The regulatory and FMP amendments necessary to implement this change are thus included in this amendment package, in order for the Council's proposal for Amendment 85 to be consistent with the MSA. **Appendix H** provides NOAA GC's legal opinion relevant to changes in Section 305(i)(1)(B)(ii)(1) of the MSA and implemented through Amendment 85. Further FMP and regulatory amendments resulting from the Act are undergoing NOAA analysis and legal interpretation.

### 1.1.2 Problem Statement

In October 2004, the Council modified the elements and options for BSAI Amendment 80 and removed Pacific cod allocations from that amendment package. The intent was to streamline the analysis and shift it back to its original intent, to provide an additional tool to the non-AFA trawl catcher processor sector to improve the sector's level of groundfish retention and utilization and to reduce bycatch. The Council also reaffirmed that modifications to the Pacific cod allocations could be addressed in a separate amendment. To that end, the Council initiated a new plan amendment to alter the current BSAI Pacific cod allocations.

In December 2004, the Council reviewed a discussion paper outlining prior Council actions regarding BSAI Pacific cod allocations, the relevant problem statements associated with these past actions, and potential decision points related to structuring new alternatives and options for analysis. Upon review of the discussion paper, the Council approved a problem statement and a strawman document outlining draft components and options for the new amendment (BSAI Amendment 85). The problem statement and suite of alternatives and options have been revised several times since that initial discussion. The problem statement focuses on revising the BSAI Pacific cod allocations to all sectors (trawl, jig, hook-and-line, pot, and CDQ).

#### **BSAI Amendment 85 Problem Statement**

The BSAI Pacific cod fishery is fully utilized and has been allocated among gear groups and to sectors within gear groups. The current allocations among trawl, jig, and fixed gear were implemented in 1997 (Amendment 46) and the CDQ allocation was implemented in 1998. These allocations are overdue for review. Harvest patterns have varied significantly among the sectors resulting in annual inseason reallocations of TAC. As a result, the current allocations do not correspond with actual dependency and use by sectors.

Participants in the BSAI Pacific cod fishery who have made significant investments and have a long-term dependence on the resource need stability in the allocations to the trawl, jig, fixed gear, and CDQ sectors. To reduce uncertainty and provide stability, allocations should be adjusted to better reflect historic use by sector. The basis for determining sector allocations will be catch history as well as consideration of socio-economic and community factors.

As other fisheries in the BSAI and GOA are incrementally rationalized, historical participants in the BSAI Pacific cod fishery may be put at a disadvantage. Each sector in the BSAI Pacific cod fishery currently has different degrees of license requirements and levels of participation. Allocations to the sector level are a necessary step on the path towards comprehensive rationalization. Prompt action is needed to maintain stability in the BSAI Pacific cod fisheries.

The problem statement notes the annual reallocations of TAC among gear sectors and concerns that the current BSAI Pacific cod allocations do not adequately reflect actual use by sector. While there is no sunset provision or regulatory requirement to review or modify the sector allocations, the Council's motion on Amendment 46 included a provision to review the overall gear sector allocations four years after implementation. This review, originally intended at the end of 2000, has not yet occurred.

This amendment is intended to modify the sector allocations currently in place to better reflect actual dependency and use by sector, in part by basing the allocations on each sector's historical retained catch. Thus, the catch history on which the allocations are based would include any quota that was reallocated from one sector to another due to the sector's projected inability to harvest its entire allocation by the end of the year. There are noted exceptions to basing the allocations on recent catch history, as reflected in the allocation options for the <60' fixed gear, jig gear, and CDQ sectors.

This amendment is also intended to consider more refined allocations to the BSAI Pacific cod sectors, by evaluating the potential for establishing separate and distinct allocations for the non-AFA trawl CP and AFA trawl CP sector and the non-AFA trawl CV and AFA trawl CV sectors. The trawl CP sectors currently have a combined BSAI Pacific cod allocation of 23.5% of the non-CDQ BSAI Pacific cod TAC, as do the trawl CV sectors. Thus, all trawl gear combined currently receives 47% of the non-CDQ BSAI Pacific cod TAC. The overall effort to constrain and protect the harvest distribution among all of the BSAI Pacific cod gear sectors is noted as a necessary step toward comprehensive rationalization.

## 1.2 Alternatives Considered

This amendment addresses the allocations of BSAI Pacific cod to the various gear sectors and includes two primary alternatives. Table 1-3 at the end of the section provides a summary of the alternatives and components. Alternative 1 is the no action alternative, meaning the BSAI Pacific cod allocations for the jig, trawl, fixed gear (hook-and-line and pot), and CDQ sectors would continue as in current regulations. Alternative 2 would modify the current BSAI Pacific cod allocations among the jig, trawl, and fixed gear (hook-and-line and pot) sectors according to a set of catch history years or other considerations. Alternative 2 also proposes to increase the BSAI Pacific cod allocation to the CDQ Program. Alternatives 1 and 2 each consist of the following components:

- Component 1: Sectors for which allocations will be established
- Component 2: Sector allocations
- Component 3: Seasonal apportionments
- Component 4: Rollovers between gear sectors
- Component 5: CDQ allocation of Pacific cod
- Component 6: Apportionment of trawl halibut and crab PSC to the cod fishery group
- Component 7: Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors
- Component 8: Apportionment of cod non-trawl halibut PSC

**ALTERNATIVE 1. No Action.** BSAI Pacific cod allocations for the jig, trawl, and fixed gear (hook-and-line and pot) sectors would continue as in current regulations.

### **Component 1: Sectors for which allocations are established**

BSAI Pacific cod allocations will continue to be established in Federal regulations for the following sectors:

- Trawl CPs
- Trawl CVs
- Hook-and-line CPs
- Hook-and-line CVs
- Pot CPs
- Pot CVs
- Hook-and-line and pot CVs <60'

- Jig CVs

**Component 2: Sector Allocations<sup>14</sup>**

BSAI Pacific cod allocations to the jig, trawl, and fixed gear (hook-and-line and pot) sectors would continue as determined under BSAI Amendments 46 and 77:

- **51% fixed gear**  
 (80% hook-and-line catcher processors)  
 (0.3% hook-and-line catcher vessels)  
 (3.3% pot catcher processors)  
 (15.0% pot catcher vessels)  
 (1.4% hook-and-line/pot vessels <60' LOA)<sup>15</sup>
- **47% trawl gear**  
 (50% trawl catcher vessels)  
 (50% trawl catcher processors)
- **2% jig gear**

The BSAI Pacific cod TAC that is allocated to the above sectors is TAC less the CDQ Program reserve. In addition, the annual incidental catch allowance (ICA) for fixed gear is deducted from the aggregate amount of the BSAI Pacific cod TAC allocated to the fixed gear sectors combined. Pacific cod harvested incidentally in the non-Pacific cod directed BSAI fixed gear fisheries is attributed to the ICA. The ICA is determined annually by the NMFS Regional Administrator in the annual specifications process and has typically been 500 mt.

**Component 3: Seasonal Apportionments**

The seasonal apportionments of each sector's allocation would remain as shown below. Unused seasonal allowances for the trawl, pot, and hook-and-line sectors may be reapportioned to the subsequent seasonal allocation for the respective sectors. Unused seasonal allowances for the jig sector are considered for reallocation to the <60' fixed gear CV sector.

Trawl CV:	70%	(Jan. 20 – April 1)
	10%	(April 1 – June 10)
	20%	(June 10 – Nov. 1)
Trawl CP:	50%	(Jan. 20 – April 1)
	30%	(April 1 – June 10)
	20%	(June 10 – Nov. 1)
Hook-and-line ≥60':	60%	(Jan. 1 – June 10)
	40%	(June 10 – Dec. 31)
Pot gear ≥60':	60%	(Jan. 1 – June 10)
	40%	(Sept. 1 – Dec. 31)

<sup>14</sup>Note that 'allocation' means the percentage of the ITAC allocated among the non-CDQ sectors for the Federal fishery. Therefore, the allocations under Component 2 represent shares of a TAC already reduced by 3% for the State water AI fishery (2006 – 07) and then by the CDQ Program allocation (for example, 10.5% or 11%) due to the 2006 USCG Act.

<sup>15</sup>While the <60' fixed gear (hook-and-line and pot) sector receives a separate allocation of BSAI Pacific cod, these vessels fish off the general hook-and-line CV and pot CV allocations, respectively by gear type, when those fisheries are open. This sector is also an intended (although not exclusive) beneficiary of the State waters AI Pacific cod fishery.

Fixed gear <60': No seasonal apportionments

Jig gear: 40% (Jan. 1 – April 30)  
20% (April 30 – Aug. 31)  
40% (Aug. 31 – Dec. 31)

#### **Component 4: Rollovers between gear sectors**

Inseason management would retain flexibility to determine how to reallocate projected unused sector allocations (rollovers), taking into consideration the hierarchy below. NMFS takes into account the intent of the rollover hierarchy and the likelihood of a sector's capability to harvest reallocated quota.

- Projected unused trawl sector allocations are considered for reallocation to the other trawl sector before being reallocated to the fixed gear sectors.
- Reallocation of TAC from the trawl sectors to fixed gear sectors will be 0.9% to pot CP, 4.1% to pot CV  $\geq 60'$ , and 95% to hook-and-line CP.
- Projected unused allocation in the jig sector is considered for reallocation to the <60' fixed gear CV sector on a seasonal basis.
- Projected unused pot sector allocations (CPs and  $\geq 60'$  CVs) is considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.
- Projected unused allocation in the <60' fixed gear CV sector, both pot sectors (CP and  $\geq 60'$  CV), and hook-and-line CV  $\geq 60'$  is reallocated to the hook-and-line CP sector.

#### **Component 5: CDQ Allocation of BSAI Pacific Cod**

The CDQ Program reserve is 7.5% of the BSAI Pacific cod TAC. The reserve is removed from the TAC prior to the allocation to all other sectors.

#### **Component 6: Apportionment of trawl halibut and crab PSC to the cod fishery group**

The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process and can vary annually. The trawl halibut PSC is typically 3,400 mt, which is apportioned between Pacific cod; yellowfin sole; rocksole/other flatfish/flathead sole; pollock/Atka mackerel/other. Generally, about 1,400 mt is apportioned to the cod trawl fishery group.

The crab PSC for 2005 and 2006 is 182,225 red king crab in Zone 1; 4,494,569 *C. opilio* in the *C. Opilio* Bycatch Limitation Zone (COBLZ); and 906,500 *C. bairdi* in Zone 1 and 2,747,250 *C. bairdi* in Zone 2. The cod trawl fishery group bycatch allowance (2005–2006) is 26,563 red king crab; 139,331 *C. opilio*, 183,112 *C. bairdi* in Zone 1; and 324,176 *C. bairdi* in Zone 2.

#### **Component 7: Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors**

There is no further apportionment of the cod trawl fishery group halibut and crab PSC to the trawl sectors (trawl CV sector and trawl CP sector).

#### **Component 8: Apportionment of cod non-trawl halibut PSC**

The total amount of non-trawl halibut PSC for the non-CDQ fisheries is determined in the annual specifications process and can vary annually. The non-trawl halibut PSC allowance is typically 833 mt, which is apportioned between the Pacific cod and 'other non-trawl' fisheries. Generally, about 775 mt is apportioned to the cod non-trawl fishery group. No further apportionment of the halibut bycatch allowance is made between the hook-and-line CP sector and the hook-and-line CV sector.



**ALTERNATIVE 2:** *(Council preferred alternative. The Council selected specific options under each of the following components to create a comprehensive preferred alternative, summarized in Section 1.3.)* Modify the current BSAI Pacific cod allocations among the jig, trawl, and fixed gear (hook-and-line and pot) sectors according to a set of catch history years or other considerations.

**Component 1: Sectors for which allocations will be established**

Catch history will be calculated for the following sectors. The Council may choose to establish allocations for combined sectors; however each sector's catch history will be calculated separately.

- AFA Trawl CPs (AFA 20)<sup>16</sup>
  - Suboption a: Include catch history of the nine trawl CPs whose claims to catch history have been extinguished by Section 209 of the AFA
  - Suboption b: Exclude catch history of the nine trawl CPs whose claims to catch history have been extinguished by Section 209 of the AFA
- Non-AFA Trawl CPs
- AFA Trawl CVs
- Non-AFA Trawl CVs
- Hook-and-line CPs
- Hook-and-line CVs  $\geq 60'$
- Pot CPs
- Pot CVs  $\geq 60'$
- Hook-and-line and pot CVs  $< 60'$
- Jig CVs

Eligibility criteria for non-AFA trawl catcher vessels to be included in the AFA CV sector for purposes of the Pacific cod allocations:

- Option 1.1 The holder of a license that arose from a vessel/history that made a minimum of 100 mt of Pacific cod landings during each of the years 1995–1997.

**Component 2: Sector Allocations<sup>17</sup>**

For each of the years under consideration, each sector's annual harvest share will be calculated for that individual year as a percentage of the total retained legal catch by all sectors. For each of the sets of catch history years analyzed, each sector's harvest percentage will be calculated as the sector's average of the annual harvest share. For purposes of determining catch history, a sector's 'catch' means all retained legal catch (including rollovers) from both the Federal fishery and parallel fishery in the BSAI (less CDQ). This includes retained legal catch from both LLP and non-LLP vessels.

One set of years will be selected for all sectors. There is a suboption under each set of years to drop one year. Each sector would drop its worst year (smallest annual harvest share percentage for that sector). This results in an aggregate percentage greater than 100% for a set of years for all sectors combined; thus, the result would be scaled back to 100%.

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<sup>16</sup>Refers to the 20 trawl catcher processors listed in Section 208(e)(1)-(20) of the American Fisheries Act (AFA).

<sup>17</sup>Note that 'allocation' means the percentage of the ITAC allocated among the non-CDQ sectors for the Federal fishery. Therefore, the allocations under Component 2 represent shares of a TAC already reduced by 3% for the State water AI fishery (2006 – 07) and then by 10% (an increase from 7.5%) for the CDQ Program due to the 2006 USCG Act.

In all options and suboptions, the <60' fixed gear CV sector will only fish from the direct allocation to that sector.

The BSAI Pacific cod TAC that is allocated to the above sectors is TAC less the CDQ Program reserve. In addition, the annual incidental catch allowance (ICA) for fixed gear is deducted off the top from the aggregate amount of the BSAI Pacific cod TAC allocated to the fixed gear sectors combined. Pacific cod harvested incidentally in the non-Pacific cod directed BSAI fixed gear fisheries are attributed to the ICA. The ICA is determined annually by the NMFS Regional Administrator in the annual specifications process and has typically been 500 mt.

- Option 2.1: 1995–2002
- Option 2.2: 1997–2000
- Option 2.3: 1997–2003
- Option 2.4: 1998–2002
- Option 2.5: 1999–2003
- Option 2.6: 2000–2003

Suboption 1 (applies to Options 2.1–2.6): Drop one year.

Option 2.7: The Council can select percentages for cod allocated to each sector that fall within the range of percentages analyzed.

Option 2.8: Allocations (whether combined or separate) to the <60' fixed gear CV sector and jig sector shall collectively not exceed:

Suboption 1: Actual catch history percentage for jig and <60' fixed gear CVs combined (from the set of years selected for all sectors under Op. 2.1–2.7)

Suboption 2: 2.71% (represents 2% jig allocation plus 0.71% <60' fixed gear CV allocation of non-CDQ BSAI Pacific cod TAC)

Suboption 3: 3% (represents 2% jig allocation plus 1% <60' fixed gear CV allocation of non-CDQ BSAI Pacific cod TAC)

Suboption 4: 4% (represents 2% jig allocation plus 2% <60' fixed gear CV allocation of non-CDQ BSAI Pacific cod TAC)

### **Component 3: Seasonal Apportionments**

Unused seasonal allowances for the trawl, pot, and hook-and-line sectors may be reapportioned to the subsequent seasonal allocation for the respective sectors. Unused seasonal allowances for the jig sector are considered for reallocation to the <60' fixed gear CV sector. Options 3.1, 3.2, and 3.3 are mutually exclusive.

Option 3.1 Status quo. Allocations determined under this amendment would be apportioned seasonally among the gear sectors as in current regulation (see Alternative 1).

Option 3.2 Upon determination of the new overall allocations to the trawl and fixed gear sectors, maintain the current percentage of the ITAC allocated to the A and B seasons for trawl gear and the A season for fixed gear. Provide that any reduction in the overall trawl allocation resulting from the options would be applied only in the C season for trawl gear. Provide that any increase in the overall fixed gear allocation resulting from the options would be applied only in the B season for fixed gear.

Option 3.3 Upon determination of the new overall allocations to the trawl and fixed gear sectors, maintain the current percentage of the ITAC allocated to the A season for trawl gear. Provide that any reduction in the overall trawl allocation resulting from the options would be applied only in the B and C seasons for trawl gear:

- Suboption 1: Reduction applied proportionately to B and C seasons
- Suboption 2: Reduction applied equally to B and C seasons
- Suboption 3: Provide that any reduction in the overall trawl allocation resulting from the options would first be applied in the C season and then in the B season. Any increase in the allocation to fixed gear would be applied in the A season. Any reduction in the trawl allocation in the B or C seasons will be made proportionately between the AFA CP, non-AFA CP, and AFA CV, non-AFA CV sectors based on their new allocation percentages. In the event that this suboption exceeds the 70% - 30% Steller sea lion seasonal apportionment, the hook-and-line CP sector's A season allocation will be adjusted as necessary by shifting A season allocation to the B season.

- Option 3.4 Apportion the BSAI Pacific cod jig allocation on a trimester basis as follows:
- 60% (Jan. 1 – April 30)
  - 20% (April 30 – August 31)
  - 20% (August 31 – December 31)

#### **Component 4: Rollovers between gear sectors**

Inseason management would retain flexibility to determine how to reallocate projected unused sector allocations (rollovers), taking into consideration the hierarchy below. NMFS takes into account the intent of the rollover hierarchy and the likelihood of a sector's capability to harvest reallocated quota.

#### **Option 4.1** Modified status quo. The suite of provisions below comprises Option 4.1.

- 4.1.1 Projected unused trawl sector allocations are considered for reallocation to other trawl sectors (AFA CP; non-AFA CP; AFA CV; non-AFA CV) before being reallocated to the fixed gear sectors (hook-and-line CP; hook-and-line CV  $\geq 60'$ ; pot CP; pot CV  $\geq 60'$ ).
- 4.1.2 Reallocation of TAC from the trawl sectors to fixed gear sectors will be 0.9% to pot CP, 4.1% to pot CV  $\geq 60'$ , and 95% to hook-and-line CP.
  - Suboption 1: Reallocation of TAC from the trawl sectors to the fixed gear sectors will be proportional to the new fixed gear allocations.
- 4.1.3 Projected unused allocation in the jig sector is considered for reallocation to the  $<60'$  fixed gear CV sector on a seasonal basis. The third trimester jig rollover should be available to the  $<60'$  fixed gear CV sector on September 1.
- 4.1.4 Projected unused pot sector allocations (CPs and  $\geq 60'$  CVs) are considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.
- 4.1.5 Projected unused allocations in the  $<60'$  fixed gear CV sector, both pot sectors (CP and  $\geq 60'$  CV), and hook-and-line CV  $\geq 60'$  are reallocated to the hook-and-line CP sector.

#### **Option 4.2** Projected unused allocations to any sector delivering inshore must be considered for reallocation to other inshore sectors before being considered for reallocation to any offshore sector. The suite of provisions below comprises Option 4.2.

- 4.2.1 Projected unused allocation in the jig sector is considered for reallocation to the  $<60'$  fixed gear CV sector on a seasonal basis. The third trimester jig rollover should be available to the  $<60'$  fixed gear CV sector on September 1.

- 4.2.2 Any unused allocation from any inshore sector will first be considered for reallocation to the jig sector and/or <60' fixed gear CV sector; then to the hook-and-line CV  $\geq 60'$  or pot CV  $\geq 60'$  sector; then to the trawl CV sectors. Any CV allocation that is not likely to be harvested through this hierarchy will be reallocated as per components 4.2.3–4.2.6 below.
- 4.2.3 Projected unused trawl sector allocations are considered for reallocation to other trawl sectors (AFA CP; non-AFA CP; AFA CV; non-AFA CV) before being reallocated to the fixed gear sectors (hook-and-line CP; hook-and-line CV  $\geq 60'$ ; pot CP; pot CV  $\geq 60'$ ).
- 4.2.4 Reallocation of TAC from the trawl sectors to fixed gear sectors will be 0.9% to pot CP, 4.1% to pot CV  $\geq 60'$ , and 95% to hook-and-line CP.
- Suboption 1: Reallocation of TAC from the trawl sectors to the fixed gear sectors will be proportional to the new fixed gear allocations.
- 4.2.5 Projected unused pot sector allocations (CPs and  $\geq 60'$  CVs) are considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.
- 4.2.6 Projected unused allocations in the <60' fixed gear CV sector, both pot sectors (CP and  $\geq 60'$  CV), and hook-and-line CV  $\geq 60'$  are reallocated to the hook-and-line CP sector.

**Component 5: CDQ Allocation of BSAI Pacific Cod**

The CDQ Program reserve for BSAI Pacific cod shall be removed from the TAC prior to the allocation to all other sectors at percentage amounts equal to one of the following options:

- Option 5.1 7.5% (status quo)  
 Option 5.2 10%  
 Option 5.3 15%

**Component 6: Apportionment of trawl halibut and crab PSC to the cod fishery group**

The total amount of trawl halibut PSC for the non-CDQ fisheries is 3,400 mt, which is apportioned between Pacific cod, yellowfin sole, rocksole/other flatfish/flathead sole, pollock/Atka mackerel/other. Generally, 1,400 mt is apportioned to the cod trawl fishery group, but this amount and actual use can vary annually. A significant amount of Pacific cod is taken incidentally in other trawl fisheries so the PSC use associated with that Pacific cod harvest would be attributed to a fishery group other than cod trawl. Amendment 80 will also allocate halibut PSC to the H&G trawl sector so that the amount of halibut PSC available to the remaining trawl sectors will be reduced.

**Component 7: Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors**

- Option 7.1: The annual PSC allocation to the trawl Pacific cod fishery will be apportioned to the cod trawl sectors based on the cod allocation percentages determined for each sector under Component 2.
- Option 7.2: The annual PSC allocation to the trawl Pacific cod fishery will be apportioned to the cod trawl sectors based on the sector's directed cod fishery harvests during the qualifying period under Component 2.

**Component 8: Apportionment of cod non-trawl halibut PSC**

The total amount of non-trawl halibut PSC for the non-CDQ fisheries is 833 mt. The 833 mt is normally apportioned between cod hook-and-line sectors and other non-trawl fisheries during the annual specifications process. Generally, 775 mt is apportioned to hook-and-line cod fisheries and 58 mt to other

non-trawl. This component would divide the halibut PSC amount apportioned to non-trawl cod between the hook-and-line CP sector and hook-and-line CV sector (for CVs  $\geq 60'$  and CVs  $< 60'$  combined).

Option 8.1 In proportion to the BSAI Pacific cod TAC allocated to the sectors

Option 8.2 10 mt for CVs, remainder for CPs

**Table 1-3 Summary of the Alternatives Considered**

<b>BSAI PACIFIC COD SECTOR ALLOCATIONS</b>				
<b>Components</b>	<b>Alternative 1 (No Action)</b>		<b>Alternative 2 (Revise allocations)</b>	
<b>1. Sectors for which allocations are established</b>	Trawl CP Trawl CV Hook-and-line CP Hook-and-line CV	Pot CP Pot CV H&L/pot CV $< 60'$ Jig CV	AFA Trawl CP AFA Trawl CV Non-AFA Trawl CP Non-AFA Trawl CV Pot CV $\geq 60'$	Pot CP Hook-and-line CP Hook-and-line CV $\geq 60'$ H&L/pot CV $< 60'$ Jig CV
<b>2. Sector allocations</b>	51% fixed gear: (80% hook-and-line CP) (0.3% hook-and-line CV) (3.3% pot CP) (15.0% pot CV) (1.4% hook-and-line/pot $< 60'$ )  47% trawl gear: (50% trawl CP) (50% trawl CV)  2% jig gear		Six options to revise sector allocations based on sector's average annual harvest share during the years: 1995–2002 1997–2000 1997–2003 1998–2002 1999–2003 2000–2003 Drop year provisions exist under each option. The Council can select any allocations within the range provided. Options exist to provide allocations (combined or separate) to the $< 60'$ fixed gear and jig gear sectors not to exceed: 2.71%, 3%, or 4%.	
<b>3. Seasonal apportionments</b>	<u>Trawl CV:</u> 70% (Jan. 20 – Apr. 1) 10% (Apr. 1 – June 10) 20% (June 10 – Nov. 1) <u>Trawl CP:</u> 50% (Jan. 20 – Apr. 1) 30% (Apr. 1 – June 10) 20% (June 10 – Nov. 1) <u>H&amp;L gear <math>&gt; 60'</math>:</u> 60% (Jan. 1 – June 10) 40% (June 10 – Dec. 31) <u>Pot gear <math>&gt; 60'</math>:</u> 60% (Jan. 1 – June 10) 40% (Sept. 1 – Dec. 31) <u>Fixed gear <math>&lt; 60'</math>:</u> no seasonal apportionments <u>Jig gear:</u> 40% (Jan. 1 – Apr. 30) 20% (Apr. 30 – Aug. 31) 40% (Aug. 31 – Dec. 31)		Option to maintain status quo seasons (see Alt. 1).  Option to maintain the current % of ITAC allocation to the A and B seasons for trawl gear and the A season for fixed gear.  Option to maintain the current % of the ITAC allocated to the A season for trawl gear. Three suboptions exist to apportion the reduction to the trawl sectors' allocations between the B and C seasons.  Option to modify the jig apportionments to: 60% (Jan. 1 – Apr. 30) 20% (Apr. 30 – Aug. 31) 20% (Aug. 31 – Dec. 31)	

<b>BSAI PACIFIC COD SECTOR ALLOCATIONS</b>		
<b>Components</b>	<b>Alternative 1 (No Action)</b>	<b>Alternative 2 (Revise allocations)</b>
<b>4. Rollovers</b>	<p>Unused trawl sector allocations are first considered for reallocation to other trawl sector</p> <p>Unused pot sector allocations are first considered for reallocation to other pot sector</p> <p>Reallocation from trawl to fixed gear: 0.9% pot CP 4.1% pot CV 95% hook-and-line CP</p> <p>Reallocation from jig to &lt;60' fixed gear on seasonal basis</p> <p>Unused &lt;60' fixed gear, pot, and hook-and-line CV quota is reallocated to hook-and-line CP sector</p>	<p>Options to generally maintain status quo rollover provisions, with accommodation of new trawl sectors (see Alt. 1).</p> <p>Options to modify the rollovers from trawl to fixed gear according to the new fixed gear allocations determined under Component 2.</p> <p>Options to reallocated unused quota from an inshore sector to the other inshore sectors before reallocating to offshore sectors.</p>
<b>5. CDQ allocation</b>	7.5% of the BSAI Pacific cod TAC	Options exist to maintain 7.5% BSAI Pacific cod CDQ allocation or to increase to 10% or 15%.
<b>6. Apportionment of trawl halibut and crab PSC to cod trawl fishery group</b>	The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process.	The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process.
<b>7. Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors</b>	No apportionment of cod trawl halibut and crab PSC between the trawl sectors.	Options to apportion the cod trawl halibut and crab PSC among the trawl sectors determined in Component 1 according to the cod allocations determined in Component 2 or according to their directed cod harvest.
<b>8. Apportionment of cod non-trawl halibut PSC</b>	No apportionment of the cod non-trawl halibut PSC between hook-and-line CP and CV sectors.	Apportion the cod non-trawl halibut PSC between hook-and-line CP and CV sectors either 1) in proportion to their cod allocations, or 2) 10 mt for CVs, remainder for CPs.

### 1.3 Council Preferred Alternative

The Council recommended Alternative 2 as its preferred alternative at the April 2006 Council meeting. The following table outlines the various components and options that comprise the preferred alternative to revise the BSAI Pacific cod sector allocations based on catch history and other socio-economic and community considerations. The analysis of the impacts of the Council's preferred alternative is in Section 3.4.3 of the analysis. The comprehensive Council motion is provided as Appendix E.

<b>BSAI PACIFIC COD SECTOR ALLOCATIONS</b>		
<b>Components</b>	<b>Council preferred alternative – Alternative 2</b>	
<b>1. Sectors for which allocations are established</b>	AFA Trawl CP - 2.3% Non-AFA Trawl CP – 13.4% Trawl CV – 22.1% Pot CV ≥60' – 8.4%	Pot CP – 1.5% Hook-and-line CP – 48.7% Hook-and-line CV ≥60' – 0.2% H&L/pot CV <60' – 2.0%
<b>2. Sector allocations (as % of BSAI Pacific cod ITAC)</b>		Jig CV – 1.4%

<b>BSAI PACIFIC COD SECTOR ALLOCATIONS</b>			
<b>Components</b>	<b>Council preferred alternative – Alternative 2</b>		
<b>3. Seasonal apportionments</b>	<p>Maintain the current percentage of the ITAC allocated to the A and B seasons for trawl gear and the A season for fixed gear. The reduction in the overall trawl allocation is applied in the C season; if necessary, remaining reductions are taken from the trawl B season. The increase in the overall fixed gear allocation is applied to the B season for fixed gear. Combined with Components 1 and 2, this component results in seasonal apportionments of each sector's <u>allocation</u> as shown below. The &lt;60' fixed gear sector is not affected by this component. The jig gear sector apportionments are also modified as shown below.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><u>Trawl CV:</u> 74% (Jan. 20 - Apr. 1) 11% (Apr. 1 - June 10) 15% (June 10 - Nov. 1)</p> <p><u>Trawl CP:</u> 75% (Jan. 20 - Apr. 1) 25% (Apr. 1 - June 10) 0% (June 10 - Nov. 1)</p> <p><u>H&amp;L CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (June 10 - Dec. 31)</p> </td> <td style="width: 50%; vertical-align: top;"> <p><u>Pot CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (Sept. 1 - Dec. 31)</p> <p><u>Fixed gear &lt;60':</u> no seasonal apportionments</p> <p><u>Jig gear:</u> 60% (Jan. 1 - Apr. 30) 20% (Apr. 30 - Aug. 31) 20% (Aug. 31 - Dec. 31)</p> </td> </tr> </table>	<p><u>Trawl CV:</u> 74% (Jan. 20 - Apr. 1) 11% (Apr. 1 - June 10) 15% (June 10 - Nov. 1)</p> <p><u>Trawl CP:</u> 75% (Jan. 20 - Apr. 1) 25% (Apr. 1 - June 10) 0% (June 10 - Nov. 1)</p> <p><u>H&amp;L CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (June 10 - Dec. 31)</p>	<p><u>Pot CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (Sept. 1 - Dec. 31)</p> <p><u>Fixed gear &lt;60':</u> no seasonal apportionments</p> <p><u>Jig gear:</u> 60% (Jan. 1 - Apr. 30) 20% (Apr. 30 - Aug. 31) 20% (Aug. 31 - Dec. 31)</p>
<p><u>Trawl CV:</u> 74% (Jan. 20 - Apr. 1) 11% (Apr. 1 - June 10) 15% (June 10 - Nov. 1)</p> <p><u>Trawl CP:</u> 75% (Jan. 20 - Apr. 1) 25% (Apr. 1 - June 10) 0% (June 10 - Nov. 1)</p> <p><u>H&amp;L CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (June 10 - Dec. 31)</p>	<p><u>Pot CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (Sept. 1 - Dec. 31)</p> <p><u>Fixed gear &lt;60':</u> no seasonal apportionments</p> <p><u>Jig gear:</u> 60% (Jan. 1 - Apr. 30) 20% (Apr. 30 - Aug. 31) 20% (Aug. 31 - Dec. 31)</p>		
<b>4. Rollovers</b>	<p>Projected unused allocation in the <b>jig</b> sector is considered for reallocation to the &lt;60' fixed gear CV sector on a seasonal basis. The third trimester jig rollover should be available to the &lt;60' fixed gear CV sector on September 1.</p> <p>Any unused allocation from an <b>inshore</b> sector will first be considered for reallocation to the jig sector and/or &lt;60' fixed gear CV sector; then to the hook-and-line CV ≥60' or pot CV ≥60' sector; then to the trawl CV sectors. Any CV allocation that is not likely to be harvested through this hierarchy will be reallocated as outlined below.</p> <p>Projected unused <b>trawl</b> sector allocations are considered for reallocation to other trawl sectors (AFA trawl CP; non-AFA trawl CP; trawl CV) before being reallocated to the fixed gear sectors (hook-and-line CP; pot CP; pot CV ≥60').</p> <p>Reallocation of TAC from the <b>trawl</b> sectors to the pot CP, ≥60' pot CV, and hook-and-line CP sectors will be proportional to the new fixed gear allocations: 83.1% to the hook-and-line CP sector, 14.3% to the ≥60' pot CV sector, and 2.6% to the pot CP sector.</p> <p>Projected unused <b>pot</b> sector allocations (CPs and ≥60' CVs) are considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.</p> <p>Projected unused allocations in the <b>&lt;60' fixed gear CV</b> sector, both <b>pot</b> sectors (CP and ≥60' CV), and <b>hook-and-line CV ≥60'</b> are reallocated to the hook-and-line CP sector.</p>		
<b>5. CDQ allocation</b>	10% of the BSAI Pacific cod TAC as a directed fishing allocation <sup>18</sup>		
<b>6. Apportionment of trawl halibut and crab PSC to cod trawl fishery group</b>	The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process.		

<sup>18</sup> While the Council ultimately selected the option under Alternative 2 to maintain the current 7.5% CDQ cod allocation, it recognized that Congressional action was imminent to increase this allocation. The Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) was signed into law on July 11, 2006. This effectively increases the CDQ Program Pacific cod allocation to 10% as a directed fishing allocation (DFA) upon effectiveness of new Pacific cod sector allocations. Thus, this amendment package includes FMP and regulatory amendments to increase the CDQ Pacific cod allocation (as a DFA) to 10% per the statute. An additional amount of BSAI Pacific cod will be reserved for the CDQ Program to provide for the incidental catch of Pacific cod in other CDQ groundfish fisheries.

<b>BSAI PACIFIC COD SECTOR ALLOCATIONS</b>	
<b>Components</b>	<b>Council preferred alternative – Alternative 2</b>
<b>7. Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors</b>	The annual halibut and crab PSC allocation to the trawl cod fishery group will be apportioned to the cod trawl sectors (AFA CP; non-AFA CP; AFA CV) based on the sectors' directed cod harvests. To determine PSC, the percent of cod harvested in the cod target fishery by the trawl sectors is calculated on the basis of all cod catch during 1999 – 2003, including that designated for fishmeal production. <b>Result:</b> staff calculated each sector's percentage of the PSC allowance to the <i>trawl cod fishery group</i> as: AFA trawl CP (4.4%), trawl CV (70.7 %), and non-AFA trawl CP (24.9%). <sup>19</sup>
<b>8. Apportionment of cod non-trawl halibut PSC</b>	The halibut PSC allocated to the hook-and-line cod trawl fishery group will be apportioned: 10 mt for CVs and the remainder for CPs. The halibut PSC amount for each category shall be set in the annual specifications process.
<b>Other provisions</b>	<p>Trawl sector allocations of Pacific cod will be managed as currently, with a soft cap with a directed fishing allowance and incidental catch allowance for each trawl sector, determined by NMFS inseason management. When BSAI Amendment 80 is implemented, the Pacific cod sector allocation for the non-AFA trawl CP sector will be divided between cooperative and non-cooperative vessels using the same formula as other allocated species in Amendment 80, and operate as a hard cap.</p> <p>AFA trawl catcher vessel cod sideboards would be maintained.</p> <p>A review of the effects of Amendment 85 on the &lt;60' hook-and-line and pot catcher vessel sectors will be conducted when the combined harvest of those sectors (including parallel, Federal, and State fishery harvests) reaches a total of 3% of the BSAI Pacific cod ITAC.</p>

#### 1.4 Proposed changes to the BSAI FMP

The proposed action is Amendment 85 to the FMP for Groundfish of the Bering Sea and Aleutian Islands Management Area. This action would require changing language in the following sections of the FMP:

<b>Page number</b>	<b>Description of BSAI FMP Section</b>
ES-3 and ES-5	Table ES-2 of the Executive Summary
17	Section 3.2.5.3 Reserves
17	Section 3.2.6 Apportionment of Total Allowable Catch
19	Section 3.2.6.3.1 Pacific Cod Gear Allocations
46	Section 3.7.4.4 Multispecies Groundfish and Prohibited Species Allocations
56	Section 4.1.2.2 Pacific cod
94	Section 4.5.3.2 Akutan
98	Section 4.5.4 Community Development Quota Program Communities
Appendix A	Summary of BSAI Amendment 85
Appendix J (new)	Consolidated Appropriations Act, 2005 (Public Law 108-447) Provisions

<sup>19</sup> Note that BSAI Amendment 80 (final Council action June 2006) includes flatfish species allocations and halibut and crab PSC allocations to the non-AFA trawl CP sector, which supercedes the PSC methodology in Amendment 85 for only that sector. Upon implementation of Am. 80, the remaining halibut and crab PSC allowances to the *trawl cod fishery group* will only be apportioned between the trawl CV sector and the AFA trawl CP sector. In that event, the PSC percentages in Component 7 would be refined as follows: trawl CV sector (94.1%) and AFA trawl CP sector (5.9%).

The action considered in this amendment package is limited to amending the BSAI FMP and would not affect the FMP for the Gulf of Alaska. The Council's preferred alternative is detailed in Section 3.4.3 of the analysis. **The proposed FMP amendment language to implement the Council's preferred alternative is attached as Appendix D to this analysis.**

## 1.5 Consistency with the Problem Statement

The alternatives under consideration are, to varying degrees, consistent with the problem statement, which includes the Council's preferred alternative (Alternative 2). Under the no action alternative, the current apportionments of the BSAI Pacific cod TAC to the fixed, trawl, jig gear, and CDQ sectors would continue, and no further apportionments would be made between the AFA and non-AFA sectors. The problem identified with the status quo is that the current allocations among trawl, jig, and fixed gear were implemented in 1997, with the CDQ allocation in 1998, and these allocations are overdue for review. Because harvest patterns have varied significantly among the sectors, NMFS annually reallocates quota from one gear sector to another in the non-CDQ BSAI Pacific cod fishery in order to avoid foregone harvest. As a result, the current (non-CDQ) sector allocations do not correspond with actual dependency and use by sectors in recent years. The problem statement also notes that participants in the BSAI Pacific cod fishery who have made significant investments and have a long-term dependence on the resource need stability in the form of sector allocations, and that the basis for determining sector allocations should be catch history and other socio-economic and community factors. The problem statement asserts that allocations at the sector level are a necessary step on the path towards comprehensive rationalization.

Alternative 2, including the derivation of Alternative 2 that is the Council preferred alternative, would modify the sector allocations and also split the trawl CP allocations between non-AFA and AFA trawl vessel sectors. The intent of the action is to establish direct allocations for each specified gear sector in the BSAI Pacific cod fishery, in order to protect the relative historical catch distribution among those sectors. Thus, the preferred alternative and options directly address the concerns expressed in the problem statement. In addition, the problem statement references the CDQ allocation as a separate sector, and provides the context for considering revising the CDQ allocation as part of the overall action to modify the Pacific cod gear sector allocations. The CDQ reserve for cod (and other species) was recently addressed in the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) (July 11, 2006). This statute effectively increases the CDQ Program Pacific cod allocation from 7.5% to 10% upon effectiveness of new Pacific cod sector allocations, and makes the percentage a directed fishing allocation. Thus, this amendment package includes FMP and regulatory amendments to establish a CDQ Pacific cod directed fishing allocation of 10%, per the statute.

The problem statement states that catch history, as well as socio-economic and community concerns, should be the basis for determining sector allocations. This package contains options to establish BSAI Pacific cod allocations to the jig sector, <60' fixed gear sector, and CDQ sector that are based on identified percentages of the TAC, and not actual catch history. As in the status quo alternative, the Council's preferred alternative establishes allocations to both the jig gear sector and <60' fixed gear CV sector that are greater than those sector's average catch history, and deducts these increases principally from the non-AFA sector amounts. The allocations to the small boat sectors are intended to expand entry-level, local opportunities in the BSAI Pacific cod fishery. These catcher vessel fleets are typically comprised of residents of small, coastal communities in the Bering Sea, Aleutian Islands, and the Alaska Peninsula.

Amending the BSAI FMP and Federal regulations at 50 CFR 679.20(a)(7)(i) is required to allow the proposed changes under Alternative 2. Changes to the provisions addressing unused quota and seasonal apportionments of the jig allocation would require changes to 50 CFR 679.20(a)(7)(ii) and (iii), respectively. Changes to the halibut apportionment in the non-trawl categories would require changes to

679.21(e)(4), and changes to the PSC apportionment in the trawl fishery categories would require changes to 679.21(e)(1) and 679.21(e)(3). Eliminating the BSAI Pacific cod sideboard for listed AFA trawl catcher processors (as it is replaced by a direct allocation to the AFA trawl CP sector under the proposed action) would require changes to 679.64(a). Establishing a 10% directed fishing allocation of Pacific cod CDQ would require changes at 679.31 and 679.20(b)(1)(iii), at a minimum. Therefore, with proper justification, the Council may make the recommended changes with approval of the Secretary of Commerce.

## 1.6 Bering Sea/Aleutian Islands sector allocation split (Part II)

At the time the Council took action on this amendment, it also contained a second, separate action and problem statement (Part II). The second part of the problem statement addressed the need to establish a methodology by which to maintain sector allocations and minimize competition among gear groups, should the BSAI Pacific cod TAC be apportioned between the BS and AI subareas during a future

### **Part II Problem Statement: Apportionment of BSAI Pacific Cod Sector Allocations between BS and AI**

In the event that the BSAI Pacific cod ABC/TAC is apportioned between the BS and the AI management areas, a protocol needs to be established that would continue to maintain the benefits of sector allocations and minimize competition among gear groups; recognize differences in dependence among gear groups and sectors that fish for Pacific cod in the BS and AI; and ensure that the distribution of harvest remains consistent with biomass distribution and associated harvest strategy.

specifications process:

The stock assessment model for Pacific cod is configured to represent the portion of the Pacific cod population inhabiting the BS survey area. The model projections are then adjusted to include biomass in the AI survey area. The best estimate of long-term average biomass distribution is 85% in the BS and 15% in the AI (Thompson and Dorn 2005). On average during 1995 – 2003, almost 14% of the BSAI Pacific cod catch came from the AI subarea and 86% from the BS subarea.<sup>20</sup> If the timeframe is shortened to the most recent years (2000 – 2003), the share percentages change to almost 18% in the AI and 82% in the BS. While the data set is not exactly comparable, 2004 and 2005 data were also provided for reference. In 2004 and 2005, the AI share of the total BSAI Pacific cod harvest is estimated at 14.4% and 11.3%, respectively.<sup>21</sup>

The issue of whether to split the combined BSAI ABC and TAC by subarea has been raised at Plan Team, Science and Statistical Committee (SSC), and Council meetings during the last several years. In December 2003, the SSC recommended that the ABC should be split between BS and AI subareas, but noted that management implications may preclude the Council from adopting separate subarea TACs in the specifications process. The SSC requested that the assessment authors evaluate potential methods for splitting the ABC and their potential management implications, so that specific recommendations could be made to the Council in the future.

Given the management implications related to the numerous sector allocations in the BSAI, the Pacific cod TAC has continued to be established for the entire BSAI management area. However, if the Council determines that it is likely that the TAC groupings will be modified in the foreseeable future, it would be beneficial to provide direction to NMFS regarding the formula for establishing new subarea allocations to

<sup>20</sup>Harvest data are from ADF&G fishtickets and weekly production reports, 1995 – 2003. Harvest data are retained Pacific cod catch and exclude cod destined for meal production.

<sup>21</sup>2004 and 2005 data are from the NMFS catch accounting database, which utilizes observer reports for some catcher processors.

each sector. The second part of this amendment package provided alternative approaches for this action. Absent a new regulatory or plan amendment, NMFS could only implement equal allocations in both areas (e.g., if a sector receives a 40% BSAI allocation, it would receive 40% in the BS and 40% in the AI upon a TAC split).

Thus, Part II proposed four alternatives to establish a methodology by which to maintain sector allocations and minimize competition among gear groups, should the BSAI Pacific cod ABC and TAC be apportioned into separate BS and AI subarea ABCs and TACs in a future TAC specifications process. **As part of the overall motion on Amendment 85 in April 2006, the Council voted to remove Part II from BSAI Amendment 85 and initiate a new, separate analysis that examines alternative approaches to apportion the BSAI Pacific cod sector allocations between the BS and AI subareas.**

There were several reasons identified for the Council's action regarding Part II. The primary basis for this decision was that there were considerable problems associated with all of the alternatives. The Council received extensive public testimony on this issue, almost all of which recommended that future analysis be completed to evaluate additional alternatives. In order to avoid delaying action on the BSAI Pacific cod sector allocations overall, the Council voted to remove this part of the analysis at this time. Thus, while the result is effectively no action on the BS and AI subarea allocation split, it was not for want of addressing the problem or due to a lack of recognition that the concern continues to exist. The Council determined that because of the substantial effect of the proposed action on all sectors of the fishery, further analysis was warranted to attempt to identify an alternative that was more suitable to a majority of participants.

The new amendment package to address the BSAI Pacific cod sector allocation split will use the previously considered alternatives as a starting point. A discussion paper on this issue and potential new alternatives or variations of the existing alternatives is tentatively scheduled for the October 2006 Council meeting. **The remainder of this section outlines the four alternatives considered in Part II and the associated concerns identified as a result of this potential action.**

**Alternative 3** represented the no action alternative. Under this alternative, NMFS could likely only implement equal allocations in both areas (e.g., if a sector receives a 40% BSAI allocation, it would receive 40% in the BS and 40% in the AI upon a TAC split). While this is one of the methodologies evaluated, the public and the Council raised concerns about this methodology being the only potential solution by default. The primary concern being that it does not reflect recent historical catch by sector in the Aleutian Islands subarea. In general, the trawl sectors have increased the percentage of their total harvest taken from the AI in recent years, and the fixed gear sectors have reduced their share in the AI.

**Alternative 4** proposed to maintain Pacific cod sector allocations at the BSAI level, and a sector could fish that allocation anywhere in the BS or AI as long as TAC was available in the subarea. This alternative provides the greatest flexibility for sectors and may be the easiest for NMFS inseason management to monitor. However, one may risk creating a race for fish in one subarea, most likely the AI, depending on shifts in the location of the stock, desire to deliver to a new port, or a number of factors that may prompt a sector to shift more of its fishing in the AI than has historically been harvested. In addition, NMFS noted concerns with this alternative that were included in the presentation to the Council. Because Alternative 4 does not establish sector allocations in each subarea, there are thus no gear specific seasonal apportionments *by subarea*. While the overall guideline for the BSAI in the 2001 Biological Opinion is a 70% - 30% seasonal split, the seasonal apportionments vary by gear type. Thus, absent specific sector allocations in the AI, if any gear type was allowed to fish in the AI until the TAC was taken, this approach risks harvesting all of the AI TAC in the first half of the year. No guidelines currently exist for establishing AI seasonal apportionments by gear type or overall. Thus, NMFS

identified a concern that this alternative deviates considerably from what was consulted on in the 2001 Biological Opinion.

Note that NMFS is undertaking another ESA Section 7 consultation on the BSAI and GOA groundfish FMPs in 2006. The consultation team has initiated the preparation of a consultation package which will consist of a series of documents, one of which is a Biological Assessment that summarizes information on the proposed action (the groundfish FMPs). The Biological Assessment is nearing completion and when finished will be submitted by NMFS Sustainable Fisheries to NMFS Protected Resources; when accepted by Protected Resources, the consultation will formally begin. The process should provide additional information on guidelines for managing the BSAI fisheries in such a manner that does not adversely affect Steller sea lions or their habitat.

**Alternative 5** proposed allocating to sectors the same percentage of the BS TAC and AI TAC that result from the BSAI sector allocations determined by Alternative 1 or 2. Thus, Alternative 5 has the same result as Alternative 3 (no action). In effect, each sector would be allowed to harvest 85% of its BSAI allocation determined in the BS and 15% in the AI. Most sector's recent historical harvest patterns in the BS and AI do not closely mirror an 85% (BS) and 15% (AI) split. In general, Alternative 5 would allocate a lower share of the trawl sectors' BSAI allocations to the AI than has been harvested in the AI in the recent past. In contrast, Alternative 5 would allocate a higher share of the fixed and jig gear sectors' BSAI allocations to the AI than has been harvested there in the recent past.

**Alternative 6** proposed to define the sector allocations for the BS and AI based on the relative percentages of Pacific cod that were harvested in the AI by the sectors during a specified series of years. There are four options for the series of years: 1995 – 2002; 1997 – 2003; 2000 – 2003; and 2002 - 2003. The overall BSAI allocation would remain for each sector, as determined under Alternative 1 or 2. Each sector would then receive its historical share of the AI TAC, and the remainder of the sector's allocation is established in the BS.

The Council identified Alternative 6 as its preliminary preferred alternative in February 2006. However, several concerns were identified at the April Council meeting. One fundamental concern under Alternative 6 is that TAC fluctuations will have disproportionate impacts on sectors that are allocated the greatest percentage of the subarea with the declining TAC. Because it is uncertain how TACs in the BS and AI would fluctuate relative to one another in the future, and because the subarea allocations under Alternative 6 are dependent first on maintaining the overall BSAI allocation to each sector, it is possible that Alternative 6 could result in negative allocations in the BS subarea for one or more sectors. Of particular concern is the non-AFA trawl CV sector, since this sector may receive a relatively small overall BSAI allocation but has harvested an estimated 13.2% of the overall AI harvest in recent years (2002 – 2003).

A related concern under Alternative 6 is that some of the resulting AI sector allocations would not be large enough to open a directed fishery in the AI. This concern was most notable in the non-AFA trawl CV sector, fixed gear CV sectors, and jig sector. In addition, members of various sectors emphasized in public testimony that several sectors (e.g., trawl CV, pot CV) have very few eligible participants with an AI area endorsement on their LLP. Thus, significant concerns were raised regarding the eligibility of each sector to participate in an AI fishery. (Note that a separate amendment has been initiated by the Council to address trawl CV eligibility in the BSAI.)

Finally, the public and the Council noted there is some uncertainty as to the timing of a BSAI ABC and TAC split, and thus, there may be sufficient time to develop additional alternatives to better meet the problem statement. The issue of whether to split the combined BSAI ABC (and TAC) by subarea has been raised at Plan Team, SSC, and Council meetings during the last several years. In December 2003, the SSC recommended that the ABC should be split between BS and AI subareas, but noted that

management implications may preclude the Council from adopting separate subarea TACs in the specifications process. In addition, in the November 2005 BSAI Pacific cod SAFE report, the stock assessment authors noted the following:

*At present, ABC of BSAI Pacific cod is not allocated by area. Pacific cod is something of an exception in this regard. Based on a Kalman filter analysis of the shelf bottom trawl survey time series in the EBS and AI, last year's assessment concluded that the best estimate of the BSAI Pacific cod biomass distribution was 85% EBS and 15% AI (Thompson and Dorn, 2004). The analysis was not repeated for this year's assessment, because no AI survey was conducted this year...if there were no other management complications, setting a separate ABC for the AI would be expected to impose only a modest new constraint on the existing fishery while helping to control future expansion of the fishery in this area. However, at present, there are potentially significant management complications arising from certain allocation formulas (by gear type, CDQ, etc.) pertaining to Pacific cod in the Fishery Management Plan. Until such time as these complications can be resolved, specification of separate ABCs for the EBS and AI is not recommended. [excerpt from 2005 BSAI SAFE]*

In February 2006, the Council and SSC requested that the analysis include additional background information on the biological basis for managing cod as separate BS and AI stocks rather than as a single BSAI stock (SSC minutes, February 2006). The SSC specifically asked whether evidence suggests that the BS and AI stocks are separate and that cod form a single stock throughout the AI, or whether evidence suggests that cod form a suite of independent or partially independent stocks along the length of the AI. The response from stock assessment scientists at the Alaska Fisheries Science Center was that there is not sufficient evidence at this time to confirm or refute the hypotheses that Pacific cod stocks in the BS and AI subareas are separate. In addition, the available data, or lack thereof, was summarized as follows:

- 2) *Size Composition.* The size compositions of catches taken from the AI are typically more heavily weighted toward large fish than the size compositions of catches taken from the BS. However, this could be evidence of a difference in fishing mortality rates or gear selectivities between the two areas rather than evidence of biological structure.
- 3) *Length at Age.* Although a good collection of age data are available for Pacific cod in the BS, very few (<100) age data are available for Pacific cod in the AI, making it difficult to draw firm conclusions about possible differences in length at age between the two areas. More age data from Pacific cod in the AI should be available within a few weeks.
- 4) *Tagging.* In a study described by Shimada and Kimura (1994, *Fishery Bulletin* 92:800-816), substantial numbers of Pacific cod were tagged in both the AI and BS management areas. Over 300 fish tagged in the BS management area were recovered. The vast majority of these were recovered in the BS management area, although there were isolated cases of BS-tagged fish being recovered in the AI management area. Two fish tagged in the vicinity of Unimak Pass were recovered near Seguam Pass within 250 days. Very few recoveries were made of AI-tagged fish. However, two fish tagged in Tanaga Pass near Adak Island were captured on the outer northwest shelf in the BS management area (above 57°N) after 3 and 5 years at liberty. In a separate study, AFSC's Fisheries Interaction Team tagged large numbers of Pacific cod in the vicinity of Unimak Pass. Out of 2,609 tag returns, only 1 was recovered in the AI management area.
- 5) *Genetics.* Grant et al. (1987, *Can. J. Fish. Aquat. Sci.* 44:490-498) showed clear differentiation between Pacific cod in the Asian and North American portions of the species' range, but little differentiation within the North American portion. A new study, using more powerful methodology, is currently underway at the AFSC. Although final results will not be available for a few months, preliminary results confirm Grant et al.'s finding of a distinct break between Asian and North American populations, and also indicate the potential for stock structure on scales

*finer than the species' North American range. Unfortunately, very few data from the Bering Sea were available for the new analysis. Once the present study is completed, the authors hope to conduct further studies (pending availability of funds), including expanded coverage of the Bering Sea portion of the species' range* (Thompson, March 2, 2006).

The scope of the management concerns identified in the analysis and provided in public testimony, combined with the uncertainty regarding whether a BSAI ABC and TAC split would be recommended in the near future, spurred the Council to defer action on Part II of the amendment at this time. As stated previously, the Council instead opted to remove Part II and its attendant analysis from BSAI Amendment 85 and initiate a new, separate analysis that examines alternative approaches to apportion the BSAI Pacific cod sector allocations between the BS and AI subareas. The approach is intended to provide a separate and distinct focus on the BSAI sector allocation split issue, and at the same time, not delay potential Secretarial approval of the preferred alternative addressing the overall BSAI Pacific cod sector allocations addressed in this amendment. **Therefore, this amendment only addresses the BSAI Pacific cod sector allocations; the analysis of Part II has been removed and will be addressed in a separate amendment.**

## 2 ENVIRONMENTAL ASSESSMENT

The purpose of this section is to analyze the environmental impacts of the proposed Federal action: to revise the allocations of Bering Sea and Aleutian Islands (BSAI) Pacific cod total allowable catch (TAC) among the various fixed gear, trawl gear, and jig gear sectors and to increase the BSAI Pacific cod allocation to the Community Development Quota (CDQ) Program. An environmental assessment is intended, in a concise manner, to provide sufficient evidence of whether or not the environmental impacts of the action are significant (40 CFR 1508.9).

Three of the four required components of an environmental assessment (EA) are included in this chapter. These include brief discussions of: the need for the proposal (Section 2.1), the alternatives (Section 2.2), and the environmental impacts of the proposed action and alternatives (Section 2.3). A list of agencies and persons consulted is included later in this document in Section 7.

### 2.1 Purpose and Need

The Council has identified the following problem statement for these actions. Further elaboration on the background of the proposed action can be found in Section 1.1.

#### **BSAI Amendment 85 Problem Statement**

*The BSAI Pacific cod fishery is fully utilized and has been allocated among gear groups and to sectors within gear groups. The current allocations among trawl, jig, and fixed gear were implemented in 1997 (Amendment 46) and the CDQ allocation was implemented in 1998. These allocations are overdue for review. Harvest patterns have varied significantly among the sectors resulting in annual inseason reallocations of TAC. As a result, the current allocations do not correspond with actual dependency and use by sectors.*

*Participants in the BSAI Pacific cod fishery who have made significant investments and have a long-term dependence on the resource need stability in the allocations to the trawl, jig, fixed gear, and CDQ sectors. To reduce uncertainty and provide stability, allocations should be adjusted to better reflect historic use by sector. The basis for determining sector allocations will be catch history as well as consideration of socio-economic and community factors.*

*As other fisheries in the BSAI and GOA are incrementally rationalized, historical participants in the BSAI Pacific cod fishery may be put at a disadvantage. Each sector in the BSAI Pacific cod fishery currently has different degrees of license requirements and levels of participation. Allocations to the sector level are a necessary step on the path towards comprehensive rationalization. Prompt action is needed to maintain stability in the BSAI Pacific cod fisheries.*

### 2.2 Alternatives considered

Two alternatives have been identified for analysis under this action. Both Alternative 1 and 2 are comprised of eight components. Alternative 2 contains a number of options under each of the components, the combinations of which create a multitude of possible actions. A detailed description of these alternatives can be found in Section 1.2 of this document. A summary of the alternatives under each action is included below in Table 2-1.

**Table 2-1 Summary of the Alternatives Considered: BSAI Pacific Cod Sector Allocations**

Components	Alternative 1 (No Action)	Alternative 2 (Revise allocations)
<b>1. Sectors for which allocations are established</b>	Trawl CP Trawl CV Hook-and-line CP Hook-and-line CV	Pot CP Pot CV H&L/pot CV <60' Jig CV
<b>2. Sector allocations</b>	51% fixed gear: (80% hook-and-line CP) (0.3% hook-and-line CV) (3.3% pot CP) (15.0% pot CV) (1.4% hook-and-line/pot <60')  47% trawl gear: (50% trawl CP) (50% trawl CV)  2% jig gear	Six options to revise sector allocations based on sector's average annual harvest share during the years: 1995–2002 1997–2000 1997–2003 1998–2002 1999–2003 2000–2003 Drop year provisions exist under each option. The Council can select any allocations within the range provided. Options exist to provide allocations (combined or separate) to the <60' fixed gear and jig gear sectors not to exceed: 2.71%, 3%, or 4%.
<b>3. Seasonal apportionments</b>	<u>Trawl CV:</u> 70% (Jan. 20 – Apr. 1) 10% (Apr. 1 – June 10) 20% (June 10 – Nov. 1) <u>Trawl CP:</u> 50% (Jan. 20 – Apr. 1) 30% (Apr. 1 – June 10) 20% (June 10 – Nov. 1) <u>H&amp;L gear &gt;60':</u> 60% (Jan. 1 – June 10) 40% (June 10 – Dec. 31) <u>Pot gear &gt;60':</u> 60% (Jan. 1 – June 10) 40% (Sept. 1 – Dec. 31) <u>Fixed gear &lt;60':</u> no seasonal apportionments <u>Jig gear:</u> 40% (Jan. 1 – Apr. 30) 20% (Apr. 30 – Aug. 31) 40% (Aug. 31 – Dec. 31)	Option to maintain status quo seasons (see Alt. 1).  Option to maintain the current % of ITAC allocation to the A and B seasons for trawl gear and the A season for fixed gear.  Option to maintain the current % of the ITAC allocated to the A season for trawl gear. Three suboptions exist to apportion the reduction to the trawl sectors' allocations between the B and C seasons.  Option to modify the jig apportionments to: 60% (Jan. 1 – Apr. 30) 20% (Apr. 30 – Aug. 31) 20% (Aug. 31 – Dec. 31)
<b>4. Rollovers</b>	Unused trawl sector allocations are first considered for reallocation to other trawl sector Unused pot sector allocations are first considered for reallocation to other pot sector Reallocation from trawl to fixed gear: 0.9% pot CP 4.1% pot CV 95% hook-and-line CP Reallocation from jig to <60' fixed gear on seasonal basis Unused <60' fixed gear, pot, and hook-and-line CV quota is reallocated to hook-and-line CP sector	Options to generally maintain status quo rollover provisions, with accommodation of new trawl sectors (see Alt. 1).  Options to modify the rollovers from trawl to fixed gear according to the new fixed gear allocations determined under Component 2.  Options to reallocated unused quota from an inshore sector to the other inshore sectors before reallocating to offshore sectors.

Components	Alternative 1 (No Action)	Alternative 2 (Revise allocations)
<b>5. CDQ allocation</b>	7.5% of the BSAI Pacific cod TAC	Options exist to maintain 7.5% BSAI Pacific cod CDQ allocation or to increase to 10% or 15%.
<b>6. Apportionment of trawl halibut and crab PSC to cod trawl fishery group</b>	The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process.	The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process.
<b>7. Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors</b>	No apportionment of cod trawl halibut and crab PSC between the trawl sectors.	Options to apportion the cod trawl halibut and crab PSC among the trawl sectors determined in Component 1 according to their cod allocations in Component 2 or according to their directed cod harvest.
<b>8. Apportionment of cod non-trawl halibut PSC</b>	No apportionment of the cod non-trawl halibut PSC between hook-and-line CP and CV sectors.	Apportion the cod non-trawl halibut PSC between hook-and-line CP and CV sectors either 1) in proportion to their cod allocations, or 2) 10 mt for CVs, remainder for CPs.

Section 3.4.2 provides detailed information about the potential change to sector allocations that could occur under Alternative 2. A summary of the range of difference between the average catch by sector during 2001–2004, and proposed allocations under Alternative 2, is illustrated in Table 2-2.

**Table 2-2 Range of proposed BSAI Pacific cod allocations by sector under Alternative 2, compared to status quo**

Sectors	Range of potential sector allocations resulting from Components 1 & 2 (% of BSAI P. cod ITAC)	Current allocation (% of BSAI Pacific cod ITAC)	Average catch by sector, 2001-2004	Difference between proposed allocations and status quo (% of BSAI P. cod ITAC)
Hook-and-line CP	45.8% – 50.3%	40.8%	50.0%	-4.2% to 0.3%
Hook-and-line CV ≥60'	0.1% – 0.4%	0.2%	0.2%	-0.1% to 0.2%
Pot CP	1.4% – 2.3%	1.7%	9.1%	-0.4% to 2.4%
Pot CV ≥60'	7.3% – 9.2%	7.6%		
AFA trawl CP	0.9% – 3.7%	23.5% (AFA CP sector is subject to sideboard of 6.1%)	18.8%	-5.2% to 1.1%
Non-AFA trawl CP	12.7% – 16.2%			
AFA trawl CV	17.8% – 24.4%	23.5% (non-exempt AFA CV sector is subject to sideboard of 20.2%)	19.9%	-1.6% to 7.6%
Non-AFA trawl CV	0.5% – 3.1%			
<60' hook-and-line/pot CV	0.1% – 2%	0.7%	(included with hook-and-line CV and pot CV)	--
Jig CV	0.1% – 2%	2%	.08%	0.02% to 1.2%

Source: Harvest data are retained BSAI Pacific cod (excluding meal) as reported on ADF&G fishtickets and weekly production reports, 1995 – 2003.

Note: The <60' fixed gear sector is currently allocated 0.71% of the BSAI Pacific cod ITAC. However, this sector can currently fish off the general hook-and-line CV and pot CV Pacific cod allocations when those directed fisheries are open, respectively, by gear type. The proposed amendment would allow the <60' fixed gear sector to only fish off its direct allocation.

Note also that the AFA trawl CP sector is subject to cod sideboards, as are the non-exempt AFA trawl CVs.

## 2.2.1 Council's preferred alternative

The Council recommended **Alternative 2** as its preferred alternative at the April 2006 Council meeting. The Council selected an option under each of the components, thus, the preferred alternative is one derivation of Alternative 2. Table 2-3 outlines the various components and options that comprise the preferred alternative, to revise the BSAI Pacific cod sector allocations based on catch history and other socio-economic and community considerations. **The detailed analysis of the impacts of the Council's preferred alternative is in Section 3.4.3.**

Note that while the Council ultimately selected the option under Alternative 2 to maintain the current 7.5% Pacific cod allocation to the CDQ Program, it recognized that Congressional action was imminent to potentially increase this allocation. The President signed the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) into law on July 11, 2006. Among other actions, this Act amends Section 305(i) of the MSA, pertaining to the CDQ Program. The MSA amendments include a change to create a CDQ Pacific cod directed fishing allocation of 10% upon the establishment of sector allocations (Section 305(i)(1)(B)(ii)(1)). Appendix H is NOAA GC's legal opinion on the portions of the MSA amendments that are proposed to be implemented through Amendment 85. The opinion provides that because Amendment 85 establishes sector allocations of BSAI Pacific cod, the MSA thus requires that, at the same time these sector allocations are established, the allocation of BSAI Pacific cod to the CDQ Program must increase to a 10% directed fishing allocation. The regulatory and FMP amendments necessary to implement this change are thus included in this amendment package, in order for the Council's proposal for Amendment 85 to be consistent with the MSAAct. **The detailed analysis of the impacts of the Council's preferred alternative is in Section 3.4.3 of the analysis.**

**Table 2-3 Summary of Council's Preferred Alternative**

Components	Council preferred alternative – Alternative 2							
<b>1. Sectors for which allocations are established</b>  <b>2. Sector allocations (as % of BSAI Pacific cod ITAC)</b>	AFA Trawl CP - 2.3% Non-AFA Trawl CP – 13.4% Trawl CV – 22.1% Pot CV ≥60' – 8.4%	Pot CP – 1.5% Hook-and-line CP – 48.7% Hook-and-line CV ≥60' – 0.2% H&L/pot CV <60' – 2.0% Jig CV – 1.4%						
<b>3. Seasonal apportionments</b>	<p>Maintain the current percentage of the ITAC allocated to the A and B seasons for trawl gear and the A season for fixed gear. The reduction in the overall trawl allocation is applied in the C season; if necessary, remaining reductions are taken from the trawl B season. The increase in the overall fixed gear allocation is applied to the B season for fixed gear. Combined with Components 1 and 2, this component results in seasonal apportionments of each sector's <u>allocation</u> as shown below. The &lt;60' fixed gear sector is not affected by this component. The jig gear sector apportionments are also modified as shown below.</p> <table border="0" data-bbox="456 1497 1422 1850"> <tr> <td data-bbox="456 1497 878 1612"> <u>Trawl CV:</u>            74% (Jan. 20 - Apr. 1)            11% (Apr. 1 - June 10)            15% (June 10 - Nov. 1)         </td> <td data-bbox="883 1497 1422 1612"> <u>Pot CP and &gt;60' CV:</u>            51% (Jan. 1 - June 10)            49% (Sept. 1 - Dec. 31)         </td> </tr> <tr> <td data-bbox="456 1623 878 1738"> <u>Trawl CP:</u>            75% (Jan. 20 - Apr. 1)            25% (Apr. 1 - June 10)            0.0% (June 10 - Nov. 1)         </td> <td data-bbox="883 1623 1422 1738"> <u>Fixed gear &lt;60':</u>            no seasonal apportionments         </td> </tr> <tr> <td data-bbox="456 1749 878 1850"> <u>H&amp;L CP and &gt;60' CV:</u>            51% (Jan. 1 - June 10)            49% (June 10 - Dec. 31)         </td> <td data-bbox="883 1749 1422 1850"> <u>Jig gear:</u>            60% (Jan. 1 - Apr. 30)            20% (Apr. 30 - Aug. 31)            20% (Aug. 31 - Dec. 31)         </td> </tr> </table>		<u>Trawl CV:</u> 74% (Jan. 20 - Apr. 1) 11% (Apr. 1 - June 10) 15% (June 10 - Nov. 1)	<u>Pot CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (Sept. 1 - Dec. 31)	<u>Trawl CP:</u> 75% (Jan. 20 - Apr. 1) 25% (Apr. 1 - June 10) 0.0% (June 10 - Nov. 1)	<u>Fixed gear &lt;60':</u> no seasonal apportionments	<u>H&amp;L CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (June 10 - Dec. 31)	<u>Jig gear:</u> 60% (Jan. 1 - Apr. 30) 20% (Apr. 30 - Aug. 31) 20% (Aug. 31 - Dec. 31)
<u>Trawl CV:</u> 74% (Jan. 20 - Apr. 1) 11% (Apr. 1 - June 10) 15% (June 10 - Nov. 1)	<u>Pot CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (Sept. 1 - Dec. 31)							
<u>Trawl CP:</u> 75% (Jan. 20 - Apr. 1) 25% (Apr. 1 - June 10) 0.0% (June 10 - Nov. 1)	<u>Fixed gear &lt;60':</u> no seasonal apportionments							
<u>H&amp;L CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (June 10 - Dec. 31)	<u>Jig gear:</u> 60% (Jan. 1 - Apr. 30) 20% (Apr. 30 - Aug. 31) 20% (Aug. 31 - Dec. 31)							

Components	Council preferred alternative – Alternative 2
<p><b>4. Rollovers</b></p>	<p>Projected unused allocation in the <b>jig</b> sector is considered for reallocation to the &lt;60' fixed gear CV sector on a seasonal basis. The third trimester jig rollover should be available to the &lt;60' fixed gear CV sector on September 1.</p> <p>Any unused allocation from an <b>inshore</b> sector will first be considered for reallocation to the jig sector and/or &lt;60' fixed gear CV sector; then to the hook-and-line CV ≥60' or pot CV ≥60' sector; then to the trawl CV sectors. Any CV allocation that is not likely to be harvested through this hierarchy will be reallocated as outlined below.</p> <p>Projected unused <b>trawl</b> sector allocations are considered for reallocation to other trawl sectors (AFA trawl CP; non-AFA trawl CP; trawl CV) before being reallocated to the fixed gear sectors (hook-and-line CP; pot CP; pot CV ≥60').</p> <p>Reallocation of TAC from the <b>trawl</b> sectors to the pot CP, ≥60' pot CV, and hook-and-line CP sectors will be proportional to the new fixed gear allocations: 83.1% to the hook-and-line CP sector, 14.3% to the ≥60' pot CV sector, and 2.6% to the pot CP sector.</p> <p>Projected unused <b>pot</b> sector allocations (CPs and ≥60' CVs) are considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.</p> <p>Projected unused allocations in the <b>&lt;60' fixed gear CV</b> sector, both <b>pot</b> sectors (CP and ≥60' CV), and <b>hook-and-line CV ≥60'</b> are reallocated to the hook-and-line CP sector.</p>
<p><b>5. CDQ allocation</b></p>	<p>10% of the BSAI Pacific cod TAC as a directed fishing allocation<sup>22</sup></p>
<p><b>6. Apportionment of trawl halibut and crab PSC to cod trawl fishery group</b></p>	<p>The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process.</p>
<p><b>7. Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors</b></p>	<p>The annual halibut and crab PSC allocation to the trawl cod fishery group will be apportioned to the cod trawl sectors (AFA CP; non-AFA CP; AFA CV) based on the sectors' directed cod harvests. To determine PSC, the percent of cod harvested in the cod target fishery by the trawl sectors is calculated on the basis of all cod catch during 1999 – 2003, including that designated for fishmeal production. <b>Result:</b> staff calculated each sector's percentage of the PSC allowance to the <i>trawl cod fishery group</i> as: AFA trawl CP (4.4%), trawl CV (70.7%), and non-AFA trawl CP (24.9%).<sup>23</sup></p>
<p><b>8. Apportionment of cod non-trawl halibut PSC</b></p>	<p>The halibut PSC allocated to the hook-and-line cod trawl fishery group will be apportioned: 10 mt for CVs and the remainder for CPs. The halibut PSC amount for each category shall be set in the annual specifications process.</p>

<sup>22</sup> The Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241; July 11, 2006) effectively increases the CDQ Program Pacific cod allocation to 10% as a directed fishing allocation (DFA) upon effectiveness of new Pacific cod sector allocations. Thus, this amendment package includes FMP and regulatory amendments to increase the CDQ Pacific cod allocation (as a DFA) to 10% per the statute. An additional amount of BSAI Pacific cod will be reserved for the CDQ Program to provide for the incidental catch of Pacific cod in other CDQ groundfish fisheries.

<sup>23</sup> Note that BSAI Amendment 80 (final Council action June 2006) includes flatfish species allocations and halibut and crab PSC allocations to the non-AFA trawl CP sector, which supercedes the PSC methodology in Amendment 85 for only that sector. Upon implementation of Am. 80, the remaining halibut and crab PSC allowances to the *trawl cod fishery group* will only be apportioned between the trawl CV sector and the AFA trawl CP sector. In that event, the PSC percentages in Component 7 would be refined as follows: trawl CV sector (94.1%) and AFA trawl CP sector (5.9%).

Components	Council preferred alternative – Alternative 2
<b>Other provisions</b>	<p>Trawl sector allocations of Pacific cod will be managed as currently, with a soft cap with a directed fishing allowance and incidental catch allowance for each trawl sector, determined by NMFS inseason management. When BSAI Amendment 80 is implemented, the Pacific cod sector allocation for the non-AFA trawl CP sector will be divided between cooperative and non-cooperative vessels using the same formula as other allocated species in Amendment 80, and operate as a hard cap.</p> <p>AFA trawl catcher vessel cod sideboards would be maintained.</p> <p>A review of the effects of BSAI Amendment 85 on the &lt;60' hook-and-line and pot catcher vessel sectors will be conducted when the combined harvest of those sectors (including parallel, Federal and State fishery harvests) reaches a total of 3% of the BSAI Pacific cod ITAC.</p>

Section 3.4.3 provides detailed information about the potential change to (non-CDQ) sector allocations of the Pacific cod ITAC resulting from the Council's preferred alternative. Table 2-4 compares average catch by sector during 1995–2003 with the proposed allocations under the preferred alternative.

**Table 2-4 BSAI Pacific cod allocations by sector (as % of BSAI Pacific cod ITAC) under the Council's preferred alternative, compared to status quo allocations and historical catch**

Sectors	Preferred alternative sector allocation	Status quo allocation	Annual share of retained cod harvests, average 1995–2003 <sup>1</sup>	Difference between preferred allocation and historical catch
<60' hook-and-line/pot CV	2.0%	0.7%	0.4%	+1.6%
AFA trawl CP	2.3%	23.5% (AFA CP sector is subject to sideboard of 6.1%)	2.2%	+0.1%
Non-AFA trawl CP	13.4%		13.4%	0%
Jig	1.4%	2%	0.1%	+1.3%
Hook-and-line CP	48.7%	40.8%	49.1%	-0.4%
Hook-and-line CV ≥60'	0.2%	0.2%	0.1%	+0.1%
Trawl CV (AFA and non-AFA)	22.1%	23.5% (non-exempt AFA CV sector is subject to sideboard of 20.2%)	24.0%	-1.9%
Pot CP	1.5%	1.7%	2.1%	-0.6%
Pot CV ≥60'	8.4%	7.6%	8.6%	-0.2%

<sup>1</sup>ADF&G fishtickets and weekly production reports, 1995 – 2003. Harvest by the AFA 9 is excluded. Each sector's harvest percentage is calculated as the sector's average of the annual harvest share. Retained BSAI Pacific cod harvest represents retained legal catch, including cod destined for meal production.

Note: The <60' fixed gear sector is currently allocated 0.7% of the BSAI Pacific cod ITAC. However, this sector can currently fish off the general hook-and-line CV and pot CV Pacific cod allocations when those directed fisheries are open, respectively, by gear type. Am. 85 allows the <60' fixed gear sector to only fish off its direct allocation.

## 2.3 Probable Environmental Impacts

This section analyzes the alternatives for their effect on the biological, physical, and human environment. The alternatives change the management of the Pacific cod target fisheries, by revising BSAI Pacific cod sector allocations and related provisions governing inseason reallocations of quota, seasonal apportionments, and prohibited species bycatch allowances.

As appropriate, each section discusses the environment that would be affected by the alternatives and then describes the impacts of the alternatives. The following components of the environment are discussed:

Pacific cod, other groundfish and prohibited species caught incidentally in the Pacific cod target fishery, seabirds and marine mammals, benthic habitat and essential fish habitat, economic and socioeconomic components, and the ecosystem as a whole.

### 2.3.1 Criteria Used to Evaluate the Alternatives

The intent of the EA is to determine whether the proposed action is likely to produce significant impacts on the environment, in which case preparation of an Environmental Impact Statement (EIS) is required. Although economic and socio-economic impacts must be evaluated, such impacts by themselves, without influence on the physical or biological environment, are not sufficient to require the preparation of an EIS (see 40 CFR 1508.14).

In order to assess whether impacts are significant, the analysts have established the criteria listed in Table 2-5. Although the economic and socioeconomic impacts of the alternatives are fully discussed in the sections that follow, significance criteria for these impacts have not been established as such criteria are not necessary for the purposes of the environmental assessment.

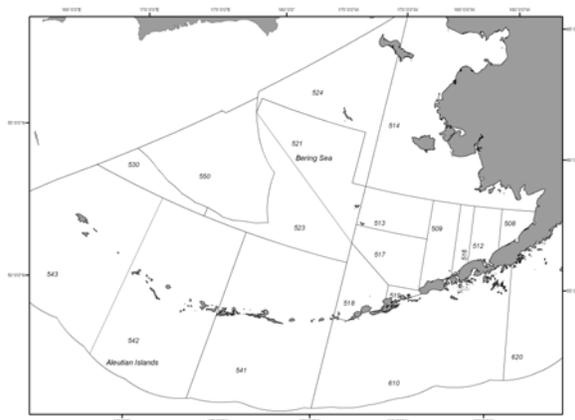
**Table 2-5 Criteria Used to Evaluate the Alternatives**

Component	Criteria
Fish species	An effect is considered to be significant if it can reasonably be expected to jeopardize the sustainability of the species or species group.
Habitat	An effect is considered to be significant if it exceeds a threshold of more than minimal and not temporary disturbance to habitat.
Seabirds and marine mammals	An effect is considered to be significant if it can be reasonably expected to alter the population trend outside the range of natural fluctuations.
Ecosystem	An effect is considered to be significant if it produces population-level impacts for marine species, or changes community- or ecosystem-level attributes beyond the range of natural variability for the ecosystem.

### 2.3.2 Pacific Cod

Pacific cod (*Gadus macrocephalus*) is widely distributed over the eastern Bering Sea and Aleutian Islands areas, and occurs at depths from shoreline to 500 m. Information on Pacific cod in this section is taken from Thompson and Dorn (2005). Pacific cod is managed as a single unit in the BS and AI.

Figure 2-1 illustrates the Federal management subareas of the Bering Sea and Aleutian Islands (the Aleutian Islands are comprised of Federal reporting areas 541 – 543). Historically, the great majority of the BSAI Pacific cod catch has come from the BS management subarea. Table 2-6 provides a history of biomass estimates for the eastern Bering Sea area, as well as catch specifications and actual catch. Between 2001 and 2005, TAC averaged about 96% of ABC, and aggregate commercial catch averaged about 98% of TAC. During the same period, the eastern Bering Sea accounted for an average of about 85.3% of the BSAI catch.



**Figure 2-1 Federal reporting areas in the BSAI**

Historically, the great majority of the BSAI Pacific cod catch has come from the BS management subarea. Table 2-6 provides a history of biomass estimates for the eastern Bering Sea area, as well as catch specifications and actual catch. Between 2001 and 2005, TAC averaged about 96% of ABC, and aggregate commercial catch averaged about 98% of TAC. During the same period, the eastern Bering Sea accounted for an average of about 85.3% of the BSAI catch.

The stock assessment model for Pacific cod is configured to represent the portion of the Pacific cod population inhabiting the BS survey area. Retained incidental catch of Pacific cod in halibut IFQ fishery is accounted for in the model, but not cod used as bait in the crab fishery. The model projections are then adjusted to include biomass in the AI survey area. The best estimate of long-term average biomass distribution is 85% in the BS and 15% in the AI. There is insufficient evidence to confirm or refute the hypotheses that BS and AI stocks are separate, or that cod form a single stock throughout the AI (Grant Thompson, AFSC, pers. comm. 3/2/06).

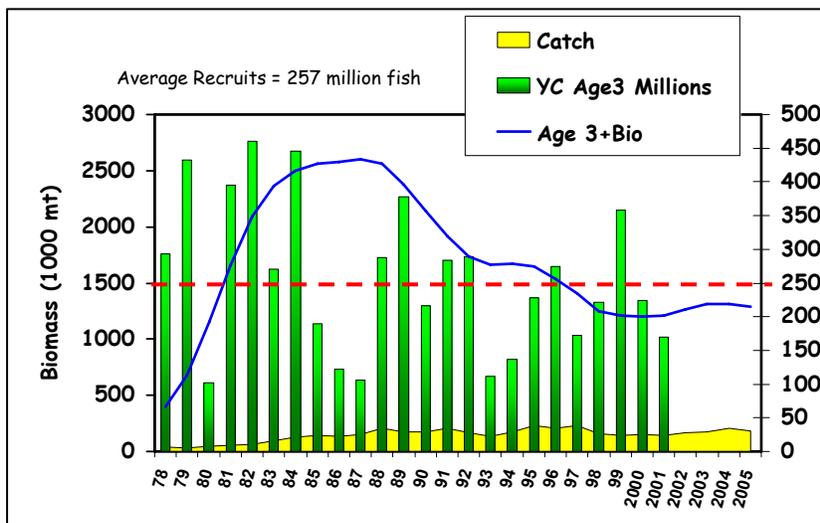
**Table 2-6 Biomass (mt, in EBS survey area, from survey data), pre-season catch specifications (mt), and total catches (mt, including discards) of Pacific cod in the BSAI, 1981–2006**

Year	EBS Biomass	BSAI ABC	BSAI TAC	BSAI Catch
1981	1,034,629	160,000	78,700	63,941
1982	1,020,550	168,000	78,700	69,501
1983	1,176,305	298,200	120,000	103,231
1984	1,001,940	291,300	210,000	133,084
1985	961,050	347,400	220,000	150,384
1986	1,134,106	249,300	229,000	142,511
1987	1,142,450	400,000	280,000	163,110
1988	959,544	385,300	200,000	208,236
1989	960,436	370,600	230,681	182,865
1990	708,551	417,000	227,000	179,608
1991	532,590	229,000	229,000	219,266
1992	546,707	182,000	182,000	208,046
1993	690,524	164,500	164,500	167,389
1994	1,368,109	191,000	191,000	193,802
1995	1,003,046	328,000	250,000	245,029
1996	890,793	305,000	270,000	240,673
1997	604,881	306,000	270,000	257,762
1998	534,141	210,000	210,000	193,253
1999	583,259	177,000	177,000	173,995
2000	528,466	193,000	193,000	191,056
2001	833,272	188,000	188,000	176,659
2002	620,520	223,000	200,000	197,352
2003	605,681	223,000	207,500	209,114
2004	596,988	223,000	215,500	213,810
2005	603,788	206,000	206,000	203,726
2006	--	194,000	194,000	--

Source: NMFS SAFE report, 2005.

Model predictions indicate that this stock is neither overfished nor approaching an overfished condition. Figure 2-2 illustrates the trends in biomass and recruitment for the eastern Bering Sea. Although the 1999 year class is above average, subsequent year classes are not, and the biomass trend will decline slowly.

**Figure 2-2 Biomass (mt), Catch (mt) and Year Class (millions of fish) Statistics for BSAI Pacific Cod, 1978-2005**



The BSAI Pacific cod TAC is allocated by regulation according to gear type; however, typically as the harvest year progresses, it becomes apparent that one or more gear types will be unable to harvest their full allotment by the end of the year. This is addressed by reallocating TAC between gear types in the second half of each year, typically October through December. Most often, such reallocations shift TAC to the hook-and-line catcher processor sector. Further information on these allocations and rollovers is provided in Section 3.3.5.7.

The BSAI Pacific cod TAC is not currently split out by subarea. The split is not currently recommended by the stock assessment author, the Plan Team, or the SSC, due to management complications arising from allocation formulas. The stock assessment report notes that had a separate ABC been designated in 2004, it would have been approximately 6% lower than the 2004 AI catch.

Major trends in the most important prey or predator species of Pacific cod could be expected to affect the dynamics of the species to some extent. Small Pacific cod feed mostly on invertebrates, while large Pacific cod are mainly piscivorous. Pacific cod prey on polychaetes, amphipods, crangonid shrimp, walleye pollock, fishery offal, yellowfin sole, and crustaceans. Predators of Pacific cod include Pacific cod, halibut, salmon shark, northern fur seals, Seller sea lions, harbor porpoises, various whale species, and tufted puffin.

**Effects of the Alternatives**

The current fishery management program was analyzed in detail in the Groundfish PSEIS (NOAA 2004a), and updated in the annual Environmental Assessment of Harvest Specifications (NMFS 2005d). These analyses concluded that the Pacific cod stock is at a sustainable population level. Under the existing management program, the probability that overfishing would occur is low, as risk averse measures are built into the management program. As a result, impacts on Pacific cod under Alternative 1 are determined not to be significant.

Alternative 2 changes sector or seasonal allocations of Pacific cod to reflect average annual harvest share by sector and includes options to increase the allocation to the CDQ Program. The alternative does not change the overall Pacific cod TAC, nor the scientific method by which ABC is determined. The alternative will adjust initial allocations to more accurately reflect actual harvest patterns by sector (see Table 2-2). Some options within the alternative may change the seasonality of catch, resulting in a slightly higher proportion of catch being taken in the first half of the year. The total amount of Pacific cod caught, however, will not change under this alternative as compared to Alternative 1, either by changing sector allocations or increasing the CDQ allocation. All retained and discarded harvest will be counted against the TAC. As a result, the alternative is not expected to jeopardize the sustainability of Pacific cod, and thus will not result in a significant impact.

The Council's preferred alternative is contained within the range of Alternative 2. The CDQ allocation is increased to 10% of the BSAI Pacific cod TAC and represents a directed fishing allocation, with an additional amount of Pacific cod for CDQ incidental catch needs to be determined in the annual specifications process. The amount of Pacific cod determined necessary for incidental catch in other CDQ groundfish fisheries will be combined with the CDQ directed fishing allocation of Pacific cod of 10%, and the total would be divided among the CDQ groups based on the percentage allocations in effect under Section 305(i)(1)(C) of the MSA.

Table 2-4 compares the preferred alternative's sector allocations to actual harvest patterns. The preferred alternative will not result in a significant impact to Pacific cod.

### 2.3.3 Groundfish and Other Fish Species Caught Incidentally in the Pacific Cod Target Fishery

#### *Incidental Catch in the Pacific Cod Target Fishery*

Table 2-7 shows the distribution of catch in the 2004 Pacific cod target fisheries, by season and gear type. Pot, jig, hook-and-line CVs, and to a lesser extent, hook-and-line CPs, catch predominantly Pacific cod in their target fishery. Trawl vessels have a higher rate of incidental catch, of which some is retained.

**Table 2-7 Distribution of catch in the 2004 Pacific cod target fisheries; Pacific cod (mt and as percent of total) and incidental catch (mt and percent retained) in target hauls**

Gear	Season	CP-CV	Pacific cod		Incidental catch in Pacific cod target							
					Squid and "Other Species"		Round fish <sup>1</sup>		Flatfish		Rockfish	
			mt	% of total <sup>2</sup>	mt	% retained	mt	% retained	mt	% retained	mt	% retained
Hook and Line	Jan 1 – May 31	CP	49,060	83%	7,386	21%	2,010	90%	506	4%	38	4%
		CV	543	99%	-	-	2	100%	0	100%	1	100%
	Jun 1 – Dec 31	CP	47,726	79%	7,874	23%	2,679	84%	2,199	17%	119	19%
		CV	98	98%	1	0%	1	100%	-	-	0	100%
Pot	Jan 1 – May 31	CP	2,061	99%	10	11%	2	100%	2	0%	-	-
		CV	10,385	97%	214	14%	27	3%	31	3%	2	0%
	Jun 1 – Dec 31	CP	1,173	97%	1	0%	1	100%	32	0%	-	-
		CV	3,609	95%	86	30%	84	2%	19	0%	1	0%

Gear	Season	CP-CV	Pacific cod		Incidental catch in Pacific cod target							
					Squid and "Other Species"		Round fish <sup>1</sup>		Flatfish		Rockfish	
			mt	% of total <sup>2</sup>	mt	% retained	mt	% retained	mt	% retained	mt	% retained
Trawl	Jan 1 – Mar 31	CP	12,868	66%	450	4%	1,339	53%	4,885	29%	100	13%
		CV	32,192	86%	493	11%	2,972	21%	1,638	1%	50	12%
	Apr 1 – May 31	CP	1,891	42%	221	32%	705	43%	1,652	29%	42	15%
		CV	2,537	76%	107	4%	462	23%	250	2%	1	0%
	Jun 1 – Nov 1	CP	7,252	38%	975	24%	4,274	31%	6,553	16%	110	24%
		CV	2,685	57%	217	16%	657	15%	1,135	1%	2	0%
Jig	Jan 1 – Apr 30	CV	49	100%	-	-	-	-	-	-	0	100%
	May 1 – Aug 31	CV	180	100%	0	100%	-	-	-	-	0	100%
	Sep 1 – Dec 31	CV	1	100%	-	-	-	-	-	-	-	-

<sup>1</sup>Roundfish comprises pollock, sablefish, and Atka mackerel.

<sup>2</sup>Prohibited species catch is not included in this total.

Table 2-8 shows 2003 and 2004 incidental catch by gear type of squid and “other species”, and those non-specified species for which catch is greater than 20 mt. The “other species” management category comprises skates, sculpins, sharks, and octopuses, which are all managed under a single TAC in the BSAI. Fisheries are not allowed to target species in the “other species” management category, and they are only taken incidentally in other directed fisheries. An amendment has been initiated to separate out the four species groups, as they have very different life histories. Incidental catch of “other species” is reported in aggregate, information on “other species” and non-specified species is derived from observer data. A complete identification of non-target incidental catch in the Pacific cod target fisheries since 1997 can be found in the Pacific cod chapter of the BSAI Stock Assessment and Fishery Evaluation report (Thompson and Dorn 2005).

**Table 2-8 Incidental catch, by gear type, of squid, ‘other species’ (skate, sculpin, shark, octopus), and certain non-specified species<sup>1</sup> in eastern Bering Sea (EBS) and Aleutian Islands (AI) Pacific cod target fisheries, 2003- 04**

Gear & Target fishery	Species group	Catch in EBS Pacific cod target fishery (t)		Proportion of total EBS catch of that species group		Catch in AI Pacific cod target fishery (t)		Proportion of total AI catch of that species group	
		2003	2004	2003	2004	2003	2004	2003	2004
Hook and Line Cod	skate	13,519	13,863	74%	75%	105	402	20%	48%
	large sculpins	194	1,087	14%	24%	28	133	14%	19%
	other sculpins	993	234	25%	44%	31	63	8%	41%
	shark	140	146	50%	42%	0	0	1%	8%
	octopus	41	37	30%	10%	8	8	54%	49%
	squid	0	0	0%	0%	none	0	-	0%
	sea star	288	288	7%	10%	1	6	10%	47%
	grenadier	221	202	8%	10%	48	8	1%	1%
	sea anemone unidentified	79	94	58%	53%	0	0	24%	23%
	misc fish	44	58	9%	12%	1	3	1%	2%

Gear & Target fishery	Species group	Catch in EBS Pacific cod target fishery (t)		Proportion of total EBS catch of that species group		Catch in AI Pacific cod target fishery (t)		Proportion of total AI catch of that species group	
		2003	2004	2003	2004	2003	2004	2003	2004
Pot <sup>2</sup> Cod	skate	0	0	0%	0%				
	large sculpins	122	191	9%	4%				
	other sculpins	133	13	3%	3%				
	shark	none	none	-	-				
	octopus	49	57	35%	15%				
	squid	none	none	-	-				
Trawl Cod	skate	1,010	1,355	6%	7%	72	76	13%	9%
	large sculpins	547	1,422	39%	32%	78	159	37%	23%
	other sculpins	854	95	22%	18%	122	1	31%	1%
	shark	10	29	3%	8%	0	2	1%	43%
	octopus	14	44	10%	12%	6	5	36%	28%
	squid	5	4	0%	0%	3	2	10%	11%
	schypho jellies	727	699	11%	10%	0	0	17%	49%
	misc fish	174	152	35%	30%	28	15	23%	10%
	sea star	118	91	3%	3%	5	3	49%	27%
	eelpouts	62	27	27%	30%	0	1	8%	51%
	corals bryozoans	1	1	28%	25%	24	11	40%	35%
	sponge unidentified	3	7	1%	8%	24	18	30%	13%

<sup>1</sup>Non-specified species for which catch is greater than 20 mt in either the EBS or the AI.

<sup>2</sup>Incidental catch data for 2003-2004 for the AI Pacific cod pot gear target fishery were not available.

Source: Thompson and Dorn, 2005.

The hook-and-line fishery is primarily responsible for skate bycatch in the eastern BS, and also shark and 'other sculpin' incidental catch. Most of this catch is discarded. The pot fishery catches much of the octopus catch in the eastern BS, and the trawl fishery much of the sculpin catch in the BSAI. It is not possible to determine whether the 'other species' complex is overfished or whether it is approaching an overfished condition. However, even though the complex is managed under a single ABC and TAC, the stock assessment author recommended component ABCs for each species group. Catch in 2005 did not exceed these ABC recommendations (NMFS 2005a).

Incidental catch of prohibited species, halibut, crab, salmon, and herring, by the Pacific cod fisheries, is described in Sections 3.3.5.8 and Sections 3.4.1.5 to 3.4.1.7. There are various ESA-listed salmon and steelhead that may range into the BSAI groundfish management area. Catch of salmon and herring by the Pacific cod fisheries is very slight, however. Prohibited species catch limits for halibut (hook-and-line and trawl) and crab (trawl) constrain incidental catch, and attainment of these seasonal limits closes the target fisheries. Table 2-9 describes PSC limits for crab and halibut, and mortality in the Pacific cod target fisheries. Bycatch in the Pacific cod fishery is accounted for in species stock assessments.

**Table 2-9 Prohibited species catch (PSC) limits and mortality in the Pacific cod target fisheries, for halibut and crab**

	<b>How PSC limit is set</b>	<b>2006 limit for all groundfish fisheries</b> (mt for halibut; number of animals for crab)	<b>2006 limit for Pacific cod target fisheries</b> (mt for halibut; number of animals for crab)	<b>Mortality in 2003-2005 Pacific cod target fishery</b> (% of Pacific cod limit)
<b>Halibut</b>	- PSC limit is set in regulations, and is not tied to the halibut population assessment - groundfish bycatch is accounted for in halibut stock assessment	4575 mt  (divided between trawl, non-trawl, and CDQ fisheries)	<u>Trawl</u> 1434 mt  <u>Hook-and-line</u> 775 mt  <u>Pot and jig</u> exempt	<u>Trawl</u> 2003 86% 2004 106% 2005 91%  <u>Non-trawl</u> 2003 63% 2004 56% 2005 70%
<b>Crab</b>	- PSC limit fluctuates with species biomass - PSC limit is tied to catch levels within specified PSC limitation zones	(trawl fisheries only)  <u>Red king crab</u> (Zone 1) 182,225  <u>C. Opilio</u> (COBLZ) 4,494,569  <u>C. bairdi</u> 906,500 (Zone 1) 2,747,250 (Zone 2)	<u>Red king crab</u> 26,563  <u>C. Opilio</u> 139,331  <u>C. bairdi</u> 183,112 (Zone 1) 324,176 (Zone 2)	<u>Red king crab</u> 2003 9% 2004 3% 2005 2%  <u>C. Opilio</u> 2003 47% 2004 41% 2005 23%  <u>C. bairdi</u> (Zone 1) (Zone 2) 2003 28% 2003 31% 2004 33% 2004 42% 2005 38% 2005 15%

**Effects of the Alternatives**

The fish species that are caught incidentally in the Pacific cod fisheries are described in the section above. The target groundfish are assessed annually and are managed using conservative catch quotas. Beginning in 2005, the “other species” component species will also be assessed annually, and catch in 2005 was below the ABC limit that would have been recommended. Catch of prohibited species is low for herring and salmon, and is constrained for crab and halibut. Minimal interaction occurs between the Pacific cod fisheries and forage fish or non-specified species. The Groundfish PSEIS (NOAA 2004a), and the Harvest Specifications Environmental Assessment (NMFS 2005d) both conclude that these species are at sustainable population levels, and are unlikely to be subject to overfishing under the current, risk-averse management program. As a result, impacts on these species under Alternative 1 are not significant.

Alternative 2 changes sector allocations to reflect the average actual catch by each sector and includes options to increase the allocation to the CDQ program. The alternative also includes options for slight changes to the seasonality of the catch. Any shift in effort between gear types will have a corresponding impact on incidental catch, particularly catch of ‘other species’ as it is monitored as a complex rather than under individual species group TACs. The intent of the alternative, however, is for allocations to mimic actual catch patterns among gear types, based on a recent historical average (see Table 2-2). Recent analyses, described above, conclude that species caught incidentally in the Pacific cod fisheries are at sustainable population levels. As a result, the potential allocations are not substantially modified from Alternative 1, and impacts are not expected to be significant.

The Council's preferred alternative is contained within the range of Alternative 2. The CDQ allocation is increased to 10% of the BSAI Pacific cod TAC and represents a directed fishing allocation, with an additional amount of Pacific cod for CDQ incidental catch needs to be determined in the annual specifications process. The amount of Pacific cod determined necessary for incidental catch in other CDQ groundfish fisheries will be combined with the CDQ directed fishing allocation of Pacific cod of 10%, and the total would be divided among the CDQ groups based on the percentage allocations in effect under Section 305(i)(1)(C) of the MSA. Table 2-4 compares the preferred alternative's sector allocations to actual harvest patterns. The preferred alternative is not expected to result in a significant impact to incidentally caught species.

### 2.3.4 Marine Mammals

#### *Interactions of the Pacific cod target fishery with marine mammals*

Marine mammals occur in diverse habitats in the BSAI, including deep oceanic waters, the continental slope, and the continental shelf. Most are resident throughout the year, while others seasonally migrate into or out of the management area. A list of species is below.<sup>24</sup> The Groundfish PSEIS (NOAA 2004a) provides descriptions of the range, habitat, diet, abundance, and population status for these marine mammals. Additionally, stock assessment reports completed by the National Marine Mammal Laboratory provide population estimates, population trends, and estimates of potential biological removals.<sup>25</sup> These documents are incorporated by reference.

#### NMFS Managed Species

- *Pinnipeds*: Steller sea lion (Western U.S., Eastern U.S.), Northern fur seal (Eastern Pacific), Harbor seal (Southeast Alaska, Gulf of Alaska, Bering Sea), Spotted seal (Alaska), Bearded seal (Alaska), Ringed seal (Alaska), Ribbon seal (Alaska),
- *Cetaceans*: Beluga Whale (Beaufort Sea, Eastern Chukchi Sea, Eastern Bering Sea, Bristol Bay, Cook Inlet), Killer whale (Eastern North Pacific Northern Resident, Eastern North Pacific transient), Pacific White-sided dolphin (North Pacific), Harbor porpoise (Southeast Alaska, Gulf of Alaska), Dall's porpoise (Alaska), Sperm whale (North Pacific), Baird's beaked whale (Alaska), Cuvier's beaked whale (Alaska), Stejneger's beaked whale (Alaska), Gray whale (Eastern North Pacific), Humpback whale (Western North Pacific, Central North Pacific), Fin whale (Northeast Pacific), Minke whale (Alaska), North Pacific right whale (North Pacific), Bowhead whale (Western Arctic)

#### USFWS Managed Species

- *Carnivores*: Polar bear (Chukchi/Bering Seas, Southern Beaufort Sea), Northern sea otter (Southeast Alaska, Southcentral Alaska, Southwest Alaska)
- *Pinnipeds*: Pacific walrus (Alaska)

Direct and indirect interactions between marine mammals and groundfish fisheries may occur due to overlap in the size and species of groundfish harvested in the fisheries that are also important marine mammal prey, and due to temporal and spatial overlap in marine mammal occurrence and commercial fishing activities.

The Pacific cod target fisheries are evaluated under the Marine Mammal Protection Act and are included in the List of Fisheries for 2004 (69 FR 48407, August 10, 2004). The fisheries are listed as Tier II,

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<sup>24</sup> Source: NMFS, 2004b, Appendix O.

<sup>25</sup> These reports are available at [http://www.nmfs.noaa.gov/pr/PR2/Stock\\_Assessment\\_Program/individual\\_sars.html](http://www.nmfs.noaa.gov/pr/PR2/Stock_Assessment_Program/individual_sars.html).

Category III fisheries, based on the criterion that each fishery interacts with marine mammal stocks with annual mortality and serious injury less than or equal to 1 percent of the marine mammal’s potential biological removal (PBR) level.<sup>26</sup> Taking of marine mammals is monitored through the observer program. Table 2-10 lists ESA-listed species found in the fishery management area. Sei whales are included because distribution information available indicates that they are widespread in the Atlantic and Pacific waters, but they have not been sighted in Alaska waters. An FMP level Section 7 consultation Biological Opinion (BiOp) was completed for the groundfish fisheries in November 2000 (NMFS 2000) for listed species managed by NMFS. This BiOp covers marine mammals, turtles, and Pacific salmon. In the BiOp, the western distinct population segment of Steller sea lions was the only ESA-listed species identified as likely to be adversely affected by the groundfish fisheries. A new FMP-level BiOp is being reinitiated in 2006. NMFS is also currently consulting with the USFWS on the southwest Alaska distinct population segment of northern sea otters.

**Table 2-10 ESA-listed marine mammal species that range in the management area**

Common Name	Scientific Name	ESA Status
Steller Sea Lion (Western Population)	<i>Eumetopias jubatus</i>	Endangered
Steller Sea Lion (Eastern Population)	<i>Eumetopias jubatus</i>	Threatened
Blue Whale	<i>Balaenoptera musculus</i>	Endangered
Bowhead Whale	<i>Balaena mysticetus</i>	Endangered
Fin Whale	<i>Balaenoptera physalus</i>	Endangered
Humpback Whale	<i>Megaptera novaeangliae</i>	Endangered
Right Whale	<i>Balaena glacialis</i>	Endangered
Sei Whale	<i>Balaenoptera borealis</i>	Endangered
Sperm Whale	<i>Physeter macrocephalus</i>	Endangered
Northern Sea Otter <sup>1</sup>	<i>Enhydra lutris</i>	Threatened

<sup>1</sup>The Northern sea otter is under the jurisdiction of the U.S. Fish and Wildlife Service.

Following the 2000 FMP-level BiOp, a new biological opinion specifically on the newly-adopted Steller sea lion protection measures was issued in 2001 (NMFS 2001b, Appendix A). The 2001 BiOp found that groundfish fisheries, including the Pacific cod fisheries, conducted in accordance with the Steller sea lion protection measures were unlikely to cause jeopardy of extinction, or adverse modification or destruction of critical habitat, for Steller sea lions. The protection measures include fishery-specific closed areas around rookeries and haulouts, and season and gear apportionments. Pacific cod is one of the four most important prey items of Steller sea lions in terms of frequency of occurrence, averaged over years, seasons, and sites, and was especially important in winter (Sinclair and Zeppelin 2002). In order to limit the amount of total cod harvest that could be taken in the first half of the year, for the benefit of foraging Steller sea lions, the protection measures established a seasonal dispersion target for the Pacific cod fishery of 70% in the first season (January 1–June 10) and 30% in the second season (June 10–December 31).<sup>27</sup> The spatial and temporal dispersion measures that apply specifically to the Pacific cod fishery are outlined in Table 2-11.

<sup>26</sup>The MMPA (16 U.S.C. 1362 (20)) defines the PBR level as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population.

<sup>27</sup>Table 5.4, p. 153 of the 2001 Biological Opinion, NMFS. October 2001.

**Table 2-11 Spatial and temporal dispersion measures for the protection of Steller sea lions which apply to the Pacific cod fishery**

<b>Gear Type</b>	<b>Seasonal and TAC apportionments</b>	<b>Pacific cod rollover in the BSAI</b>	<b>Area restrictions</b>
Pot	Jan 1 – June 10 (60%), Sept 1 – Dec 31 (40%) Pot catcher vessels <60' do not have seasonal apportionments.	Unharvested cod TAC can be rolled over from one season to the next.	<u>Aleutian Islands</u> - No fishing in critical habitat east of 173° W. to western boundary of Area 9, 0-10 nm closures at Buldir, 0-20 nm closure at Agligadak. <u>Bering Sea</u> - 0-3 nm closures around all rookeries and haulouts. 0-7 nm closure around Amak rookeries
Hook and Line (and Jig) <sup>1</sup>	Jan 1 – June 10 (60%), June 10 – Dec 31 (40%) Hook-and-line catcher vessels <60' do not have seasonal apportionments.	Unharvested cod TAC can be rolled over from one season to the next.	<u>Aleutian Islands</u> – Same as for pot gear above. <u>Bering Sea</u> – Same as for pot gear above, plus 0-10 nm closure around Bishop Point and Reef Lava haulouts in Area 8 for hook-and-line vessels ≥60'. The 0-3 nm closures around haulouts does not apply for jig gear.
Trawl	Jan 20 – April 1 (60%), April 1 – June 10 (20%); June 10 – Nov 1 (20%)	Unharvested cod TAC can be rolled over from one season to the next.	<u>Aleutian Islands – East of 178° W.:</u> 0-10 nm closures around rookeries, except 0-20 nm at Agligadak; 0-3 nm closures around haulouts. <u>Aleutian Islands – West of 178° W.:</u> 0-20 nm closures around haulouts and rookeries until the Atka mackerel fishery inside critical habitat A or B season, respectively, is completed, at which time trawling for cod can occur outside 3 nm of haulouts and 10 nm of rookeries. <u>Bering Sea</u> – 0-10 nm closure around all rookeries and haulouts (except Pribilof haulouts that are closed 0-3 nm).

<sup>1</sup>The jig seasons were modified to the following seasonal apportionments starting January 1, 2004, under BSAI Am. 77: 40% (Jan. 1 – Apr. 30); 20% (Apr. 30 – Aug. 31); 40% (Aug. 31 – Dec. 31).

Since 2000, the population trend for the western stock of Steller sea lions has increased. However, the 2004 count, at 38,513 animals, is still 7.4% below the 1996 count and 32.6% below the 1990 count. The count represents a minimum population estimate, as it has not been corrected to account for animals that were at sea during the surveys (Angliss and Outlaw, in prep.). Incidental mortality of Steller sea lions due to the BSAI Pacific cod target fisheries is described in Table 2-12. The Pacific cod fisheries contribute approximately 6% of the total mortality to Steller sea lions attributed to commercial fisheries. Based on available data, however, the estimated annual level of total human-caused mortality and serious injury is below the PBR level (231 animals) for this stock.

**Table 2-12 Summary of incidental mortality of Steller sea lions (western U. S. stock) due to BSAI Pacific cod target fisheries from 1999 through 2003, based on observer data, and calculation of the mean annual mortality rate**

Fishery	Years	Range of observer coverage	Observed mortality (in given years)	Estimated mortality (in given years)	Mean annual mortality
BSAI Pacific cod trawl	1999	50.6	1	1	1.09 (CV = 0.58)
	2000	N/A	0	0	
	2001	N/A	0	0	
	2002	N/A	0	0	
	2003	49.9	2	4	
BSAI Pacific cod hook-and-line	1999	N/A	0	0	0.74 (CV = 0.86)
	2000	N/A	0	0	
	2001	N/A	0	0	
	2002	29.6	1	4	
	2003	N/A	0	0	

N/A indicates that data are not available.  
Source: Angliss and Outlaw, 2005.

### *Effects of the Alternatives on Marine Mammals*

The FMP-level BiOp of 2000 (NMFS 2000) and the Groundfish PSEIS (NOAA 2004a) concluded that, with the exception of impacts on Steller sea lions, the groundfish fisheries do not adversely affect ESA-listed or other marine mammals. The effects of Alternative 1, no action, on Steller sea lions have been analyzed in the 2001 Biological Opinion and found not to jeopardize the continued existence of the species, or cause adverse modification of critical habitat (NMFS 2001b, Appendix A). As a result, the alternative is not determined to have a significant impact on Steller sea lions or other marine mammals.

The options under Alternative 2 to change sector allocations are intended to bring allocations in line with actual harvest share patterns by sector, as averaged over time, and may increase the allocation to the CDQ program. Table 2-2 demonstrates that the proposed sector allocations are similar to current catch patterns by sector. These catch patterns have been analyzed in the Programmatic SEIS (2004a) and in the BiOps, and have been shown to have no adverse impact on marine mammals, including Steller sea lions. Under Alternative 2, the overall effort in the Pacific cod fishery will remain similar to recent years, as the TAC will continue to be set in accordance to Pacific cod biomass. Table 2-12 shows that there is a slight difference between the hook-and-line and trawl fisheries in terms of mean annual mortality rate of Steller sea lions, however the likely change in catch by these gear types is slight, and is not of such a degree as to have a significant impact at a population level.

The options under Alternative 2 that would allow changes to the seasonal apportionments of Pacific cod catch may, at their extreme, change the ratio of catch in the first half of the year to 70.0%. The 70% does not account for the <60' fixed gear Pacific cod allocation, as it is not seasonally apportioned. Thus, if one used an example allocation to the <60' fixed gear sector of 0.7% of the BSAI Pacific cod ITAC, and this allocation was harvested entirely in the first half of the year, the result is that up to 70.7% of the BSAI Pacific cod ITAC could be harvested in the first half of the year. This would exceed the objective of the 2001 Steller sea lion protection measures, to cap Pacific cod catch during the first half of the year to 70% of the overall harvest. NMFS Protected Resources Division has informed the Council that consultation, either informal or formal, may be required to change the seasonality of Pacific cod catch from the status quo (see Appendix B). Currently, on average, approximately 62.3% of the TAC is taken prior to June 10, and 36.1% is taken in the latter half of the year. The implications of selecting a combination of options

that would allow the seasonal catch for the first half of the year to exceed the 70% limit may trigger consultation.

The Council's preferred alternative is contained within the range of Alternative 2. The CDQ allocation is increased to 10% of the BSAI Pacific cod TAC and represents a directed fishing allocation, with CDQ incidental catch needs of cod to be determined in the annual specifications process. Table 2-4 compares the preferred alternative's sector allocations to actual harvest patterns. Under the preferred alternative, the percentage of ITAC that could be harvested in the first half of the year is 65.8%. This excludes the 2.0% allocation to the <60' fixed gear sector, as this sector is not subject to seasonal apportionments. (If the <60' fixed gear sector is included, and it is assumed that this sector's entire 2.0% allocation is harvested in the first half of the year, the percentage of ITAC that could be harvested in the first half of the year under the preferred alternative would equal 67.8%.) The percentage of the total TAC (including CDQ) that could be harvested in the first half of the year under the preferred alternative is about 65.0% (this assumes a 10% CDQ Pacific cod allocation with the current seasonal apportionments of 60% - 40%, and excludes the <60' fixed gear sector).

The seasonality of the catch allowed under the preferred alternative is discussed in detail in Section 3.4.3.2. This is a decrease from the maximum allowed under current allocations, in which 69% of the ITAC is allowed to be harvested in the first half of the year. (Note that the actual catch in the first half of the year on average during 2001 - 2004 is about 62.3% of the ITAC, excluding the <60' fixed gear sector. It is possible that this overall seasonal distribution would continue under the preferred alternative; see Section 1.1.1.1.) This is because the trawl sectors overall receive a smaller share of the BSAI Pacific cod ITAC than under the status quo. The preferred alternative percentage of 65.8% remains below the 70% threshold, as required by the 2001 Biological Opinion. (Note that including the 10% CDQ Pacific cod allocation, with the current seasonal apportionment of 60% - 40%, reduces the percentage allowable in the first half of the year slightly to 65.0%.) As a result, the preferred alternative is not anticipated to have a significant effect on Steller sea lions.

### **2.3.5 Seabirds**

#### *Interactions of the Pacific cod target fishery with seabirds*

Various species of seabirds occur in the BSAI, including those that nest in Alaska, and migratory seabirds that visit Alaska waters when they are not breeding. A list of species is below.<sup>28</sup> The Groundfish PSEIS (NOAA 2004a) provides descriptions of the range, habitat, diet, abundance, and population status for these seabirds.

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<sup>28</sup>Source: (USFWS web site "Seabirds. Species in Alaska. Accessed at <http://alaska.fws.gov/mbmp/mbm/seabirds/species.htm> on December 29, 2005).

### Species nesting in Alaska

- *Tubenoses-Albatrosses and relatives*: Northern fulmar, Fork-tailed storm-petrel, Leach’s storm-petrel
- *Kittiwakes and terns*: Black-legged kittiwake, Red-legged kittiwake, Arctic tern, Aleutian tern
- *Pelicans and cormorants*: Double-crested cormorant, Brandt’s cormorant, Pelagic cormorant, Red-faced cormorant
- *Jaegers and gulls*: Pomarine jaeger, Parasitic jaeger, Bonaparte’s gull, Mew gull, Herring gull, Glaucous-winged gull, Glaucous gull, Sabine’s gull
- *Auks*: Common murre, Thick-billed murre, Black guillemot, Pigeon guillemot, Marbled murrelet, Kittlitz’s murrelet, Ancient murrelet, Cassin’s auklet, Parakeet auklet, Least auklet, Wiskered auklet, Crested auklet, Rhinoceros auklet, Tufted puffin, Horned puffin

### Seabirds that visit Alaskan waters when they are not breeding

- *Tubenoses*: Short-tailed albatross, Black-footed albatross, Laysan albatross, Sooty shearwaters, Short-tailed shearwater
- *Gulls*: Ross’s gull, Ivory gull

The northern fulmar accounts for the vast majority of incidental take that occurs in the hook-and-line fishery, and is one of the most abundant species that breeds in Alaska colonies.

There are three ESA-listed species that occur in waters off Alaska, as listed in Table 2-13. The USFWS is the agency with primary responsibility for seabird management, and ESA-listed seabird species are under its jurisdiction. The USFWS has completed an FMP-level (USFWS 2003a) and project-level BiOp (USFWS 2003b) for the groundfish fisheries. Both BiOps concluded that the groundfish fisheries, including the BSAI Pacific cod target fishery and its TAC levels, were unlikely to cause jeopardy of extinction, or adverse modification or destruction of critical habitat, for ESA-listed birds. Critical habitat has been established for the Steller’s eider (66 FR 8850, February 2, 2001) and for the spectacled eider (66 FR 9146, February 6, 2001). The Kittlitz murrelet has been proposed as a candidate species by the USFWS (69 FR 24875, May 4, 2004).

**Table 2-13 ESA-listed and candidate seabird species that range in the management area**

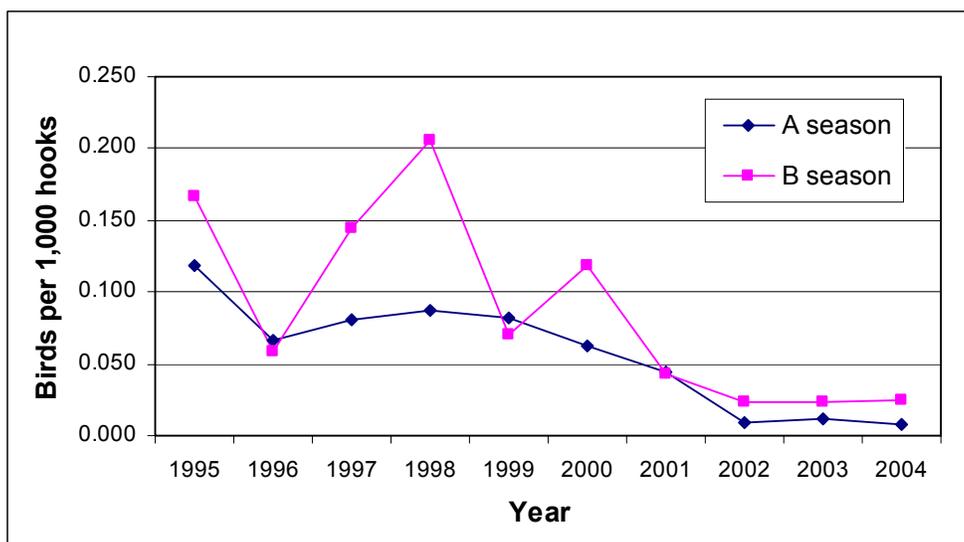
Common Name	Scientific Name	ESA Status
Short-tailed Albatross	<i>Phoebastria albatrus</i>	Endangered
Steller’s Eider	<i>Polysticta stelleri</i>	Threatened
Spectacled Eider	<i>Somateria fishcheri</i>	Threatened
Kittlitz Murrelet	<i>Brachyramphus brevirostris</i>	Candidate

The Pacific cod fishery may have both direct and indirect effects on seabirds. Seabirds can be killed (taken) when they are attracted to baited hooks as they are being set, and become entangled in the gear, or caught on the hooks. They are also taken when they are attracted to trawling operations, perhaps by the presence of offal (fish or fish processing waste) discards from fishing operations, and become entangled in the lines connecting the trawl to the vessel or in the trawl mesh. Hook-and-line and trawl gear account for most seabird takings, pot and jig gear for very little.

Fisheries may also reduce the biomass of prey species available to seabird populations, or they may create feeding opportunities by the discard of offal. Fishing gear may disturb bottom habitat used by bottom-feeding seabirds, reducing available prey. Bottom trawl gear is the primary source of concern for an indirect impact through benthic habitat disturbance.

Hook-and-line gear accounts for the majority of seabird take in the North Pacific groundfish fisheries. Depending on which trawl estimates are used, hook-and-line gear accounted for 94% or 65% of total average annual seabird bycatch in the BSAI and GOA combined (Fitzgerald et al. 2005). Based on average annual estimates from 1993–2003, 93% of hook-and-line seabird take is caught in the BSAI. Annual BSAI hook-and-line bycatch of seabirds has been substantially reduced over that time, however, to the current numbers of about 5,000 birds annually. The average bycatch rate for 2002 through 2004 was 0.018 birds per 1,000 hooks (Figure 2-3). This reduction has largely been due to the use of seabird avoidance techniques such as paired streamer lines. The species composition for seabird bycatch in the combined BSAI hook-and-line fisheries is 59% fulmars, 20% gull species, 12% unidentified seabirds, 4% albatross species, 3% shearwater species, and 2% ‘all other’ species (Fitzgerald et al. 2005).

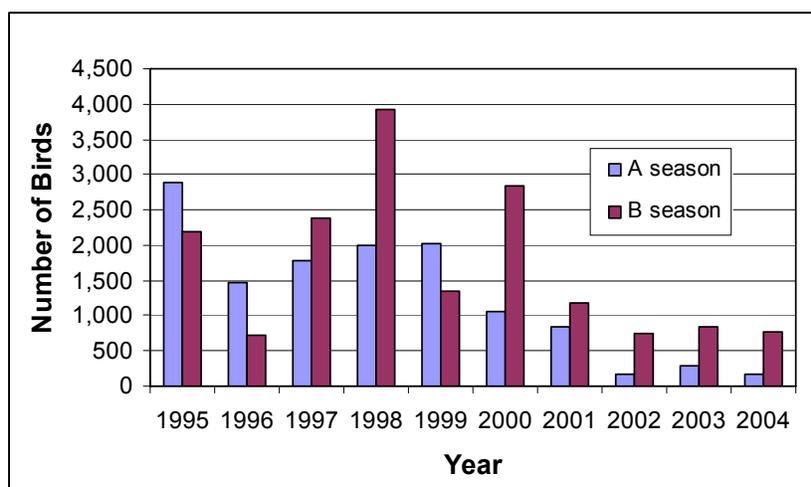
**Figure 2-3 Seabird catch rates in the hook-and-line CP sector by season, 1995-2004**



Source: AFSC. Data include hook-and-line CP CDQ fisheries.

Figure 2-4 identifies observed seabird takes in the hook-and-line CP sector between 1995 and 2004, for the A (January 1 – June 10) and B (June 10 – December 31) seasons. These numbers are not extrapolated to represent the annual seabird take by the fleet, and they represent observed seabird takes in all target fisheries by the (CDQ and non-CDQ) hook-and-line CP fleet. Figure 2-3 illustrates the relative seasonal catch rates of the hook-and-line CP fleet, based on the estimated total number of birds taken (as extrapolated from observed numbers) per 1,000 hooks. The figures demonstrate that the number of seabirds taken, and the rate at which seabirds are taken, is generally higher in the B season than in the A season. This trend continues after 2001, when the seabird avoidance measures were adopted by the hook-and-line CP fleet. The number of seabirds taken in the hook-and-line CP sector, and the rate at which seabirds are taken, is higher in the B season than in the A season.

**Figure 2-4 Observed seabird incidental take in the hook-and-line CP sector by season, 1995-2004**



Source: AFSC, observer data. Data include hook-and-line CP CDQ fisheries.

Due to sampling procedures on trawl vessels, two alternative sets of estimates are calculated for seabird bycatch, and it is unknown which is more accurate, although actual bycatch is probably somewhere between them. The low and high estimates for average annual combined trawl take of seabirds in the BSAI and GOA groundfish trawl fisheries between 1999 and 2003 were 1,343 and 15,343 birds. Northern fulmars are most commonly taken, representing about 53% of bycatch.

Seabird bycatch from groundfish pot fishing has traditionally been very limited. The average bycatch in this fishery from 1993–2003 is 55 seabirds, and represents less than 1% of the total annual average groundfish fishery bycatch.

### *Effects of the Alternatives*

The Groundfish PSEIS found that the current management regime is effective at providing protection to ESA-listed seabirds and marine mammals, and that current fishing has no adverse impacts on these species. Direct and indirect interactions of seabirds with the Pacific cod fisheries are not likely to create a population-level impact on these species. Alternative 1 is not considered to have a significant impact on seabirds.

Alternative 2 changes sector allocations for the Pacific cod fisheries, and will not substantially change catch patterns among sectors. Table 2-2 describes the potential change in non-CDQ allocations due to the options in Alternative 2. As sector allocations under Alternative 2 will remain relatively consistent with current fishing patterns, this amendment will not modify the actions already analyzed in previous BiOps, is not likely to adversely affect ESA-listed species beyond the effects already analyzed, and is not likely to cause the incidental take statements of ESA species to be exceeded. Therefore, the triggers to reinstate consultation are not met. The alternative is not likely to have a significant impact on seabirds at a population level.

Alternative 2 also includes options to modify the seasonal allocations for the fisheries, including options that would change the relative share of Pacific cod taken by the various sectors in the first and second halves of the year. However, note that the overall amount of Pacific cod allocated to each sector under Alternative 2 is based on actual historical harvest by sector. There is no data to determine the effect of a

seasonal change in trawl catch on seabirds. For the hook-and-line CP fleet, Figure 2-3 indicates that the catch rate of seabirds is lower in the A season than in the B season.

The Council's preferred alternative is contained within the range of Alternative 2. Table 2-4 compares the preferred alternative's sector allocations to actual harvest patterns. Section 3.4.3.2 describes the changes to seasonality of the catch under the preferred alternative, which does not change significantly for the hook-and-line CP fleet (comparing Table 3-40 with Table 3-120 in Sections 1.1.1.1 and 3.4.3.2, respectively). The CDQ allocation is increased to 10% of the BSAI Pacific cod TAC and represents a directed fishing allocation, with an additional amount of Pacific cod for CDQ incidental catch needs to be determined in the annual specifications process. The preferred alternative is not expected to result in a significant impact to ESA-listed or other seabirds.

### **2.3.6 Benthic Habitat and Essential Fish Habitat**

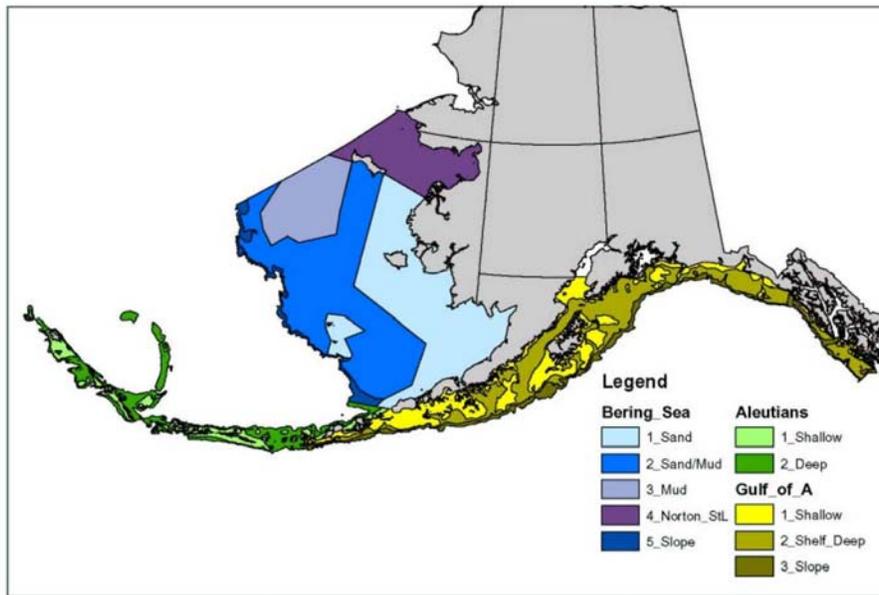
#### *Interactions between the Pacific cod target fishery and habitat*

Benthic habitat is the living and non-living bottom habitat between the shoreline and the 200 mile outer limit of the U.S. EEZ, and encompasses seafloor that is generally believed to be at greater risk of impacts of fishing than non-benthic habitat in the water column. The Groundfish PSEIS (NOAA 2004a) contains a discussion of the effects of fishing, including hook-and-line, pot, jig, and bottom trawl gear used by the Pacific cod trawl sectors, on habitat. In the BS, both hook-and-line and trawl effort in 2005 was concentrated north of False Pass (Unimak Island) and along the shelf edge represented by the boundary of Areas 513/517 (in addition, hook-and-line effort was concentrated along the shelf edge represented by the boundary of Areas 521-533). In the AI in 2005, both hook-and-line and trawl effort was dispersed over a wide area along the shelf edge. The catcher vessel hook-and-line fishery in the AI occurred primarily over mud bottoms. Hook-and-line catcher processors in the AI tended to fish more over rocky bottoms (Thompson and Dorn 2005).

The eastern Bering Sea sediments are a mixture of the major grades representing the full range of potential grain sizes of mud (subgrades clay and silt), sand, and gravel. The distribution of benthic sediment types in the shelf is related to depth. McConnaughey and Smith (2000) and Smith and McConnaughey (1999) describe the available sediment data for the EBS shelf. These data were used to describe four habitat types. The first, situated around the shallow eastern and southern perimeter and near the Pribilof Islands, has primarily sand substrates with a little gravel. The second, across the central shelf out to the 100 m contour, has mixtures of sand and mud. A third, west of a line between St. Matthew and St. Lawrence islands, has primarily mud (silt) substrates, with some mixing with sand (Figure 2-5). Finally, the areas north and east of St. Lawrence Island, including Norton Sound, have a complex mixture of substrates.

The Aleutian Islands area has complicated mixes of substrates, including a significant proportion of hard substrates (pebbles, cobbles, boulders, and rock), but data are not available to describe the spatial distribution of these substrates. In 2002 and 2003, NOAA Fisheries scientists discovered unique habitat in the central Aleutian Islands consisting of high density "gardens" of corals, sponges, and other sedentary invertebrates (Stone 2003). This habitat had not been previously documented in the North Pacific Ocean or Bering Sea and appeared to be particularly sensitive to bottom disturbance. These areas have been designated as habitat areas of particular concern by the Council (BSAI Amendment 65), and fishing closures have been instituted to protect these areas from bottom contact gear.

**Figure 2-5 Surficial Sediment Textural Characteristics, according to Naidu (1988)**



Essential fish habitat (EFH) is the general distribution of a species described by life stage. General distribution is a subset of a species population and is 95 percent of the population for a particular life stage, if life history data are available for the species. Maps and descriptions of EFH for the BSAI groundfish species, and further information on benthic habitat and EFH, are available in the EFH EIS (NMFS 2005e). The document provides a description of the fisheries' interaction with benthic habitat. The Pacific cod hook-and-line fishery's gear components that contact the bottom include the anchors, groundline, gangions, and hooks. The Pacific cod pot fishery has a very small footprint (an estimated 0.17 square mile footprint combined). The jig fishery has no intentional contact with the bottom, although such contact may occur. The trawl fishery's contact with the seafloor is primarily from doors, sweeps, and bobbins on the net, although modern doors are designed to spread with minimal bottom contact.

### *Effects of the Alternatives*

As stated above, benthic habitat is the living and non-living bottom habitat between the shoreline and the 200 mile outer limit of the U.S. EEZ. Benthic habitat is used synonymously with EFH in this analysis because virtually all of the seafloor in the area of active groundfish fisheries off Alaska has been designated as EFH for at least one species. Therefore, in this analysis, EFH impacts are considered a proxy for overall habitat impacts.

The effects of the Pacific cod fisheries on benthic habitat and EFH were analyzed in the EFH EIS (NMFS 2005e). Recent closures in the Aleutian Islands (BSAI Amendments 65 and 78) have protected sensitive habitat areas from future adverse impact due to fishing. Current fishing has minimal or temporary effects on benthic habitat and essential fish habitat. These effects are likely to continue under Alternative 1, and are not considered to be significant.

Alternative 2 proposes changes to sector and seasonal allocations, in order to bring allocations in line with actual harvest patterns by sector in the fisheries (see Table 2-2), and may increase the allocation to the CDQ Program. The overall amount of effort in the fisheries will remain the same as under Alternative 1, as the overall Pacific cod TAC is not affected under this alternative. As a result, impacts on benthic and

essential fish habitat under this alternative should remain similar to those under Alternative 1, and are not expected to result in a significant impact.

The Council's preferred alternative is contained within the range of Alternative 2. The CDQ allocation is increased to 10% of the BSAI Pacific cod TAC and represents a directed fishing allocation, with CDQ incidental catch needs of cod to be determined in the annual specifications process. Table 2-4 compares the preferred alternative's sector allocations to actual harvest patterns. As with Alternative 2, the preferred alternative will not result in a significant impact to benthic or essential fish habitat.

### **2.3.7 Economic and Socioeconomic**

#### *Effects on Production Efficiency*

In the simplest terms, production efficiency as considered here is reflected in relative terms by the difference between production revenues and production costs (i.e., quasi-rents). Production efficiency is a measure of the effectiveness of a producer in using inputs to produce one or more outputs, focusing on the relationship between the cost, quantity, and quality of outputs produced, and the cost, quantity, and quality of the various inputs (e.g., fuel, vessels, and labor) used for that production. The effects of the components and options under Alternatives 1 and 2 on the affected sectors are described in Sections 3.4.2 and 3.4.3, from which an understanding of the effects on relative production efficiency can be developed.

Production efficiency is not expected to change significantly under either alternative; however, there are some potential increases under Alternative 2 (Council preferred alternative) that are worth noting, compared to Alternative 1. Under the no action alternative, for the most part, production efficiency is limited by the race for fish in the current limited access fishery. Only the AFA trawl CV and CP sectors currently operate under the cooperative system. While that system was formed for the prosecution of the BSAI pollock fishery under the AFA, these sectors currently manage their Pacific cod sideboards under inter-cooperative agreement. Since the sideboards are caps on catch, these sectors have effectively managed the sideboard similar to management of an allocation. Both AFA sectors are likely to continue to receive the benefits of cooperative management of the sideboards under the no action alternative. There is also a current amendment proposed to allow the non-AFA trawl CP sector to operate under a cooperative system (BSAI Amendment 80). When implemented, that amendment will limit the sector's Pacific cod harvest using a sideboard, similar to the AFA sideboard. If members of that sector are constrained by the sideboard, it is possible that some benefit could come from the cooperatives' internal management of the sideboard as an allocation under the no action alternative. In the remaining industry sectors, participants have raced, and will continue to race, for Pacific cod with other sector participants, when the fisheries are open.

Sector allocations under Alternative 2 could provide additional efficiency benefits. Under the Council's preferred alternative, the combined trawl CP allocation would be separated into two distinct allocations for the trawl CP sectors. The AFA CP sector and non-AFA trawl CP sector (upon implementation of Amendment 80) should be better able to manage distinct sector Pacific cod allocations, including bycatch, through cooperatives. (Amendment 80 was approved by the Council in June 2006 and is expected to be effective in 2008, the same year as Amendment 85.) The Council's preferred alternative maintains a combined trawl CV allocation for both the AFA and non-AFA trawl CV sectors, meaning that the AFA trawl CV cod sideboards (and exemptions) are also maintained. This was in part due to the complexity of the AFA CV cod allocation agreement, and the terms of the agreement which dictate that it would terminate upon elimination of the cod sideboard exemptions. Concerns were also expressed that a distinct non-AFA trawl CV sector allocation may be too small to effectively manage, especially if the option had been selected to allow the three participants with the greatest harvest history in the non-AFA trawl CV sector to fish off the AFA trawl CV allocation (given that their cod history would be attributed to the

AFA trawl CV sector in determining that sector's allocation). Given these factors, and combined with public testimony, the Council's preferred alternative maintains the combined trawl CV cod allocation.

Overall, the intent of Alternative 2 (Council preferred alternative) is to revise the BSAI Pacific cod allocation such that the initial allocations established at the beginning of the year better reflect the actual historical harvests by sector (except in the case of the jig sector and CDQ groups). Meaning, under Alternative 1, one would expect that substantial amounts of cod quota would continue to need to be reallocated among sectors near the end of the fishing year, in order to prevent it from remaining unharvested. While the frequency and level of reallocation varies, on average during 2000–2004, NMFS has annually reallocated 17,291 mt of BSAI Pacific cod quota among the existing sectors, which represents about 9% of the total initial allocation. Reallocations from the trawl sectors accounted for about 77% of the reallocations on average during this time period, with most of the remaining reallocations from the jig sector. Jig and trawl reallocations have occurred every year since the cod allocation was apportioned among the jig, fixed, and trawl gear sectors in 1994. To that, the Council's preferred alternative establishes distinct BSAI Pacific cod allocations that limit the need to reallocate catch during the year, participants in the sectors receiving those reallocations could benefit from the increased ability to plan their fishing year. Instead of being uncertain of the level and timing of reallocated quota from the trawl sectors late in the year, the harvest history that represents the reallocations would be incorporated in the fixed gear sector's initial allocation. This would reduce overall uncertainty and allow these sectors, particularly the hook-and-line CP sector, to better plan their annual operations. It does, however, reflect a reduction in the "opportunity" for the trawl sectors (i.e., a cost), by removing the possibility of future growth in their cod harvest share.

### *Effects on Consumers*

In the current BSAI Pacific cod fishery, catcher processors for all gear types produce mostly eastern and western cut headed and gutted (H&G) products and a few ancillary products. Shorebased processors taking catcher vessel deliveries produce fillets, salted and split, and H&G products, along with a variety of ancillary products. Under any alternative, consumers are likely to continue to be supplied with products from the various BSAI Pacific cod fisheries that are currently produced under the status quo. As mentioned above, this means primarily frozen H&G and whole fish from the catcher processor sectors, as well as fillets and ancillary products from shorebased plants. Recall that the allocations proposed under Alternative 2 (Council preferred alternative) are intended to reflect actual retained catch over a series of years, including reallocated quota. Thus, production mixes are not anticipated to change significantly from previous years. Market prices for these products will continue to depend on world cod markets and should be unaffected by the choice of alternatives under this action.

Some minor quality improvement could occur, because of the direct sector allocation made to those sectors that operate under cooperatives (AFA trawl CP sector and potentially the non-AFA trawl CP sector), however, they are unlikely to be substantial. A significant portion of the BSAI cod production is exported, largely to Asia, with some of that cod being reprocessed, and reimported into the American marketplace. U.S. consumers could realize a benefit from the improved product quality, but are unlikely to realize any notable change in benefits (e.g., reduced price, varied product mix, increased availability) under this action.

### *Effects on the CDQ Program*

Alternative 2 includes three options relative to the CDQ BSAI Pacific cod reserve: maintain the allocation at 7.5% (also Alternative 1), or increase the allocation to 10% or 15%. Increasing CDQ allocations for BSAI Pacific cod could directly benefit the CDQ groups by increasing the amount of BSAI Pacific cod catch and the resulting royalties associated with that catch. Production efficiency could also be increased,

as a larger proportion of the overall Pacific cod TAC would be prosecuted under a rationalized system. Note that on average during 2001–2003, Pacific cod royalties comprised over 6% or \$3.0 million of the total royalties for the CDQ groups combined. During that time period, the average royalty payment to the CDQ groups was \$232 per metric ton of Pacific cod. Using the 2006 TAC, the two options to increase the CDQ reserve under Alternative 2 to 10% or 15% represent estimated increases of 4,875 mt and 14,625 mt to the CDQ Pacific cod reserve, respectively. Using the average royalty rates from the most recent time period available (2001–2003), one could estimate that the projected increase in royalty payments to the CDQ groups combined would be \$1.13 million and \$3.39 million, respectively. It is also anticipated that current CDQ allocations of non-target species harvested incidentally in the Pacific cod fishery appear sufficient to support an increase in the CDQ cod allocation.

While the Council ultimately selected the option under Alternative 2 to maintain the current 7.5% cod allocation to the CDQ Program, it recognized that Congressional action was imminent to potentially increase this allocation. The President signed the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) into law on July 11, 2006. Among other actions, this Act amends Section 305(i) of the Magnuson Stevens Act, which pertains to the CDQ Program. The MSA amendments include a change to make the CDQ Program Pacific cod allocation a directed fishing allocation of 10% upon the establishment of sector allocations (Section 305(i)(1)(B)(ii)(1)). As Amendment 85 establishes sector allocations of BSAI Pacific cod, the MSA thus requires that, at the same time these sector allocations are established, the allocation of BSAI Pacific cod to the CDQ Program must increase to 10% as a directed fishing allocation. The regulatory and FMP amendments necessary to implement this change are thus included in this amendment package, in order for the Council's proposal for Amendment 85 to be consistent with the MSA. (See Appendix H for NOAA GC's legal opinion relevant to these proposed changes. Further FMP and regulatory amendments resulting from the Act are undergoing analysis and legal interpretation by NOAA GC.) Production efficiency could be increased with this action, as a larger proportion of the overall Pacific cod TAC would be managed under a rationalized system.

### *Effects on Environmental/Non-use Benefits*

Public non-use benefits derived from the management of healthy stocks of these species, if they exist, are likely to be maintained under any of the alternatives. NMFS will continue to conduct annual stock assessments to establish the overfishing level (OFL), ABC, and TAC for BSAI Pacific cod through the specifications process. NMFS would continue to credit both directed harvest of Pacific cod, and the incidental harvest of Pacific cod, against the Pacific cod TACs to ensure that Pacific cod are not overharvested.

Under Alternative 2, options were included to establish distinct cod sector allocations for each of the ten sectors identified, including the four trawl sectors: non-AFA trawl CV; AFA trawl CV; non-AFA trawl CP; and AFA trawl CP. The Council's preferred alternative (Alternative 2) establishes separate cod allocations for the AFA trawl CP and non-AFA trawl CP sectors, as discussed previously in this section. Note that options exist under Alternative 2 to revise the seasonal apportionments to the trawl, fixed, and jig gear sectors (Component 3). The current seasonal apportionments are primarily a result of the 2001 Biological Opinion on the Steller sea lion mitigation measures. The 2001 opinion consulted on a comprehensive management regime, of which temporal dispersion of the BSAI Pacific cod fishery was one part. These measures were established to meet a seasonal target of 70% harvest of TAC in the first season (Jan. 1 – June 10) and 30% in the second season (June 10 – Dec. 31), such that the prey species were protected for foraging Steller sea lions in the first half of the year.

Under the Council's preferred alternative, the seasonal apportionments would remain within the 70%–30% target established in the Biological Opinion. Effectively, the Council's preferred alternative would limit harvest in the first half of the year to 65.8% of the BSAI Pacific cod ITAC (or 65% of the BSAI

Pacific cod TAC). (These percentages exclude the <60' fixed gear sector allocation, as this sector is not subject to seasonal apportionments under the Steller sea lion mitigation measures. If this sector was included, including an assumption that the entire 2% allocation is harvested in the first half of the year, the percentages would increase to 67.8% of the BSAI Pacific cod ITAC (or 67% of the TAC).<sup>29</sup> The Council's preferred alternative mirrors the actual temporal dispersion in the BSAI Pacific cod fishery, given that quota is reallocated among the non-CDQ gear sectors in the second half of the year.

### *Effects on Management, Monitoring, and Enforcement Costs*

No changes are expected to the existing management system under Alternative 1, thus, no effects on management, monitoring, or enforcement are expected. NMFS would continue to monitor eight separate sector allocations, with seasonal apportionments for each sector, with the exception of the <60' hook-and-line catcher vessel sector. NMFS would also be expected to continue its current practice of reallocating cod quota inseason that is projected to remain unused by a particular sector to other sectors that could potentially use it. In sum, on average 2000–2004, NMFS has annually reallocated 17,291 mt of BSAI Pacific cod quota among the sectors, which represents about 9% of the total initial allocation. Reallocations from the trawl sectors accounted for about 77% of the reallocations on average during this time period, with most of the remaining reallocations from the jig sector. The frequency and level of reallocations varies annually.

Under the Council's preferred alternative (Alternative 2), NMFS would be required to monitor nine sector allocations of BSAI Pacific cod, as opposed to the current eight under Alternative 1. This would result from splitting the current trawl CP allocation between AFA and non-AFA sectors. However, the frequency and level of inseason reallocations of cod quota among sectors is expected to decline, as the allocations are adjusted under Alternative 2 to better reflect actual catch history. Note that management of the fixed gear and jig gear sectors is expected to remain the same as status quo.

The non-trawl sectors have relatively little incidental catch of Pacific cod in non-Pacific cod fisheries, and catch rates are typically slow enough to allow the agency to consistently monitor and close the fishery accurately. The intent under the Council's preferred alternative is that the fixed gear cod sectors would continue to be managed using an ICA established at the beginning of the year during the annual specifications process. The ICA amount would continue to be deducted from the aggregate fixed gear Pacific cod allocation, prior to establishing the fixed gear sector allocations.

The management of the trawl sectors would be slightly modified to accommodate the separate AFA and non-AFA trawl CP allocations. While it has not been necessary in the past, NMFS has the ability to set inseason directed fishing allowances and incidental catch allowances for use of Pacific cod within a particular sector. Due to the anticipated reduction in the trawl allocations, the Council's preferred alternative states that NMFS will manage the trawl sector allocations (trawl CV, non-AFA trawl CP, AFA trawl CP) by establishing an ICA for each trawl sector, such that no trawl sector can erode another sector's total allocation. This will require NMFS to use its authority set ICAs and DFAs for each trawl sector, in order to control harvest of the directed Pacific cod fishery and provide for incidental catch needs in the other trawl target fisheries. In addition, because the AFA and non-AFA trawl CV sectors continue to share a combined allocation under the Council's preferred alternative, not all vessels eligible to fish off that allocation would be part of the AFA CV cooperative system. Thus, the Council's preferred alternative requires maintaining the current BSAI Pacific cod sideboard to which the AFA CV sector is

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<sup>29</sup>Note that this does not account for the 3% of the BSAI Pacific cod ABC that is deducted (in 2006 and 2007) for the AI State water cod fishery established by the Alaska Board of Fisheries in 2006. However, the State AI cod fishery is apportioned 70% (before June 10) and 30% (after June 10), in order to be consistent with the current Steller sea lion mitigation measures in the Federal fishery.

currently subject, including the exemptions to the sideboard. The AFA CP BSAI Pacific cod sideboard is replaced by the direct allocation to the AFA trawl CP sector.

Note that upon implementation of Amendment 80, in which the non-AFA trawl CP sector is modified to a cooperative system and receives cooperative allocations of all of their target fisheries, including PSC, the Pacific cod allocation to this sector will operate as a hard cap. This approach treats Pacific cod as all other target fisheries addressed under Amendment 80. If the industry can control and limit its catch, it can likely best decide how much of its allocation is necessary to apply to a directed fishery and how much is needed for incidental catch in other target fisheries. In effect, this allows the industry to realize the greater benefit from the fishery than by having NMFS determine the level of incidental catch needs.

As stated previously, the President signed the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) into law on July 11, 2006, which, among other actions, amends Section 305(i) of the Magnuson Stevens Act relevant to the CDQ Program. This Act effectively increases the CDQ Program Pacific cod reserve from 7.5% to 10% upon effectiveness of new Pacific cod sector allocations. It also changes the CDQ allocation to a directed fishing allocation, meaning that the 10% allocation is for the directed CDQ cod fishery, and additional quota needs to be provided (off the top of the TAC) for harvest of Pacific cod in other non-Pacific cod CDQ groundfish fisheries. NMFS and the Council would thus establish an amount of BSAI Pacific cod needed for incidental and bycatch needs in the CDQ fisheries in the annual specifications process. This amount will be combined with the CDQ Pacific cod directed fishing allocation of 10% and the total would be divided among the CDQ groups based on the percentage allocations in effect under Section 305(i)(1)(C) of the MSA. This approach differs significantly from the status quo CDQ management. Thus, the action proposed in this amendment package includes specific FMP and regulatory amendments resulting from this statute to increase the CDQ Pacific cod reserve to 10% and to manage the 10% as a directed fishing allocation.

Another important issue under Alternative 2 (Council preferred alternative) is the division of the trawl cod fishery group halibut and crab bycatch allowances among the trawl sectors. While it may be beneficial to the AFA and non-AFA trawl CP sectors to be able to manage a certain apportionment of the halibut and crab bycatch allowances, depending on the outcome, more refined apportionments can also make it difficult for a sector whose bycatch needs are relatively variable from year to year. Monitoring of trawl PSC will be a considerable task for both the trawl sectors and NMFS. While a further apportionment of the non-trawl halibut bycatch allowance is also recommended under the preferred alternative between the hook-and-line CP and hook-and-line CV sectors, the level and rate of halibut bycatch in the non-trawl sectors reduces this concern.

Neither alternative would have an effect on current observer coverage requirements to which the various sectors are subject. The direct costs of observer coverage are borne by the vessels and processors, and management costs of the observer program are borne by NMFS. The agency costs are not expected to change significantly as a result of this action, although the existing monitoring program and NMFS database would need to be revised such that the system could account for any newly identified sectors and/or the new subarea split.

### **2.3.8 Ecosystem**

Ecosystems are populations (consisting of single species) and communities (consisting of two or more species) of interacting organisms and their physical environment that form a functional unit with a characteristic trophic structure (food web) and material cycles (movement of mass and energy among groups).

Three natural processes underlie changes in population structure of species in marine ecosystems: competition, predation, and environmental disturbance. Natural variations in recruitment, survivorship,

and growth of fish stocks are consequences of these processes. Human activities, such as commercial fisheries, can also influence the structure and function of marine ecosystems. Fishing may affect ecosystems by altering energy flows, changing predator-prey relationships and community structure, introducing foreign species, affecting trophic or functional diversity, altering genetic diversity, altering habitat, and damaging benthic organisms or communities.

Potentially, fisheries for Pacific cod can have effects on other species in the ecosystem through a variety of mechanisms, for example by relieving predation pressure on shared prey species (i.e., species which serve as prey for both Pacific cod and other species), by reducing prey availability for predators of Pacific cod, by altering habitat, by imposing bycatch mortality, or by “ghost fishing” caused by lost fishing gear.

An assessment of the ecosystem trends in the BSAI management area was undertaken by Livingston et al. in 1999. The study showed a stable trophic level of catch and stable populations overall. The trophic level of the Bering Sea harvest has risen slightly since the early 1950s and appears to have stabilized as of 1994.

Further information on the ecosystem may be found in the Ecosystems Considerations appendix to the Stock Assessment and Fisheries Evaluation report (NMFS 2005b) and the Groundfish PSEIS (NOAA 2004a).

### *Effects of the Alternatives*

An evaluation of the effects of the Pacific cod fisheries on the ecosystem is undertaken annually in the Ecosystem Assessment section of the Stock Assessment and Fishery Evaluation report (NMFS 2005b) and in the Harvest Specifications EA (NMFS 2005d). The assessment considers predator-prey relationships, energy flow and removal, and diversity (species, functional, and genetic). These analyses conclude that the groundfish fisheries, including the Pacific cod fishery, do not produce population-level impacts to marine species, or change community- or ecosystem-level attributes beyond the range of natural variability of the ecosystem. Consequently, alternative 1 is not expected to have a significant impact on the ecosystem

Alternative 2 will result in the same overall level of Pacific cod harvest as Alternative 1. Changes to the sector allocations will align regulatory allocations with averaged sector harvest levels. The options to change the seasonality of catch represent minor changes which cannot be distinguished at an ecosystem level. As a result, the conclusions of the analyses discussed under Alternative 1 also apply to Alternative 2, and the alternative is not likely to have a significant impact on the ecosystem. The Council’s preferred alternative is contained within the range of Alternative 2, and therefore is not determined to have a significant impact.

### **2.3.9 Cumulative Effects**

Analysis of the potential cumulative effects of a proposed action and its alternatives is a requirement of NEPA. Cumulative effects are those combined effects on the quality of the human environment that result from the incremental impact of the proposed action when added to other past, present, and reasonably foreseeable future actions, regardless of what Federal or non-Federal agency or person undertakes such other actions (40 CFR 1508.7, 1508.25(a), and 1508.25(c)). Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. The concept behind cumulative effects analysis is to capture the total effects of many actions over time that would be missed by evaluating each action individually. At the same time, the guidelines from the Council on Environmental Quality recognize that it is not practical to analyze the cumulative effects of an action on the universe but to focus on those effects that are truly meaningful.

The 2004 Final Alaska Groundfish Fisheries Programmatic Supplemental Environmental Impact Statement (Groundfish PSEIS; NOAA 2004a) assesses the potential direct and indirect effects of groundfish FMP policy alternatives in combination with other factors that affect physical, biological and socioeconomic resource components of the BSAI and GOA environment. To the extent practicable, this analysis incorporates the cumulative effects analysis of the Groundfish PSEIS, including the persistent effects of past actions and the effects of reasonably foreseeable future actions.

Beyond the cumulative impacts analysis documented in the Groundfish PSEIS, no additional past, present, or reasonably foreseeable cumulative negative impacts on the natural and physical environment (including fish stocks, essential fish habitat, ESA-listed species, marine mammals, seabirds, or marine ecosystems), fishing communities, fishing safety or consumers have been identified that would accrue from the proposed action. Cumulatively significant negative impacts on these resources are not anticipated with the proposed action because no negative direct or indirect effects on the resources have been identified.

While there are no expected cumulative adverse impacts on the natural and physical environment, fishing communities, fishing safety or consumers, there may be economic effects on the Pacific cod fishery sectors as a result of the proposed action in combination with other actions. As discussed below, participants in the Pacific cod target fisheries have experienced several regulatory changes in the past several years that have affected their economic performance. Moreover, a number of reasonably foreseeable future actions are expected to affect the socioeconomic condition of these sectors.

### **2.3.9.1 Past and Present Actions**

This section describes the effects of the original BSAI Groundfish FMP and its amendments and other pertinent external factors that could contribute to potential cumulative impacts on the Pacific cod fishery sectors. Past actions are evaluated to determine whether there are lingering effects that may still result in synergistic or incremental impacts when combined with the proposed action.

The Groundfish PSEIS noted that the availability and consistency of data limits the ability to analyze the effects of past actions on the economic condition of selected sectors of the Alaska groundfish fishery. According to the Groundfish PSEIS, analyses are also limited by the difficulty of delineating the cause-and-effect relationships between multiple factors and the resultant economic effects. Many factors substantially affect the economic status of the Alaska groundfish fishery. Changes in markets, biological conditions and fishery management regulations can result in changes in the revenues and operating costs of firms participating in the fisheries as well as changes in fleet size and composition. Isolating the effects of a single factor is seldom possible. Nonetheless, this analysis has identified a number of key actions that have contributed to the current economic status of the Pacific cod fishery sectors.

By the time the Magnuson Fishery Conservation and Management Act went into effect in 1977, foreign catches of Pacific cod had consistently been in the 30,000–70,000 mt range for a full decade. In 1981, a U.S. domestic trawl fishery and several joint venture fisheries began operations in the BSAI. The foreign and joint venture sectors dominated catches through 1988, but by 1989 the domestic sector was dominant and by 1991 the foreign and joint venture sectors had been displaced entirely. A description of the history of Pacific cod sector allocations among fixed gear, trawl gear, and jig gear sectors is provided in Section 3.3.1.

The mid- to late-1980s saw increased restrictions on the domestic groundfish fisheries, due primarily to problems with incidental catches of non-target species. In 1983, the BSAI Groundfish FMP established a prohibited species catch policy for domestic fisheries and defined prohibited species to include crab,

halibut, herring, crab, and salmon. In 1987, the Council established bycatch limitation zones for prohibited species and established limits on the amounts of PSC that could be taken. The halibut PSC limit had the greatest impact on the Pacific cod fisheries, as it often resulted in the early closure of target fisheries.

A sequence of Steller sea lion protection measures that began in the 1990s limited the Atka mackerel, Pacific cod and rockfish harvests. The measures closed some of the best fishing grounds for these target species, thereby adversely affecting the profitability of the sectors.

In 1996, the U.S. Congress reauthorized the Magnuson Fishery Conservation and Management Act (renaming it the Magnuson-Stevens Act) and included a mandate to reduce discards (bycatch) to the extent practicable. Following that mandate, the waste reduction initiatives of the Council resulted in implementation of improved retention/improved utilization measures for pollock and Pacific cod in both the GOA and BSAI in 1998. A positive outcome of the measures for pollock has been the development of a more consistent market for headed and gutted pollock in Asia—these fish are partially thawed and further processed before entering global markets. The increase in price of Pacific cod products due to reduced Atlantic cod harvests from the Barents Sea and an improving Asian economy has also resulted in higher gross product values.

Note that a series of FMP amendments also influenced the participants in the BSAI Pacific cod fishery. Beginning in 1994, BSAI Amendment 24 allocated the BSAI Pacific cod TAC among the trawl, jig, and fixed gear sectors. This apportionment was modified starting in 1997 under Amendment 46. In 2000, the Federal License Limitation Program went into effect in the GOA and BSAI, limiting future opportunities in both areas. Qualifying years for LLP area endorsements were January 1, 1992 through June 17, 1995. Following implementation of the LLP, a series of amendments apportioned the fixed gear portion of the BSAI Pacific cod ITAC among the various fixed gear sectors. Finally, the Council made a decision on the Pacific cod endorsement for the  $\geq 60'$  fixed gear sectors in April 2000. These actions may have provided incentive for vessels to fish in a manner that they would not have otherwise. However, it is not possible to determine exactly how or whether participation patterns were influenced by these amendments. Section 3.4.3.3 provides additional information on the participation patterns by sector during 1995–2003; this section notes that the first and last year for LLP endorsement qualification were years that many vessels fishing in just one year participated.

Note also that in 1998, Congress approved the American Fisheries Act (AFA). The AFA created pollock allocations and a cooperative management system for eligible CV and CP vessels in the BSAI pollock trawl fishery. Although separate BSAI Pacific cod allocations are not currently established for the AFA CP and AFA CV sectors, the implementing regulations for the AFA also established sideboards on the participation by AFA-qualified vessels in the other BSAI (non-pollock) groundfish fisheries, including Pacific cod. The AFA allowed eligible trawl vessels to manage their BSAI pollock (and Pacific cod sideboards) in a more rational manner through internal agreements.

In February 2005, the Council took action to conserve EFH from potential adverse effects of fishing. To minimize the effects of fishing on EFH, the Council's preferred alternative prohibits all bottom trawling in the AI except in small discrete 'open' areas. If approved by the Secretary of Commerce, regulations are expected to be in place by August 2006. According to the 2005 EFH EIS, the spatial relocation of fishing effort caused by the measures to minimize the effects of fishing on EFH is expected to result in reductions in harvest and gross revenue for certain sectors of the fishing industry, including the Pacific cod fisheries, but the extent of the negative impacts cannot be measured at this time. Vessels may be able, with additional effort, to make up foregone harvests from closed areas by changing location or gear strategies, but the costs associated with the extra effort are unknown.

Also in February 2005, the Council took action to identify habitat areas of particular concern, which would allow for a more focused application of protection measures to the most sensitive areas of EFH. Six areas in the AI will be closed to all bottom contact fishing gear (hook-and-line, pot, trawl, etc.) and bottom trawling for all groundfish species will be prohibited in ten designated areas along the continental shelf of the GOA. According to the 2005 EA/RIR/IRFA that evaluated alternatives to designate and conserve habitat areas of particular concern, these designations are unlikely to have the potential to significantly affect the revenues or costs of any groundfish harvesting sector, including the Pacific cod fishery sectors.

Lastly, the Consolidated Appropriations Act of 2005 (P.L. 108-447) (Act) established catcher processor sector definitions for participation in the catcher processor sectors of the BSAI non-pollock groundfish fisheries<sup>30</sup> and the fishing capacity reduction program authorized by Congress. The following sectors are defined in the Act under Section 219(a): AFA trawl catcher processor, non-AFA trawl catcher processor, hook-and-line catcher processor, and pot catcher processor.

With the exception of the non-AFA catcher processor sector, the Act does not appear to establish new eligibility requirements for participating in the BSAI Pacific cod fishery as part of the catcher processor sectors.<sup>31</sup> Only the non-AFA trawl catcher processor sector is defined differently than the status quo, in effect, this sector is reduced to 26 qualified vessels. Note that the Act also established requirements for participating in a capacity reduction program by sector. As of the writing of this document, staff is aware of only one sector (the hook-and-line CP sector) that is in the formal process of developing a cooperative for the purpose of participating in the capacity reduction program. To date, the cooperative has agreed to develop a buyback program for the hook-and-line CP sector in the BSAI non-pollock fisheries, and has organized the buyout rules and procedures and submitted them to the Secretary.

### **2.3.9.2 Reasonably Foreseeable Future Actions**

As discussed previously, a cumulative effects assessment should also identify reasonably foreseeable future events that are relevant to the proposed action, and should look at the incremental effect the proposed action might have if those reasonably foreseeable events occur. The focus must be on actions that are likely to occur or probable, rather than those that are merely possible. To identify actions within the purview of NOAA Fisheries and the Council that are sufficiently likely to occur (as opposed to “highly speculative” actions), this analysis examined authorized planning documents recently issued by the Council. Four reasonably foreseeable management actions relevant to this analysis were identified: 1) BSAI Amendment 80 to allocate five target flatfish species and PSC to the non-AFA trawl CP sector and establish a cooperative structure for that sector, 2) GOA groundfish rationalization, 3) protection of EFH in the Bering Sea, and 4) non-target species management. Another future action likely to be relevant when assessing the cumulative effects of the alternatives is a recent action by the Alaska Board of Fisheries to create a State water Pacific cod fishery in the Aleutian Islands.

The Groundfish PSEIS describes several factors external to the fishery management regime that have influenced the costs and revenues of harvesting sectors in the Alaska groundfish fishery and may continue to do so. These factors include foreign fishing, product prices, vessel fuel costs and market forces beyond the region that affect the costs of insurance, labor, and so forth. While these external factors could have

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<sup>30</sup>The non-pollock groundfish fishery is defined as ‘target species of Atka mackerel, flathead sole, Pacific cod, Pacific Ocean perch, rock sole, turbot, or yellowfin sole harvested in the BSAI.’

<sup>31</sup>Note that the AFA trawl CP definition does not include any vessel that met the requirements in 208(e)(21) to be eligible to harvest the pollock directed fishing allowance allocated to CPs and CVs delivering to CPs. NOAA GC has determined that the vessel that qualifies under 208(e)(21) of the AFA qualifies for the non-AFA trawl catcher processor sector based on the qualifications in the Consolidated Appropriations Act of 2005.

significant economic impacts on the Pacific cod fishery sectors in the future, a discussion of what those effects might be would be speculative.

### *Allocation of Non-Pollock Groundfish and Development of a Cooperative Program for the Non-AFA Trawl Catcher Processor Sector (BSAI Amendment 80)*

The non-AFA trawl CP sector primarily participates in multi-species fisheries in a limited access system. Although the overall retention level in that sector has increased in the last decade, it is still well below other BSAI sectors. In addition, improved retention rates are the intended effect of the impending groundfish retention standard (GRS) action approved by the Council. Amendment 79, implementation planned for 2008, would phase in the GRS over a four-year period. To provide the sector with an additional tool to increase economic efficiency while reducing incidental catch and minimizing waste, the Council initiated BSAI Amendment 80 in October 2002. Amendment 80 provides target allocations of Atka mackerel, flathead sole, Pacific Ocean perch, rock sole, and yellowfin sole to the non-AFA trawl CP sector and allows the formation of harvest cooperatives. Sector allocations and associated cooperatives would allow participants to focus less on harvest maximization and more on optimizing harvest. The Council's preferred alternative under Amendment 80 (June 2006) allows the formation of multiple cooperatives. Note that Amendment 80 also includes separate PSC allowances to the non-AFA trawl CP sector for all of its fisheries, including that associated with this sector's Pacific cod fishery.

The Council also recommended an increase to 10% for the target flatfish species allocated to the CDQ Program under Amendment 80, as well as increases of all other CDQ allocations of non-target species and PSC incidental to the CDQ target flatfish species. Implementation of Amendment 80 is expected in 2008.

#### Anticipated Effects

Upon future implementation of the non-AFA trawl CP cooperatives under Amendment 80, this sector should be better able to utilize its PSC in relation to its target fisheries, which may result in harvesting a greater share of the BSAI Pacific cod allocated to the trawl CP sector than has been harvested in the past. Currently, the entire trawl CP sector is allocated 23.5% of the BSAI Pacific cod ITAC and the non-AFA trawl CP sector has harvested about 13%–14% of the ITAC on average during 1995–2003, with the highest shares (15% - 18%) in the most recent years (1999–2003). Note that the AFA CP sector has harvested about 2%–3% of the ITAC on average during 1995–2003, with the lowest shares (about 1%) in the most recent years (2000–2003). Together the two trawl CP sectors harvested (retained catch) an average of 15%–16% of the BSAI Pacific cod ITAC, compared to the 23.5% allocated.<sup>32</sup>

In addition, Amendment 80 establishes the amount of halibut and crab PSC allocated to the non-AFA trawl CP sector, with the remainder established for the other trawl sectors. See Section 3.4.3.5 and 3.4.3.6 for details on the PSC implications of Amendment 80 on the Council's preferred alternative under Amendment 85.

In addition, the preferred alternative on the CDQ provisions selected for Amendment 80 may affect whether non-target CDQ species and PSC species harvested incidentally in the CDQ target Pacific cod fishery would also need to be addressed. Amendment 80 proposes to also increase the CDQ reserves of the species caught incidentally in the CDQ flatfish fisheries, and these are the same species that are incidentally caught in the BSAI Pacific cod fisheries. Thus, there does not appear to be a need to further

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<sup>32</sup>The sector harvest data are detailed in Chapter 3.0. The data represent retained BSAI Pacific cod harvest by sector (excluding cod destined for meal production) from weekly production reports, 1995 – 2003.

increase the non-target species CDQ allocations (e.g., halibut, arrowtooth flounder, shortraker rockfish, roughey rockfish, Bering Sea other rockfish, and ‘other species’) that are caught incidentally in the Pacific cod fisheries under Amendment 85. Note that even without the proposed increase under Amendment 80, the economic analysis of the proposed CDQ Pacific cod reserve increase under Amendment 85 did not show there is a need to increase CDQ reserves of species caught incidentally to Pacific cod.

### *Gulf of Alaska Groundfish Rationalization*

The Council is considering alternative management approaches to “rationalize” the GOA groundfish fisheries. Rationalization may improve the economic stability of the various participants in the fishery, which include harvesters, processors, and residents of fishing communities. The Council is considering these policies at the request of the GOA groundfish industry and Congress to address increasing concerns about the economic stability of the fisheries. Some of these concerns include changing market opportunities and stock abundance, increasing concern about the long-term economic health of fishing dependent communities, and the limited ability of the fishing industry to respond to environmental concerns under the existing management regime. The Council may consider rationalizing the fishery through individual fishing quotas or cooperatives, and allocations to community entities. Final action on Gulf rationalization is not currently scheduled.

### Anticipated Effects

The EIS for this action has not yet been completed, as the Council continues to develop its primary alternatives. However, the intention of the rationalization program is to provide economic and socioeconomic benefits to participants in GOA groundfish fisheries, including those that also participate in the BSAI Pacific cod fishery sectors. By reducing competition for shares of the total allowable catch, rationalization allows fishermen to select the least cost combination and deployment of fishing inputs. Furthermore, with smaller haul sizes, more careful processing, the ability to match fishing effort to processing capacity, and the opportunity to search out fish of optimal size, fishermen are able to increase yields, improve product quality, and optimize product mix to market conditions. Because the effects of the alternatives have not been comprehensively evaluated, the economic impacts are uncertain. It is not possible to speculate whether individual participants in the BSAI Pacific cod sectors will be better or worse off under GOA groundfish rationalization.

### *Measures to Minimize Fishing Effects on Bering Sea Essential Fish Habitat*

As noted in the discussion of past and present actions, the Council took action in February 2005 to conserve EFH in the AI and GOA from potential adverse effects of fishing. At that time, the Council also took action to initiate an expanded analysis of alternatives to minimize the effects of fishing on EFH in the Bering Sea, and conduct an assessment of gear modification that tiers off of the EFH Final EIS. The analysis will include the existing alternative in the EFH Final EIS, an alternative to leave the rolling closure area open, and options to open the closed areas south of Nunivak Island and north of the Bogoslof Area, as well as other alternatives to be developed.

### Anticipated Effects

Measures to minimize the effects of fishing in the Bering Sea could have a negative economic effect on certain harvesting sectors in the Alaska groundfish fishery, including the Pacific cod sectors, by reducing the harvest of target species and/or increasing operating costs. Because specific measures have not yet been identified and their effects evaluated, the economic impacts are uncertain.

### *Non-target Species Management*

The Council is considering amendments to the BSAI and GOA FMPs to identify and manage stock assemblages for single species and species assemblages that are incidentally-caught. The intent is to protect non-target species from the negative fishing effects of target fisheries. The OFL, ABC, and TAC would be set for each assemblage. Management options also include prohibiting directed fishing and maximum retainable allowances.

#### Anticipated Effects

Measures to protect non-target species could have a negative economic effect on certain harvesting sectors in the Alaska groundfish fishery, including Pacific cod fishery sectors, by reducing the harvest of target species and/or increasing operating costs. Because specific measures have not yet been identified and their effects evaluated, the economic impacts are uncertain.

### *Aleutian Islands Pollock Fishery in State Waters*

In November 2002, the Alaska Board of Fisheries (Board) adopted the same Steller sea lion protection measures for the State parallel groundfish fisheries in the AI as were established for Federal fisheries. However, in March 2005, the Board considered a proposal to revise pollock closures for Steller sea lion protection in State waters of the Aleutian Islands from 170° to 180° W. longitude, in State waters of the Western Gulf of Alaska from 157° to 163° W. longitude, and in the Cook Inlet Management Area between 149° and 150° W. longitude to allow harvesting of pollock. In effect, the State would not actively manage pollock harvests in State waters; rather, ADF&G would treat these fisheries similar to other parallel fisheries through the annually issued global emergency order; thus, the Federal government would manage harvests against Federally-established TACs and allocations, open and close seasons, establish gear restrictions, etc.

The Board deferred final action on the proposal to the October 2005 meeting, and referred the amended proposal to an Interim Joint Board/Council Protocol Committee for discussion and coordination. The Interim Joint Protocol Committee met between May and August, 2005, to discuss state water pollock proposals and the re-consultation process under the Endangered Species Act, and to exchange information among NMFS, ADF&G, the Council, and the Board.

At the October 2005 meeting, the Board voted down the proposal pertaining to the Western Gulf area. The Board postponed taking final action on the remaining two proposals (Aleutian Islands/Adak Area and Central Gulf area) until October 2006.

#### Anticipated Effects

An alteration of the pollock closures in State waters to allow harvesting of pollock may trigger the need to conduct a formal re-consultation under section 7 of the Endangered Species Act. The outcome of a consultation is uncertain, but a “jeopardy opinion” could result in additional fishing restrictions on certain harvesting sectors in the Alaska groundfish fishery, including the BSAI Pacific cod fishery sectors.

### *Aleutian Islands Pacific Cod Fishery in State Waters*

At its December 2005 meeting, the Board generated a proposal (BOF proposal 399) to create a new regulation establishing a State waters Pacific cod fishery in the Aleutian Islands west of 170° W longitude. To date, the Pacific cod fishery in State waters has been managed as a parallel fishery to the Federal fishery; the Federal government manages all harvests (inside or outside State waters) against the

Federal BSAI Pacific cod TAC and allocations, opens and closes seasons, establishes gear restrictions, etc. Upon request of the Council, the Board and the Council met jointly to discuss the proposal on February 3 in Anchorage, and the Board took action on this proposal during its February 23–25, 2006 meeting in Ketchikan.

The Board voted to establish a State waters Pacific cod fishery in the Aleutian Islands west of 170° W longitude, which would start on or after March 15, and only after the Federal Pacific cod trawl CV A season is closed. The primary elements of the fishery include:

1. The guideline harvest level (GHL) for the state waters fishery will be an amount calculated as 3% of the Federal BSAI Pacific cod ABC. The future calculation (the “source” of the GHL) will be the Council’s decision should the BSAI ABC be split into separate AI and BS ABCs in a future TAC specifications process. The State water fishery, however, would remain the equivalent of 3% of the combined BS and AI ABC.
2. The fishery will only be authorized for 2006 and 2007. The fishery may occur only from March 15 through December 31 each year, or until the GHL is taken.
3. Legal fishing gear will be pot, jig, hand troll, non-pelagic trawl, and longline gear. Non-pelagic trawl and longline gear may not be used during May 1 – September 15, unless these vessels are operating in the <60’ vessel size limitation areas near Adak Island. (In Sitkin Sound, near Adak Island, the vessel size limit is in effect year-round for all gear types.)
4. The fishery will start only on or after March 15, and also only after the Federal Pacific cod trawl catcher vessel A season is closed.
5. A maximum of 70% of the GHL may be harvested prior to June 10. Any unharvested GHL during the first season can be rolled into the second season such that not more than 70% of the total annual GHL can be harvested in the first season.
6. During the year, the Commissioner of ADF&G may determine that a portion of the GHL may be left unharvested. The Commissioner will notify NMFS and the Council of that amount so that it may be reallocated to the Federal fisheries that are still open at that time.
7. The fishery requires registration with ADF&G of the type of gear to be used.
8. The daily trip limit is 150,000 lbs of Pacific cod; there is also a limit of up to 300,000 lbs of unprocessed Pacific cod onboard the vessel. A vessel may not have more processed fish onboard than the round weight equivalent of the fish reported on ADF&G fishtickets during the AI state waters Pacific cod fishery. Participants must notify ADF&G daily of the amount harvested and the total amount on board.
9. All Pacific cod harvested must be retained. If a participant harvests an amount in excess of the daily trip limit, that excess amount of product must be forfeited to the State. No penalty for overages will be assigned to a participant who immediately reports the overage.
10. The Commissioner of ADF&G may impose bycatch limitations or retention requirements.

The State regulations authorizing this fishery allow the fishery to begin on or after March 15, 2006, upon closure of the Federal BSAI trawl CV cod A season. NMFS closed the directed trawl CV Pacific cod fishery in the BSAI on March 8, 2006, in order to avoid exceeding the A season allocation, thus, the State

water AI fishery began at noon on March 15. As the 2006 TAC had already been specified and sectors were fishing under the existing allocations, NMFS effected an inseason adjustment under Federal regulations (50 CFR 679.25) to re-specify the TAC on March 14, to account for the 3% reduction for the GHL. This necessitated re-calculating the sector allocations and seasonal apportionments that are currently published in Federal regulations.<sup>33</sup>

This action also necessarily affects the 2006 BSAI Pacific cod CDQ reserve, as that reserve is calculated as 7.5% of the BSAI Pacific cod TAC. Thus, all sectors realized a proportional reduction of 3% of their current Federal allocations as a result of this action. Three percent of the 2006 ABC of 194,000 mt represents about 5,820 mt (or 12,830,772 lbs). Note that the State fishery is limited to 70% of the total GHL in the first half of the year (prior to June 10) and any unharvested quota from the first season is rolled over to the second season (on or after June 10). Under a 5,820 mt GHL, this equates to 4,074 mt in the first season and 1,746 mt in the second season. This provision mirrors the overall Pacific cod seasonal apportionments in place under the current Steller sea lion mitigation measures.

### Anticipated Effects

As stated above, the overall effect of a State waters Pacific cod fishery in the Aleutian Islands west of 170° W longitude is that all sectors, including the CDQ fishery, will realize a proportional reduction of 3% of their current Federal allocations. Because the same gear types are allowed to fish the GHL as are allowed in the Federal fishery, recognizing that trawl and hook-and-line are excluded from the AI State water fishery during May 1 – September 15, it is not clear to what extent each sector will participate in and benefit from the State water fishery in the Aleutians. The first season of the fishery opened on March 15 and ended on March 24, 2006. Twenty-six vessels registered and participated in the fishery, including one large trawl CP, five hook-and-line CPs, one pot CV  $\geq 60'$ , sixteen trawl CVs  $\geq 60'$ , and three trawl CVs  $< 60'$ . In addition, two floating processors and two shorebased processors (located in Dutch Harbor and Adak) participated. About 94% of the first season GHL of 8.98 million pounds was harvested.

The overall economic effect of this fishery on the sectors is uncertain absent an analysis. However, it is anticipated that while the intent is to allow additional harvests by the identified sectors in State waters west of 170° W longitude, the overall effect will be a redistribution of cod harvests and associated revenues from vessels of all gear types that fish in Federal waters in the AI or in the Bering Sea (within Federal or State waters) and from ports east of 170° W. Thus, there will likely be a disproportionate negative effect on those sectors that do not desire to fish in State waters in the Aleutian Islands, compared to those sectors that have harvested and want to continue to harvest Pacific cod in the Aleutians and within State waters. In general, the fixed gear and jig gear sectors have reduced the AI share of their total BSAI Pacific cod harvest in recent years, while the trawl sectors have generally increased the AI share of their total BSAI Pacific cod harvest (see Appendix F for details on AI harvest by sector). The first season of the fishery resulted in trawl CVs harvesting the greatest portion of the A season GHL.

The press release announcing the AI State Pacific cod fishery states that bycatch limits that apply in the parallel fishery will apply in the State waters fishery (ADF&G news release, 3/1/06). Halibut mortality from a State waters groundfish fishery cannot be deducted from a Federal fishery category, thus, the PSC allowances for the Federal Pacific cod fisheries will not be modified as a result of this action. The State could choose to enforce Federal closures that result from reaching PSC limits in State waters, but that decision is at the Commissioner's discretion. Note that both trawl and longline gear are prohibited from participating in the State water AI fishery from May 1 – September 15; these are the only gear sectors that

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<sup>33</sup>See Table 5 (2006 and 2007 Gear Shares and Seasonal Allowances of the BSAI Pacific cod TAC) in 71 FR 10870, March 3, 2006.

are subject to PSC bycatch allowances in the Federal Pacific cod fishery. Pot and jig gear are exempt from PSC limits due to very low bycatch rates. However, the 2006 A season GHL was harvested in ten days, primarily by trawl vessels. It is uncertain how long it will take participating vessels to harvest the B season GHL of a little over 4 million pounds. The B season started on June 10 and was closed September 1, with less than 10% of the quota harvested (Bowers, pers. comm.). The B season is limited to jig and pot gear until September 15, after which hook-and-line and trawl gear are allowed.

Note that observer coverage is not required under a State water fishery. However, it is assumed that this fishery will operate similarly to the Gulf of Alaska State Pacific cod fishery, in that if the vessel in the State fishery has a Federal Fisheries Permit (FFP), then any time the vessel operates in the State fishery it is subject to observer coverage requirements, and any time an observer is onboard in the State fishery can be counted toward the Federal observer coverage requirements. One presumes that this is based on the premise that any time a vessel has an FFP, it is authorized to fish in the EEZ when the fishery is open. When the Federal GOA Pacific cod fishery closes, generally, the majority of the fleet surrenders the FFP in order to relieve itself of observer coverage requirements. A few vessels, however, sometimes choose to continue to keep their FFP and carry observers in the State water cod fishery, in order to satisfy their observer coverage requirements. In the fishery's first season, six vessels voluntarily carried a Federal observer.

Finally, note that the Board's action to establish a State water AI Pacific cod fishery was limited to 2006 and 2007. Thus, while the overall effect on the Federal BSAI Pacific cod fishery is that the ABC would be reduced by 3% prior to the TAC and sector allocations (including CDQ) being established, this action may be limited to two years. In that case, the State water AI Pacific cod fishery would not overlap with the action being proposed under Amendment 85, as implementation is expected in 2008 if the action is approved by the Secretary. Note that the Board is scheduled to review a proposal to continue this fishery beyond 2007 at its October 2006 meeting.

### *Coast Guard and Maritime Transportation Act of 2006*

The President signed the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) into law on July 11, 2006, which, among other actions, amends Section 305(i) of the Magnuson Stevens Act relevant to the CDQ Program. This Act effectively increases the CDQ Program Pacific cod reserve from 7.5% to 10% upon effectiveness of new Pacific cod sector allocations. It also specifies that the 10% is a directed fishing allocation, meaning that the 10% allocation is for the directed CDQ cod fishery, and additional quota needs to be provided for incidental catch (including bycatch) in other non-Pacific cod CDQ directed fisheries. As Amendment 85 establishes sector allocations of BSAI Pacific cod, the MSA thus requires that, at the same time these sector allocations are established, the allocation of BSAI Pacific cod to the CDQ Program must increase to 10% as a directed fishing allocation. The regulatory and FMP amendments necessary to implement this change are thus included in this amendment package, in order for the Council's proposal for Amendment 85 to be consistent with the MSA. See Appendix H for NOAA GC's legal opinion on the portions of the MSA amendments (Section 305(i)(1)(B)(ii)(1)) that are proposed to be implemented under Amendment 85.

### Anticipated Effects

The primary effect of the Congressional amendments that have been analyzed by NOAA GC and are proposed to be implemented in Amendment 85 is that an increased amount of the BSAI Pacific cod TAC will be reserved for the CDQ Program compared to the status quo. Instead of a 7.5% allocation, 10% of the BSAI Pacific cod TAC must be provided to the CDQ Program for directed fishing by vessels fishing on behalf of the CDQ groups, and an amount of Pacific cod in addition to the 10% must be provided to the CDQ Program to provide for incidental catch and bycatch of Pacific cod in other groundfish CDQ

fisheries. NMFS and the Council will establish an amount of BSAI Pacific cod needed for incidental catch in the CDQ fisheries in the annual specifications process. This amount will be combined with the CDQ directed fishing allocation of Pacific cod of 10% and the total would be divided among the CDQ groups based on the percentage allocations in effect under Section 305(i)(1)(C) of the MSA.

The effects of the amendments are thus dependent on the amount of BSAI Pacific cod needed for incidental catch and bycatch in the other CDQ groundfish fisheries. Because the BSAI Pacific cod TAC is fully allocated among the CDQ Program and non-CDQ sectors, the amount of cod reserved annually for the CDQ ICA must be subtracted from the Pacific cod TAC before allocations among the non-CDQ sectors can be established. Thus, the amount of cod established for the CDQ Pacific cod ICA is an important determination in assessing the level of effect of the action.

Historically, Pacific cod has been caught incidentally in the CDQ fisheries for pollock, Atka mackerel, and flatfish. Some incidental catch of Pacific cod also has been reported by observers on vessels halibut CDQ fishing. The total incidental catch of Pacific cod in the CDQ fisheries has ranged from about 750 mt to 1,700 mt between 1999 and 2005, with an average of 946 mt. In 2004 and 2005, when the CDQ groups harvested the highest proportions to date of their flatfish CDQ allocations, the incidental catch of cod averaged about 1,100 mt or about 0.5% of the Pacific cod TACs in those years.

The incidental catch of Pacific cod in the non-cod groundfish CDQ fisheries is expected to vary each year based primarily on the abundance of Pacific cod relative to other species for which the CDQ groups have directed fisheries, as well as on the TACs and CDQ allocation amounts of Pacific cod relative to other groundfish. If the abundance of Pacific cod increases relative to the abundance of other groundfish species, the incidental catch of Pacific cod in these other groundfish fisheries would be expected to increase. Conversely, if the abundance of Pacific cod decreases relative to the abundance of other groundfish species, the incidental catch of Pacific cod in these other groundfish fisheries would be expected to decrease. If the TACs or CDQ allocations of the other groundfish species increase, even if the relative abundance or TACs of Pacific cod remain the same, the incidental catch of cod in these other groundfish CDQ fisheries would be expected to increase.

The total incidental catch of Pacific cod in the CDQ fisheries also will depend on the proportion of the other groundfish CDQ allocations that are harvested. The CDQ groups fully harvest their CDQ allocations of pollock, Atka mackerel in the Western and Central Aleutian Islands, and yellowfin sole, which are among the fisheries with the highest rates of Pacific cod incidental catch. However, in 2005, the CDQ groups only harvested about 60% of their allocations of rock sole, flathead sole, and arrowtooth flounder and about 20% of their allocations of Alaska plaice and other flatfish. A directed fishery for any one of these species could be expected to include incidental catch of Pacific cod. These were the highest percentages of these allocations harvested by the CDQ groups since these species have been allocated to the program. Increases in CDQ allocations to 10% under Amendment 80 and harvest of a larger percent of their flatfish allocations in the future likely would result in an increase in the incidental catch of Pacific cod in the CDQ fisheries as compared to past years. Other factors that might affect the incidental catch of Pacific cod in the other groundfish CDQ fisheries include the area, season, and/or gear types the CDQ groups choose for their other groundfish CDQ directed fisheries.

Due to the multiple factors discussed above that determine expected incidental catch of Pacific cod in the CDQ fisheries, NMFS has determined that it must specify the amount of the CDQ incidental catch allowance of Pacific cod as part of the annual groundfish specifications process. Specifying the amount of Pacific cod incidental catch in regulation would prohibit the annual adjustments that may be necessary due to fluctuations in stock abundance and quotas, and risks over or underestimating annual incidental catch needs in the CDQ fisheries. Based on the historical incidental catch of Pacific cod in the CDQ fisheries, expectations about future increases in CDQ allocations, and the possibility that some of the

flatfish CDQ allocations may be more fully harvested in the future, NMFS likely would propose a Pacific cod CDQ incidental catch allowance of between 0.5% and 1% of the Pacific cod TAC for the first year of implementation of Amendment 85. Thus, a reasonable estimate for the total CDQ Pacific cod allocation (directed fishing and incidental catch needs) in the first year is between 10.5% and 11%. Each year, information about catch of Pacific cod in the previous year's CDQ fisheries would be added to the information used by NMFS to project the Pacific cod CDQ ICA for the upcoming year.

### 3 REGULATORY IMPACT REVIEW: ECONOMIC IMPACTS OF THE ALTERNATIVES

This chapter provides information on the economic and socioeconomic impacts of the alternatives, as required under Executive Order 12866 (E.O. 12866). This chapter includes a description of the purpose and need for the action and the management objectives, 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 economic impacts of the alternatives under consideration, including the Council's preferred alternative, are summarized in Section 3.3.13.

The requirements for all regulatory actions specified in E.O. 12866 are summarized in the following statement from the order:

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

This section addresses the requirements of E.O. 12866 to provide adequate information to determine whether an action is "significant" under E.O. 12866. The order requires that the Office of Management and Budget review proposed regulatory programs that are considered to be "significant." A "significant regulatory action" is one that is likely to:

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

#### 3.1 Purpose and Need for the Action

The BSAI Pacific cod resource is targeted by multiple gear types and modes of operation, primarily by trawl gear and hook-and-line catcher processors, and smaller amounts by hook-and-line catcher vessels,

jig vessels, and pot gear. This is a fully subscribed fishery, with a 2006 TAC of 194,000 mt.<sup>34</sup> Excluding the 7.5% allocated to the western Alaska Community Development Quota (CDQ) Program reserve, the 2006 non-CDQ TAC is 179,450 mt. The BSAI Pacific cod TAC has been apportioned among the different gear sectors starting in 1994, and a series of amendments have modified or continued the allocation system. Thus, the current BSAI Pacific cod allocations were established using a step-wise approach. Currently, Federal regulations at 50 CFR 679.20(a)(7) authorize distinct (non-CDQ) BSAI Pacific cod sector allocations as shown Table 3-1.

**Problem Statement**

In October 2004, the Council modified the elements and options for BSAI Amendment 80 and removed Pacific cod allocations from that amendment package. The intent was to streamline the analysis and shift it back to its original purpose, to provide the non-AFA trawl catcher processor sector with a tool to meet the groundfish retention standards adopted in BSAI Amendment 79. The Council also reaffirmed that modifications to the Pacific cod allocations could be addressed in a separate amendment. To that end, the Council initiated a new plan amendment to alter the current BSAI Pacific cod allocations (see Table 3-1).

**Table 3-1 Existing Non-CDQ<sup>1</sup> BSAI Pacific cod allocations**

<b>Total trawl</b>	<b>47%</b>
Trawl CP	50%
Trawl CV	50%
<b>Total fixed gear<sup>2</sup></b>	<b>51%</b>
Hook-and-line CP	80%
Hook-and-line CV	0.3%
Pot CP	3.3%
Pot CV	15.0%
Fixed gear <60'	1.4%
<b>Total jig gear</b>	<b>2%</b>

<sup>1</sup>7.5% of the BSAI P.cod TAC is deducted for the CDQ Program before the remaining sector allocations are made.  
<sup>2</sup>The fixed gear ICA is deducted from the total fixed gear allocation of 51% before it is further allocated among the fixed gear sectors.

In December 2004, the Council reviewed a discussion paper outlining prior Council actions regarding BSAI Pacific cod allocations, the relevant problem statements associated with these past actions, and potential decision points related to structuring new alternatives and options for analysis. Upon review of the discussion paper, the Council approved a two-part problem statement and a strawman document outlining draft components and options for the new amendment. The problem statement focused on two issues: Part I) BSAI Pacific cod allocations to all gear sectors (trawl, jig, hook-and-line, pot, and CDQ); and Part II) apportionment of the BSAI Pacific cod sector allocations between the BS and AI subareas.

The problem statement below addresses the annual reallocations of TAC among gear sectors and concerns that the current BSAI Pacific cod allocations do not adequately reflect actual use by sector. While there is no sunset provision or regulatory requirement to review or modify the sector allocations, the Council's

<sup>34</sup>Note that in late February 2006, the Alaska Board of Fisheries established a State water Aleutian Islands fishery through emergency rule. This fishery is limited by a guideline harvest level of 3% of the BSAI Pacific cod ABC, which equates to 5,820 mt of the 2006 BSAI Pacific cod ABC and TAC of 194,000 mt. NMFS re-specified the 2006 TAC in mid-March at 188,180 mt, to account for the 3% reduction. The State water fishery was implemented for 2006 and 2007. This document continues to use a 2006 TAC of 194,000 mt for illustrative purposes. Detail on the elements of the State water AI fishery is provided in Section 2.3.9.2.

motion on Amendment 46 included a provision to review the overall gear sector allocations four years after implementation. This review, originally intended at the end of 2000, has not yet occurred.

This amendment is intended to modify the sector allocations currently in place to better reflect actual dependency and use by sector, in part by basing the allocations on total retained catch by sector. Thus, the catch history on which the allocations are based would include any quota that was reallocated from one sector to another due to the sector's projected inability to harvest its entire allocation by the end of the year. There are noted exceptions to basing the allocations on recent catch history, as reflected in the allocation options for the <60' fixed gear sector, jig sector, and CDQ reserve.

This amendment is also intended to establish more refined allocations to the BSAI Pacific cod sectors, by evaluating the potential for establishing separate and distinct allocations for the non-AFA trawl CP and AFA trawl CP sectors, and the non-AFA trawl CV and AFA trawl CV sectors. The trawl CP sectors currently have a combined BSAI Pacific cod allocation, as do the trawl CV sectors. The trawl allocation is split equally between the trawl CP and CV sectors, thus, each trawl sector currently receives 23.5% of the non-CDQ BSAI Pacific cod TAC. The overall effort to constrain and protect the harvest distribution among all of the BSAI Pacific cod gear sectors is noted as a necessary step toward comprehensive rationalization.

#### **Problem Statement: BSAI Pacific Cod Sector Allocations**

The BSAI Pacific cod fishery is fully utilized and has been allocated among gear groups and to sectors within gear groups. The current allocations among trawl, jig, and fixed gear were implemented in 1997 (Amendment 46) and the CDQ allocation was implemented in 1998. These allocations are overdue for review. Harvest patterns have varied significantly among the sectors resulting in annual inseason reallocations of TAC. As a result, the current allocations do not correspond with actual dependency and use by sectors.

Participants in the BSAI Pacific cod fishery who have made significant investments and have a long-term dependence on the resource need stability in the allocations to the trawl, jig, fixed gear, and CDQ sectors. To reduce uncertainty and provide stability, allocations should be adjusted to better reflect historic use by sector. The basis for determining sector allocations will be catch history as well as consideration of socio-economic and community factors.

As other fisheries in the BSAI and GOA are incrementally rationalized, historical participants in the BSAI Pacific cod fishery may be put at a disadvantage. Each sector in the BSAI Pacific cod fishery currently has different degrees of license requirements and levels of participation. Allocations to the sector level are a necessary step on the path towards comprehensive rationalization. Prompt action is needed to maintain stability in the BSAI Pacific cod fisheries.

At the time the Council took action on this amendment, the analysis also contained a second, separate action (Part II). The second part of the problem statement addressed the need to establish a methodology by which to maintain sector allocations and minimize competition among gear groups, should the BSAI Pacific cod TAC be apportioned between the BS and AI subareas during a future specifications process. The issue of whether to split the combined BSAI ABC (and TAC) by subarea has been raised at Plan Team, Scientific and Statistical Committee (SSC), and Council meetings during the last several years. Given the management implications related to the numerous sector allocations in the BSAI, the Pacific cod TAC has continued to be established for the entire BSAI management area. However, understanding that it is possible that the TAC groupings will be modified in the foreseeable future, the Council recognized it would be beneficial to provide direction to NMFS regarding the formula for establishing

new subarea allocations to each sector. Thus, this amendment was intended to provide alternative approaches for this action.

Part II of the amendment proposed four alternatives to establish a methodology by which to maintain sector allocations and minimize competition among gear groups, should the BSAI Pacific cod ABC and TAC be apportioned into separate BS and AI subarea ABCs and TACs in a future TAC specifications process. **However, as part of the overall motion on Amendment 85, the Council voted to remove Part II from BSAI Amendment 85 and initiate a new, separate analysis that examines alternative approaches to apportion the BSAI Pacific cod sector allocations between the BS and AI subareas.**

There were several reasons identified for the Council's action regarding Part II. The primary basis for this decision was that there were considerable problems associated with all of the alternatives. The Council determined that because of the substantial effect of the proposed action on all sectors of the fishery, further analysis was warranted to attempt to identify an alternative that was more suitable to participants. Refer to Section 1.6 for an outline of the alternatives that were considered under Part II in April 2006, and the primary concerns associated with those alternatives. Thus, this proposed amendment only addresses the BSAI Pacific cod sector allocations that are at issue in the problem statement above and originally represented as Part I.

### **3.2 Description of the Alternatives**

The following sections identify the alternatives and options for consideration in this amendment package. Table 3-2 at the end of the section provides a summary of the alternatives and components in both parts.

This action addresses the allocations of BSAI Pacific cod to the various gear sectors and includes two primary alternatives. **Alternative 1** is the no action alternative, meaning the BSAI Pacific cod allocations for the jig, trawl, fixed gear (hook-and-line and pot) and CDQ sectors would continue as in current regulations. **Alternative 2** would modify the current BSAI Pacific cod allocations among the jig, trawl, and fixed gear (hook-and-line and pot) sectors according to a set of catch history years or other considerations. Alternative 2 also contains options to maintain or increase the CDQ reserve of BSAI Pacific cod. Note that while there are only two primary alternatives, Alternative 2 contains a multitude of options from which various combinations could result in many different outcomes. Thus, Alternative 2 could be construed as representing several different alternatives. **The Council's preferred alternative is a derivation of Alternative 2 and is outlined separately, at the end of this section.**

Alternatives 1 and 2 each consist of the following components:

- Component 1: Sectors for which allocations will be established
- Component 2: Sector allocations
- Component 3: Seasonal apportionments
- Component 4: Rollovers between gear sectors
- Component 5: CDQ allocation of Pacific cod
- Component 6: Apportionment of trawl halibut and crab PSC to the cod fishery group
- Component 7: Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors
- Component 8: Apportionment of cod non-trawl halibut PSC

**ALTERNATIVE 1. No Action.** BSAI Pacific cod allocations for the jig, trawl, and fixed gear (hook-and-line and pot) sectors would continue as in current regulations.

**Component 1: Sectors for which allocations are established**

BSAI Pacific cod allocations will continue to be established in Federal regulations for the following sectors:

- Trawl CPs
- Trawl CVs
- Hook-and-line CPs
- Hook-and-line CVs
- Pot CPs
- Pot CVs
- Hook-and-line and pot CVs <60'
- Jig CVs

**Component 2: Sector Allocations**

BSAI Pacific cod allocations to the jig, trawl, and fixed gear (hook-and-line and pot) sectors would continue as determined under BSAI Amendments 46 and 77:

**51% fixed gear**

- (80% hook-and-line catcher processors)
- (0.3% hook-and-line catcher vessels)
- (3.3% pot catcher processors)
- (15.0% pot catcher vessels)
- (1.4% hook-and-line/pot vessels <60' LOA)<sup>35</sup>

**47% trawl gear**

- (50% trawl catcher vessels)
- (50% trawl catcher processors)

**2% jig gear**

The BSAI Pacific cod TAC that is allocated to the above sectors is TAC less the CDQ Program reserve. In addition, the annual incidental catch allowance (ICA) for fixed gear is deducted from the aggregate amount of the BSAI Pacific cod TAC allocated to the fixed gear sectors combined. Pacific cod harvested incidentally in the non-Pacific cod directed BSAI fixed gear fisheries is attributed to the ICA. The ICA is determined annually by the NMFS Regional Administrator in the annual specifications process and has typically been 500 mt.

**Component 3: Seasonal Apportionments**

The seasonal apportionments of each sector's allocation would remain as shown below. Unused seasonal allowances for the trawl, pot, and hook-and-line sectors may be reapportioned to the subsequent seasonal allocation for the respective sectors. Unused seasonal allowances for the jig sector are considered for reallocation to the <60' fixed gear CV sector.

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<sup>35</sup>While the <60' fixed gear (hook-and-line and pot) sector receives a separate allocation of BSAI Pacific cod, these vessels fish off the general hook-and-line CV and pot CV allocations, respectively by gear type, when those fisheries are open.

Trawl CV:	70%	(Jan. 20 – April 1)
	10%	(April 1 – June 10)
	20%	(June 10 – Nov. 1)
Trawl CP:	50%	(Jan. 20 – April 1)
	30%	(April 1 – June 10)
	20%	(June 10 – Nov. 1)
Hook-and-line gear $\geq 60'$ :	60%	(Jan. 1 – June 10)
	40%	(June 10 – Dec. 31)
Pot gear $\geq 60'$ :	60%	(Jan. 1 – June 10)
	40%	(Sept. 1 – Dec. 31)
Fixed gear $< 60'$ :	No seasonal apportionments	
Jig gear:	40%	(Jan. 1 – April 30)
	20%	(April 30 – Aug. 31)
	40%	(Aug. 31 – Dec. 31)

#### **Component 4: Rollovers between gear sectors**

NMFS Inseason management would retain flexibility to determine how to reallocate projected unused sector allocations (rollovers), taking into consideration the hierarchy below and the likelihood of a sector's capability to harvest reallocated quota.

- Projected unused trawl sector allocations are considered for reallocation to the other trawl sector before being reallocated to the fixed gear sectors.
- Reallocation of TAC from the trawl sectors to fixed gear sectors will be 0.9% to pot CP, 4.1% to pot CV  $\geq 60'$ , and 95% to hook-and-line CP.
- Projected unused allocation in the jig sector is considered for reallocation to the  $< 60'$  fixed gear CV sector on a seasonal basis.
- Projected unused pot sector allocations (CPs and  $\geq 60'$  CVs) is considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.
- Projected unused allocation in the  $< 60'$  fixed gear CV sector, both pot sectors (CP and  $\geq 60'$  CV), and hook-and-line CV  $\geq 60'$  is reallocated to the hook-and-line CP sector.

#### **Component 5: CDQ Allocation of BSAI Pacific Cod**

The CDQ Program reserve is 7.5% of the BSAI Pacific cod TAC. The reserve is removed from the TAC prior to the allocation to all other sectors.

#### **Component 6: Apportionment of trawl halibut and crab PSC to the cod fishery group**

The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process and can vary annually. The trawl halibut PSC is typically 3,400 mt, which is apportioned between Pacific cod; yellowfin sole; rocksole/other flatfish/flathead sole; pollock/Atka mackerel/other. Generally, about 1,400 mt is apportioned to the cod trawl fishery group.

The crab PSC for 2005 and 2006 is 182,225 red king crab in Zone 1; 4,494,569 *C. opilio* in the *C. Opilio* Bycatch Limitation Zone (COBLZ); and 906,500 *C. bairdi* in Zone 1 and 2,747,250 *C. bairdi* in Zone 2.

The cod trawl fishery group bycatch allowance (2005–2006) was 26,563 red king crab; 139,331 *C. opilio*, 183,112 *C. bairdi* in Zone 1; and 324,176 *C. bairdi* in Zone 2.

**Component 7: Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors**

There is no further apportionment of the cod trawl fishery group halibut and crab PSC to the trawl sectors (trawl CV sector and trawl CP sector).

**Component 8: Apportionment of cod non-trawl halibut PSC**

The total amount of non-trawl halibut PSC for the non-CDQ fisheries is determined in the annual specifications process and can vary annually. The non-trawl halibut PSC allowance is typically 833 mt, which is apportioned between the Pacific cod and ‘other non-trawl’ fisheries. Generally, about 775 mt is apportioned to the cod non-trawl fishery group. No further apportionment of the halibut bycatch allowance is made between the hook-and-line CP sector and the hook-and-line CV sector.

**ALTERNATIVE 2:** *(Council preferred alternative. The Council selected specific options under each of the following components to create a comprehensive preferred alternative, summarized at the end of this section.)* Modify the current BSAI Pacific cod allocations among the jig, trawl, and fixed gear (hook-and-line and pot) sectors according to a set of catch history years or other considerations.

**Component 1: Sectors for which allocations will be established**

Catch history will be calculated for the following sectors. The Council may choose to establish allocations for combined sectors; however each sector’s catch history will be calculated separately.

- AFA Trawl CPs (AFA 20)<sup>36</sup>
  - Suboption a: Include catch history of the nine trawl CPs whose claims to catch history have been extinguished by Section 209 of the AFA
  - Suboption b: Exclude catch history of the nine trawl CPs whose claims to catch history have been extinguished by Section 209 of the AFA
- Non-AFA Trawl CPs
- AFA Trawl CVs
- Non-AFA Trawl CVs
- Hook-and-line CPs
- Hook-and-line CVs  $\geq 60'$
- Pot CPs
- Pot CVs  $\geq 60'$
- Hook-and-line and pot CVs  $< 60'$
- Jig CVs

Eligibility criteria for non-AFA trawl catcher vessels to be included in the AFA CV sector for purposes of the BSAI Pacific cod allocations:

Option 1.1      The holder of a license that arose from a vessel/history that made a minimum of 100 mt of Pacific cod landings during each of the years 1995–1997.

**Component 2: Sector Allocations**

For each of the years under consideration, each sector’s annual harvest share will be calculated for that individual year as a percentage of the total retained legal catch by all sectors. For each of the sets of catch

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<sup>36</sup>Refers to the 20 trawl catcher processors listed in Section 208(e) of the American Fisheries Act (AFA).

history years analyzed, each sector's harvest percentage will be calculated as the sector's average of the annual harvest share. For purposes of determining catch history, a sector's 'catch' means all retained legal catch (including rollovers) from both the Federal fishery and parallel fishery in the BSAI (less CDQ). This includes retained legal catch from both LLP and non-LLP vessels.

One set of years will be selected for all sectors. There is a suboption under each set of years to drop one year. Each sector would drop its worst year (smallest annual harvest share percentage for that sector). This results in an aggregate percentage greater than 100% for a set of years for all sectors combined; thus, the result would be scaled back to 100%.

In all options and suboptions, the <60' fixed gear CV sector will only fish from the direct allocation to that sector.

The BSAI Pacific cod TAC that is allocated to the above sectors is TAC less the CDQ Program reserve. In addition, the annual incidental catch allowance (ICA) for fixed gear is deducted off the top from the aggregate amount of the BSAI Pacific cod TAC allocated to the fixed gear sectors combined. Pacific cod harvested incidentally in the non-Pacific cod directed BSAI fixed gear fisheries is attributed to the ICA. The ICA is determined annually by the NMFS Regional Administrator in the annual specifications process and has typically been 500 mt.

Option 2.1: 1995–2002

Option 2.2: 1997–2000

Option 2.3: 1997–2003

Option 2.4: 1998–2002

Option 2.5: 1999–2003

Option 2.6: 2000–2003

Suboption 1 (applies to Options 2.1–2.6): Drop one year.

Option 2.7: The Council can select percentages for cod allocated to each sector that fall within the range of percentages analyzed.

Option 2.8: Allocations (whether combined or separate) to the <60' fixed gear CV sector and jig sector shall collectively not exceed:

Suboption 1: Actual catch history percentage for jig and <60' fixed gear CVs combined (from the set of years selected for all sectors under Op. 2.1–2.7)

Suboption 2: 2.71 % (represents 2% jig allocation plus 0.71% <60' fixed gear CV allocation of non-CDQ BSAI Pacific cod TAC)

Suboption 3: 3% (represents 2% jig allocation plus 1% <60' fixed gear CV allocation of non-CDQ BSAI Pacific cod TAC)

Suboption 4: 4% (represents 2% jig allocation plus 2% <60' fixed gear CV allocation of non-CDQ BSAI Pacific cod TAC)

### **Component 3: Seasonal Apportionments**

Unused seasonal allowances for the trawl, pot, and hook-and-line sectors may be reapportioned to the subsequent seasonal allocation for the respective sectors. Unused seasonal allowances for the jig sector are considered for reallocation to the <60' fixed gear CV sector. Options 3.1, 3.2, and 3.3 are mutually exclusive.

Option 3.1 Status quo. Allocations determined under this amendment would be apportioned seasonally among the gear sectors as in current regulation (see Alternative 1).

Option 3.2 Upon determination of the new overall allocations to the trawl and fixed gear sectors, maintain the current percentage of the ITAC allocated to the A and B seasons for trawl

gear and the A season for fixed gear. Provide that any reduction in the overall trawl allocation resulting from the options would be applied only in the C season for trawl gear. Provide that any increase in the overall fixed gear allocation resulting from the options would be applied only in the B season for fixed gear.

- Option 3.3 Upon determination of the new overall allocations to the trawl and fixed gear sectors, maintain the current percentage of the ITAC allocated to the A season for trawl gear. Provide that any reduction in the overall trawl allocation resulting from the options would be applied only in the B and C seasons for trawl gear:
- Suboption 1: Reduction applied proportionately to B and C seasons
  - Suboption 2: Reduction applied equally to B and C seasons
  - Suboption 3: Provide that any reduction in the overall trawl allocation resulting from the options would first be applied in the C season and then in the B season. Any increase in the allocation to fixed gear would be applied in the A season. Any reduction in the trawl allocation in the B or C seasons will be made proportionately between the AFA CP, non-AFA CP, and AFA CV, non-AFA CV sectors based on their new allocation percentages. In the event that this suboption exceeds the 70/30 Steller sea lion seasonal apportionment, the hook-and-line CP sector's A season allocation will be adjusted as necessary by shifting A season allocation to the B season.
- Option 3.4 Apportion the BSAI Pacific cod jig allocation on a trimester basis as follows:
- 60% (Jan. 1 – April 30)
  - 20% (April 30 – August 31)
  - 20% (August 31 – December 31)

#### **Component 4: Rollovers between gear sectors**

Inseason management would retain flexibility to determine how to reallocate projected unused sector allocations (rollovers), taking into consideration the hierarchy below. NMFS takes into account the intent of the rollover hierarchy and the likelihood of a sector's capability to harvest reallocated quota.

- Option 4.1** Modified status quo. The suite of provisions below comprises Option 4.1.
- 4.1.2 Projected unused trawl sector allocations are considered for reallocation to other trawl sectors (AFA CP; non-AFA CP; AFA CV; non-AFA CV) before being reallocated to the fixed gear sectors (hook-and-line CP; hook-and-line CV  $\geq 60'$ ; pot CP; pot CV  $\geq 60'$ ).
  - 4.1.2 Reallocation of TAC from the trawl sectors to fixed gear sectors will be 0.9% to pot CP, 4.1% to pot CV  $\geq 60'$ , and 95% to hook-and-line CP.
    - Suboption 1: Reallocation of TAC from the trawl sectors to the fixed gear sectors will be proportional to the new fixed gear allocations.
  - 4.1.6 Projected unused allocation in the jig sector is considered for reallocation to the  $<60'$  fixed gear CV sector on a seasonal basis. The third trimester jig rollover should be available to the  $<60'$  fixed gear CV sector on September 1.
  - 4.1.7 Projected unused pot sector allocations (CPs and  $\geq 60'$  CVs) are considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.
  - 4.1.8 Projected unused allocations in the  $<60'$  fixed gear CV sector, both pot sectors (CP and  $\geq 60'$  CV), and hook-and-line CV  $\geq 60'$  are reallocated to the hook-and-line CP sector.

**Option 4.2** Projected unused allocations to any sector delivering inshore must be considered for reallocation to other inshore sectors before being considered for reallocation to any offshore sector. The suite of provisions below comprises Option 4.2.

4.2.2 Projected unused allocation in the jig sector is considered for reallocation to the <60' fixed gear CV sector on a seasonal basis. The third trimester jig rollover should be available to the <60' fixed gear CV sector on September 1.

4.2.2 Any unused allocation from any inshore sector will first be considered for reallocation to the jig sector and/or <60' fixed gear CV sector; then to the hook-and-line CV  $\geq 60'$  or pot CV  $\geq 60'$  sector; then to the trawl CV sectors. Any CV allocation that is not likely to be harvested through this hierarchy will be reallocated as per components 4.2.3–4.2.6 below.

4.2.3 Projected unused trawl sector allocations are considered for reallocation to other trawl sectors (AFA CP; non-AFA CP; AFA CV; non-AFA CV) before being reallocated to the fixed gear sectors (hook-and-line CP; hook-and-line CV  $\geq 60'$ ; pot CP; pot CV  $\geq 60'$ ).

4.2.7 Reallocation of TAC from the trawl sectors to fixed gear sectors will be 0.9% to pot CP, 4.1% to pot CV  $\geq 60'$ , and 95% to hook-and-line CP.

Suboption 1: Reallocation of TAC from the trawl sectors to the fixed gear sectors will be proportional to the new fixed gear allocations.

4.2.8 Projected unused pot sector allocations (CPs and  $\geq 60'$  CVs) are considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.

4.2.9 Projected unused allocations in the <60' fixed gear CV sector, both pot sectors (CP and  $\geq 60'$  CV), and hook-and-line CV  $\geq 60'$  are reallocated to the hook-and-line CP sector.

#### **Component 5: CDQ Allocation of BSAI Pacific Cod**

The CDQ Program reserve for BSAI Pacific cod shall be removed from the TAC prior to the allocation to all other sectors at percentage amounts equal to one of the following options:

- Option 5.1 7.5% (status quo)
- Option 5.2 10%
- Option 5.3 15%

#### **Component 6: Apportionment of trawl halibut and crab PSC to the cod fishery group**

The total amount of trawl halibut PSC for the non-CDQ fisheries is 3,400 mt, which is apportioned between Pacific cod, yellowfin sole, rocksole/other flatfish/flathead sole, pollock/Atka mackerel/other. Generally, 1,400 mt is apportioned to the cod trawl fishery group, but this amount and actual use can vary annually. A significant amount of Pacific cod is taken incidentally in other trawl fisheries so the PSC use associated with that Pacific cod harvest would be attributed to a fishery group other than cod trawl. Amendment 80 will also allocate halibut PSC to the H&G trawl sector, so that the amount of halibut PSC available to the remaining trawl sectors will be reduced.

#### **Component 7: Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors**

Option 7.1 The annual PSC allocation to the trawl Pacific cod fishery will be apportioned to the cod trawl sectors based on the cod allocation percentages determined for each sector under Component 2.

Option 7.2 The annual PSC allocation to the trawl Pacific cod fishery will be apportioned to the cod trawl sectors based on the sector's directed cod fishery harvests during the qualifying period under Component 2.

**Component 8: Apportionment of cod non-trawl halibut PSC**

The total amount of non-trawl halibut PSC for the non-CDQ fisheries is 833 mt. The 833 mt is apportioned between cod hook-and-line sectors and other non-trawl fisheries during the annual specifications process. Generally, 775 mt is apportioned to hook-and-line cod fisheries and 58 mt to other non-trawl groups. This component would divide the halibut PSC amount apportioned to non-trawl cod between the hook-and-line CP sector and hook-and-line CV sector (for CVs  $\geq 60'$  and CVs  $< 60'$  combined):

Option 8.1 In proportion to the BSAI Pacific cod TAC allocated to the sectors  
 Option 8.2 10 mt for CVs, remainder for CPs

**Table 3-2 Summary of the alternatives considered**

BSAI PACIFIC COD SECTOR ALLOCATIONS				
Components	Alternative 1 (No Action)		Alternative 2 (Revise allocations)	
<b>1. Sectors for which allocations are established</b>	Trawl CP Trawl CV Hook-and-line CP Hook-and-line CV	Pot CP Pot CV H&L/pot CV $< 60'$ Jig CV	AFA Trawl CP AFA Trawl CV Non-AFA Trawl CP Non-AFA Trawl CV Pot CV $\geq 60'$	Pot CP Hook-and-line CP Hook-and-line CV $\geq 60'$ H&L/pot CV $< 60'$ Jig CV
<b>2. Sector allocations</b>	51% fixed gear: (80% hook-and-line CP) (0.3% hook-and-line CV) (3.3% pot CP) (15.0% pot CV) (1.4% hook-and-line/pot $< 60'$ )  47% trawl gear: (50% trawl CP) (50% trawl CV)  2% jig gear		Six options to revise sector allocations based on sector's average annual harvest share during the years: 1995–2002 1997–2000 1997–2003 1998–2002 1999–2003 2000–2003  Drop year provisions exist under each option. The Council can select any allocations within the range provided.  Options exist to provide allocations (combined or separate) to the $< 60'$ fixed gear and jig gear sectors not to exceed: 2.71%, 3%, or 4%.	
<b>3. Seasonal apportionments</b>	<u>Trawl CV:</u> 70% (Jan. 20 – Apr. 1) 10% (Apr. 1 – June 10) 20% (June 10 – Nov. 1) <u>Trawl CP:</u> 50% (Jan. 20 – Apr. 1) 30% (Apr. 1 – June 10) 20% (June 10 – Nov. 1) <u>Fixed gear <math>&gt; 60'</math>:</u> 60% (Jan. 1 – June 10) 40% (June 10 – Dec. 31) <u>Fixed gear <math>&lt; 60'</math>:</u> no seasonal apportionments <u>Jig gear:</u> 40% (Jan. 1 – Apr. 30) 20% (Apr. 30 – Aug. 31) 40% (Aug. 31 – Dec. 31)		Option to maintain status quo seasons (see Alt. 1).  Option to maintain the current % of ITAC allocation to the A and B seasons for trawl gear and the A season for fixed gear.  Option to maintain the current % of the ITAC allocated to the A season for trawl gear. Three suboptions exist to apportion the reduction to the trawl sectors' allocations between the B and C season.  Option to modify the jig apportionments to: 60% (Jan. 1 – Apr. 30) 20% (Apr. 30 – Aug. 31) 20% (Aug. 31 – Dec. 31)	

<b>BSAI PACIFIC COD SECTOR ALLOCATIONS</b>		
<b>Components</b>	<b>Alternative 1 (No Action)</b>	<b>Alternative 2 (Revise allocations)</b>
<b>4. Rollovers</b>	<p>Unused trawl sector allocations are first considered for reallocation to other trawl sector</p> <p>Unused pot sector allocations are first considered for reallocation to other pot sector</p> <p>Reallocation from trawl to fixed gear: 0.9% pot CP 4.1% pot CV 95% hook-and-line CP</p> <p>Reallocation from jig to &lt;60' fixed gear on seasonal basis</p> <p>Unused &lt;60' fixed gear, pot, and hook-and-line CV quota is reallocated to hook-and-line CP sector</p>	<p>Option to generally maintain status quo rollover provisions, with accommodation of new trawl sectors (see Alt. 1).</p> <p>Option to modify the rollovers from trawl to fixed gear according to the new fixed gear allocations determined under Component 2.</p> <p>Option to reallocate unused quota from an inshore sector to the other inshore sectors before reallocating to offshore sectors.</p>
<b>5. CDQ allocation</b>	7.5% of the BSAI Pacific cod TAC	Options exist to increase CDQ allocation of BSAI Pacific cod to 10% or 15%.
<b>6. Apportionment of trawl halibut and crab PSC to cod trawl fishery group</b>	The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process.	The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process.
<b>7. Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors</b>	No apportionment of cod trawl halibut and crab PSC between the trawl sectors.	Apportion the cod trawl halibut and crab PSC among the trawl sectors determined in Component 1, according to their cod allocations determined in Component 2.
<b>8. Apportionment of cod non-trawl halibut PSC</b>	No apportionment of the cod non-trawl halibut PSC between hook-and-line CP and CV sectors.	Apportion the cod non-trawl halibut PSC between hook-and-line CP and CV sectors either 1) in proportion to their cod allocations, or 2) 10 mt for CVs, remainder for CPs.

### 3.2.1 Council Preferred Alternative

The Council recommended Alternative 2 as its preferred alternative at the April 2006 Council meeting. The following table outlines the various components and options that comprise the preferred alternative to revise the BSAI Pacific cod sector allocations based on catch history and other socio-economic and community considerations. The analysis of the impacts of the Council's preferred alternative is in Section 3.4.3.

**Table 3-3 Summary of the Council's preferred alternative**

<b>BSAI PACIFIC COD SECTOR ALLOCATIONS</b>		
<b>Components</b>	<b>Council preferred alternative – Alternative 2</b>	
<p><b>1. Sectors for which allocations are established</b></p> <p><b>2. Sector allocations (as % of BSAI Pacific cod ITAC)</b></p>	<p>AFA Trawl CP - 2.3%</p> <p>Non-AFA Trawl CP – 13.4%</p> <p>Trawl CV – 22.1%</p> <p>Pot CV ≥60' – 8.4%</p>	<p>Pot CP – 1.5%</p> <p>Hook-and-line CP – 48.7%</p> <p>Hook-and-line CV ≥60' – 0.2%</p> <p>H&amp;L/pot CV &lt;60' – 2.0%</p> <p>Jig CV – 1.4%</p>
<b>3. Seasonal apportionments</b>	<p>Maintain the current percentage of the ITAC allocated to the A and B seasons for trawl gear and the A season for fixed gear. The reduction in the overall trawl allocation is applied in the C season; if necessary, remaining reductions are taken from the trawl B season. The increase in the overall fixed gear allocation is applied to the B season for fixed gear. Combined with Components 1 and 2, this component results in seasonal apportionments of each sector's <u>allocation</u> as shown below. The &lt;60' fixed gear sector is not affected by this component. The jig gear sector apportionments are also modified as shown below.</p>	
	<p><u>Trawl CV:</u> 74% (Jan. 20 - Apr. 1) 11% (Apr. 1 - June 10) 15% (June 10 - Nov. 1)</p> <p><u>Trawl CP:</u> 75% (Jan. 20 - Apr. 1) 25% (Apr. 1 - June 10) 0.0% (June 10 - Nov. 1)</p> <p><u>H&amp;L CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (June 10 - Dec. 31)</p>	<p><u>Pot CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (Sept. 1 - Dec. 31)</p> <p><u>Fixed gear &lt;60':</u> no seasonal apportionments</p> <p><u>Jig gear:</u> 60% (Jan. 1 - Apr. 30) 20% (Apr. 30 - Aug. 31) 20% (Aug. 31 - Dec. 31)</p>
<b>4. Rollovers</b>	<p>Projected unused allocation in the <b>jig</b> sector is considered for reallocation to the &lt;60' fixed gear CV sector on a seasonal basis. The third trimester jig rollover should be available to the &lt;60' fixed gear CV sector on September 1.</p> <p>Any unused allocation from an <b>inshore</b> sector will first be considered for reallocation to the jig sector and/or &lt;60' fixed gear CV sector; then to the hook-and-line CV ≥60' or pot CV ≥60' sector; then to the trawl CV sectors. Any CV allocation that is not likely to be harvested through this hierarchy will be reallocated as outlined below.</p> <p>Projected unused <b>trawl</b> sector allocations are considered for reallocation to other trawl sectors (AFA trawl CP; non-AFA trawl CP; trawl CV) before being reallocated to the fixed gear sectors (hook-and-line CP; pot CP; pot CV ≥60').</p> <p>Reallocation of TAC from the <b>trawl</b> sectors to the pot CP, ≥60' pot CV, and hook-and-line CP sectors will be proportional to the new fixed gear allocations: 83.1% to the hook-and-line CP sector, 14.3% to the ≥60' pot CV sector, and 2.6% to the pot CP sector.</p> <p>Projected unused <b>pot</b> sector allocations (CPs and ≥60' CVs) are considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.</p> <p>Projected unused allocations in the <b>&lt;60' fixed gear CV</b> sector, both <b>pot</b> sectors (CP and ≥60' CV), and <b>hook-and-line CV ≥60'</b> are reallocated to the hook-and-line CP sector.</p>	
<b>5. CDQ allocation</b>	<p>10% of the BSAI Pacific cod TAC as a directed fishing allocation<sup>1</sup></p>	

<b>BSAI PACIFIC COD SECTOR ALLOCATIONS</b>	
<b>Components</b>	<b>Council preferred alternative – Alternative 2</b>
<b>6. Apportionment of trawl halibut and crab PSC to cod trawl fishery group</b>	The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process.
<b>7. Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors</b>	The annual halibut and crab PSC allocation to the trawl cod fishery group will be apportioned to the cod trawl sectors (AFA CP; non-AFA CP; AFA CV) based on the sectors' directed cod harvests. To determine PSC, the percent of cod harvested in the cod target fishery by the trawl sectors is calculated on the basis of all cod catch during 1999 – 2003, including that designated for fishmeal production. <b>Result:</b> staff calculated each sector's percentage of the PSC allowance to the <i>trawl cod fishery group</i> as: AFA trawl CP (4.4%), trawl CV (70.7%), and non-AFA trawl CP (24.9%). <sup>37</sup>
<b>8. Apportionment of cod non-trawl halibut PSC</b>	The halibut PSC allocated to the hook-and-line cod fishery group will be apportioned: 10 mt for CVs and the remainder for CPs. The halibut PSC amount for each category shall be set in the annual specifications process.
<b>Other provisions</b>	<p>Trawl sector allocations of Pacific cod will be managed as currently, i.e., a soft cap with a directed fishing allowance and incidental catch allowance for each trawl sector, determined by NMFS inseason management. When BSAI Amendment 80 is implemented, the Pacific cod sector allocation for the non-AFA trawl CP sector will be divided between cooperative and non-cooperative vessels using the same formula as other allocated species in Amendment 80, and operate as a hard cap.</p> <p>AFA trawl catcher vessel cod sideboards would be maintained.</p> <p>A review of the effects of BSAI Amendment 85 on the &lt;60' hook-and-line and pot catcher vessel sectors will be conducted when the combined harvest of those sectors (including parallel, Federal, and State fishery harvests) reaches a total of 3% of the BSAI Pacific cod ITAC.</p>

<sup>37</sup>While the Council ultimately selected the option under Alternative 2 to maintain the current 7.5% CDQ cod allocation, it recognized that Congressional action was imminent to increase this allocation. The Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) was signed into law on July 11, 2006. This effectively increases the CDQ Program Pacific cod allocation to a 10% directed fishing allocation (DFA) upon effectiveness of new Pacific cod sector allocations. Thus, this amendment package includes FMP and regulatory amendments to increase the CDQ Pacific cod allocation (as a DFA) to 10% per the statute. An additional amount of BSAI Pacific cod will be reserved annually for the CDQ Program to provide for the incidental catch of Pacific cod in other CDQ groundfish fisheries.

### 3.3 Description of the Pacific cod fishery

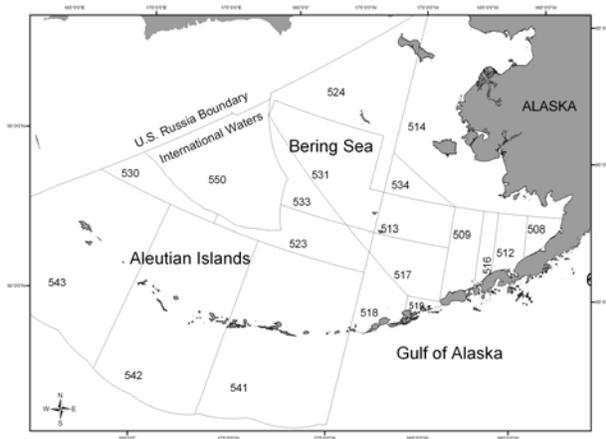
The most recent descriptions of the Pacific cod fishery are contained in the Stock Assessment and Fishery Evaluation (SAFE) report for the Groundfish Fisheries of the Gulf of Alaska and Bering Sea/Aleutian Islands Area: Economic Status of the Groundfish Fisheries off Alaska, 2004 (Hiatt et al, 2005) and the Groundfish PSEIS (NMFS, 2004a). The SAFE document includes information on the 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. Section 3.9.2 of the Groundfish PSEIS describes the characteristics and activities of trawl, pot, hook-and-line, and jig catcher vessels and catcher processors, of various lengths, operating in the BSAI. In addition to reporting the catch and revenues from the BSAI Pacific cod fishery by sector, that document contains detailed information on the owners by

<sup>37</sup>Note that BSAI Amendment 80 (final Council action completed in June 2006) includes flatfish species allocations and halibut and crab PSC allocations to the non-AFA trawl CP sector, which supercedes the PSC methodology in Amendment 85 for only that sector. Upon implementation of Am. 80, the remaining PSC allowance to the *trawl cod fishery group* will only be apportioned between the trawl CV sector and the AFA trawl CP sector. In that event, the percentages in Component 7 would be refined as follows: trawl CV sector (94.1%) and AFA trawl CP sector (5.9%).

region of residence, the annual cycle of operations and dependence on groundfish fisheries, and crew employment. While this information is summarized in this section and in Chapter 4, please see these documents for further details.

The BS and AI management areas are comprised of the Federal management areas shown below in Figure 3-1. The AI is comprised of Areas 541, 542, and 543. The BSAI Pacific cod ABC is currently based on an Eastern Bering Sea assessment model and expanded by a multiplier into a BSAI-wide amount.

**Figure 3-1 BSAI Federal management areas**



**Table 3-4 BSAI Pacific cod ABCs, TACs, and catch (1,000 mt round weight), 1991 – 2006**

<u>Year</u>	<u>ABC</u>	<u>TAC</u>	<u>Catch</u>
1991	229,000	229,000	218.1
1992	182,000	182,000	207.3
1993	164,500	164,500	167.4
1994	191,000	191,000	193.8
1995	328,000	250,000	245.0
1996	305,000	270,000	240.7
1997	306,000	270,000	257.8
1998	210,000	210,000	195.8
1999	177,000	177,000	173.9
2000	193,000	193,000	191.1
2001	188,000	188,000	176.7
2002	223,000	200,000	196.7
2003	223,000	207,500	209.8
2004	223,000	215,500	213.8
2005	206,000	206,000	190.3*
2006	194,000	194,000	--

Source: 2004 Economic SAFE, Nov. 2005. Processor reports and fish ticket data are used for 1989 – 1990. Blend estimates for 1991 – 2002. Catch accounting system estimates for 2003 - 2005. Includes catch from Federal and State waters. \*Data are preliminary for 2005.

As stated previously, the Pacific cod stock is targeted by multiple gear types, principally by trawls and hook-and-line catcher processors, and smaller amounts by hook-and-line, jig, and pot gear catcher vessels. Behind pollock, Pacific cod is the second most dominant species in the commercial groundfish catch off Alaska, accounting for about 270,500 mt or 12.5% of the total 2004 commercial groundfish catch (Economic SAFE, 2005). About 80% of the total commercial Pacific cod catch off Alaska is harvested in the BSAI, with the remaining 20% from the Gulf of Alaska.

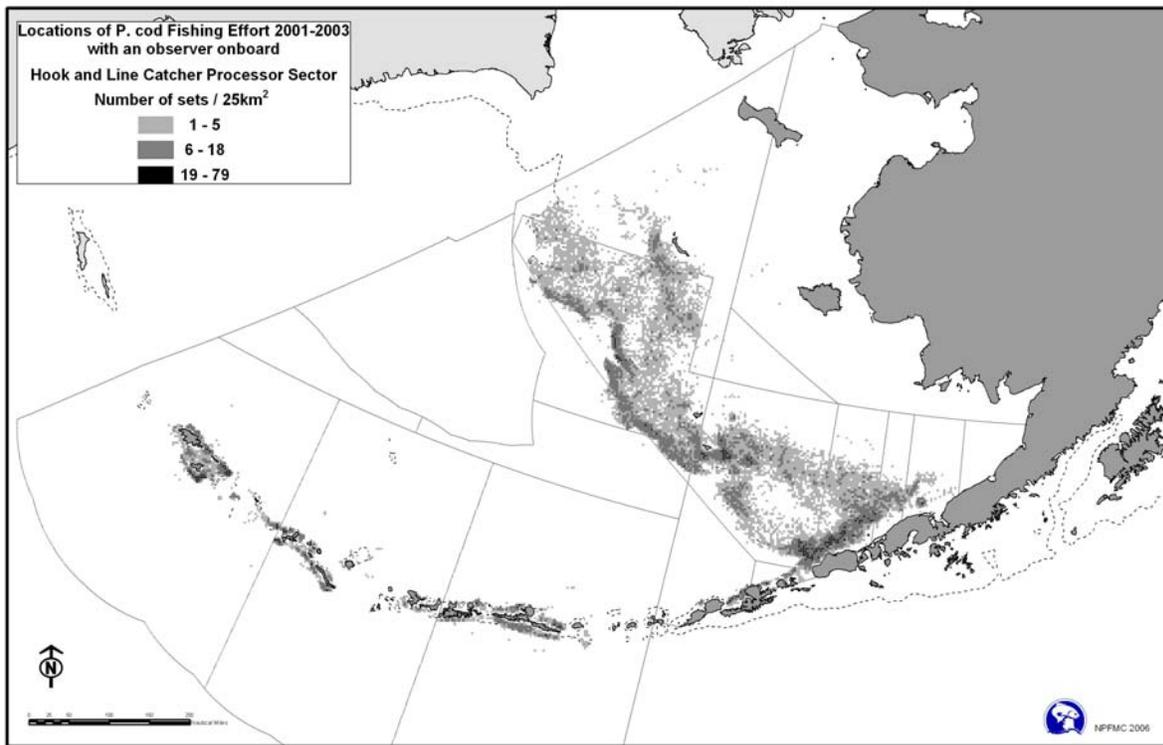
A history of Pacific cod catch in the domestic fisheries is provided in Section 3.3.5. Catches from foreign trawl and hook-and-line vessels (through 1987) and joint venture trawling (1980–1990) are not included. In general, trawl landings ranged from 82,000 to 132,000 mt per year since

the late 1980s; PSC halibut limits and later allocation decisions prohibited additional cod from being taken with trawl gear. Harvests from fixed gear vessels increased as these fisheries developed. Hook-and-line catch greatly increased from 1988 (2,600 mt) through 1995 (103,000 mt) and has since fluctuated

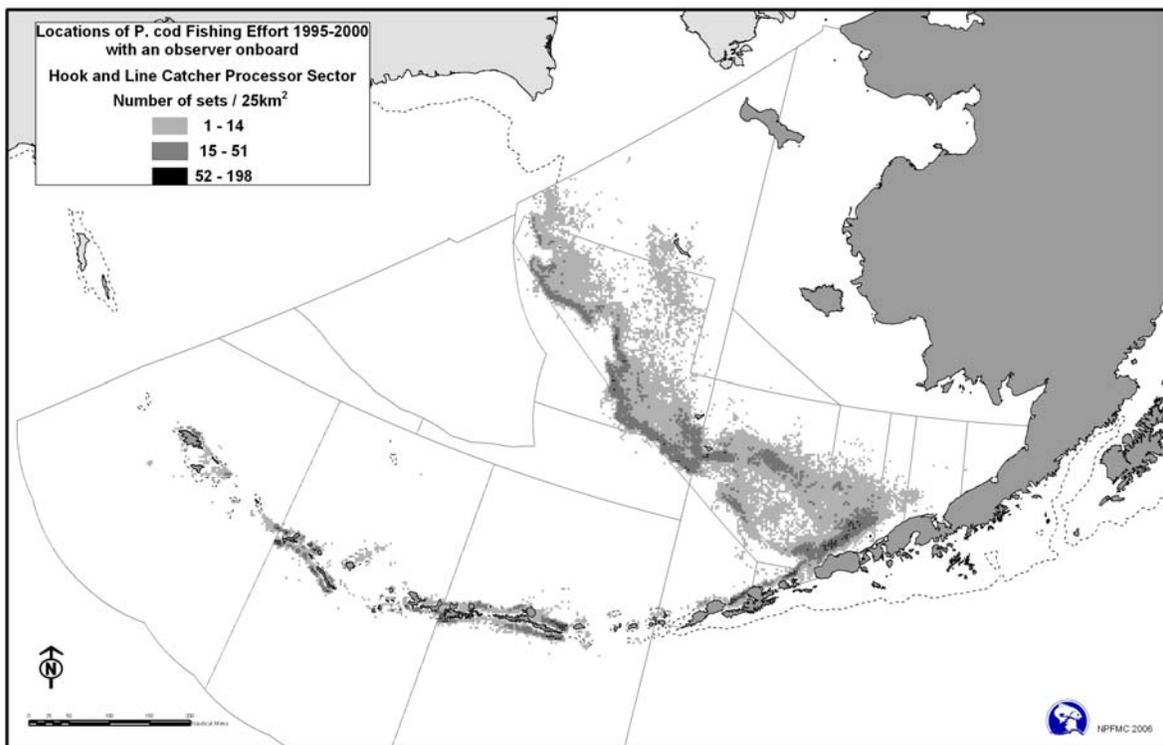
around 95,000 mt. Vessels using pot gear began to make significant landings in the early 1990s of several thousand metric tons, increasing to a high of over 32,000 mt in 1996. Jig vessels starting participating in the BSAI Pacific cod fishery in the early 1990s, and have averaged a couple hundred metric tons per year since then.

Hook-and-line harvested cod are mostly taken along the slope of the continental shelf break and along the Aleutian Islands. The pot gear fisheries for Pacific cod have also concentrated along the slope and the north side of Unalaska Island, Unimak Island and Unimak Pass, with some relatively minor effort adjacent to the Aleutian Islands. The majority of Pacific cod harvested by trawl gear is taken in shallow waters on the eastern Bering Sea shelf (Groundfish PSEIS, 2004). Figure 3-2 through Figure 3-13 indicate the location of Pacific cod fishing effort by hook-and-line, pot, and trawl gear during 1995 - 2000 and 2001 -2003, when an observer was onboard.

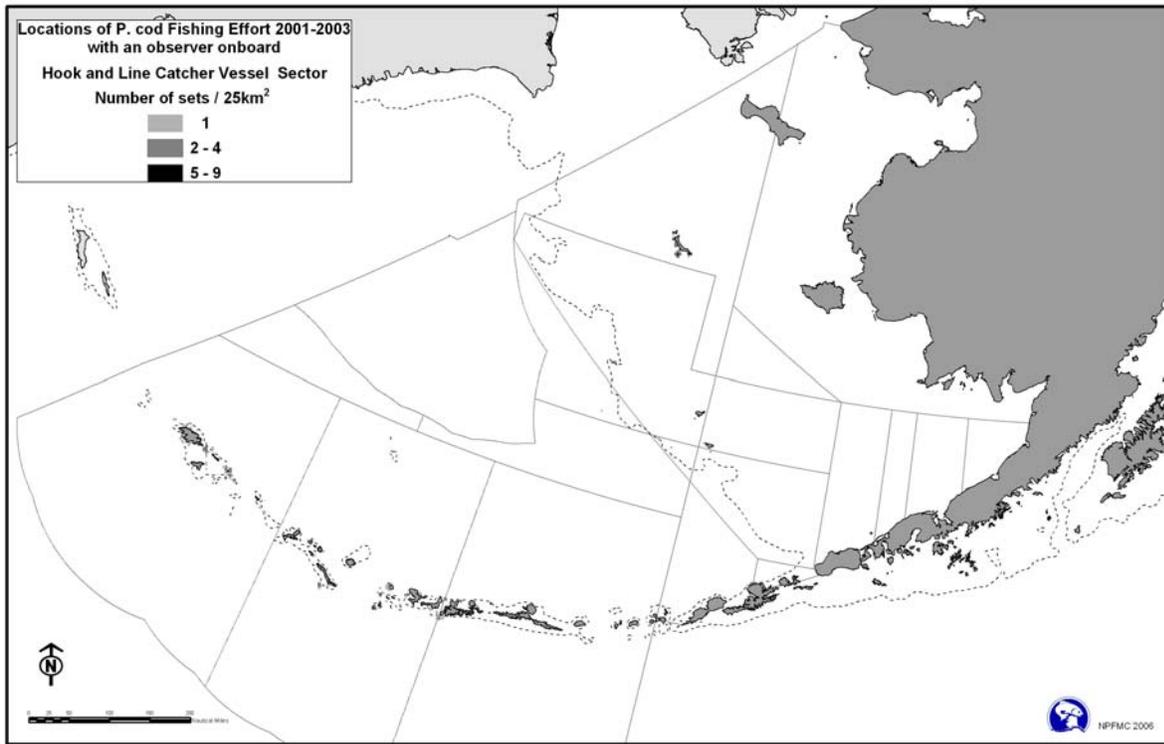
**Figure 3-2** Location of hook-and-line catcher processor sector Pacific cod catch, 2001–2003



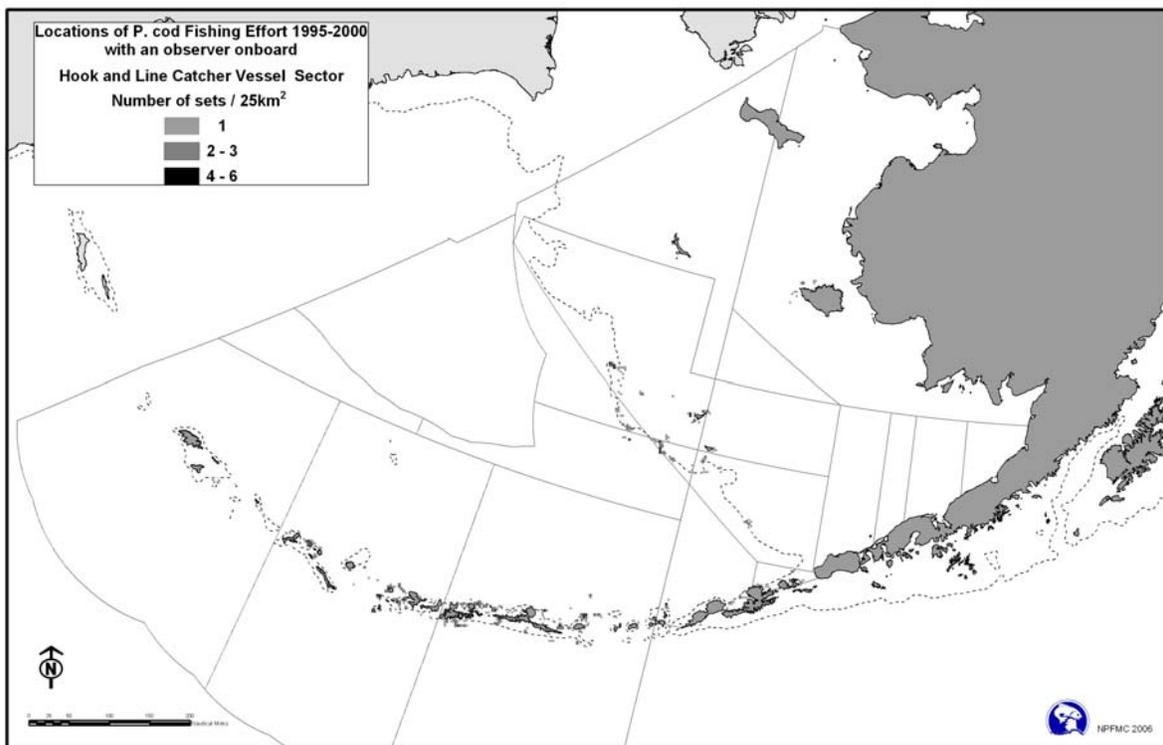
**Figure 3-3** Location of hook-and-line catcher processor sector Pacific cod catch, 1995–2000



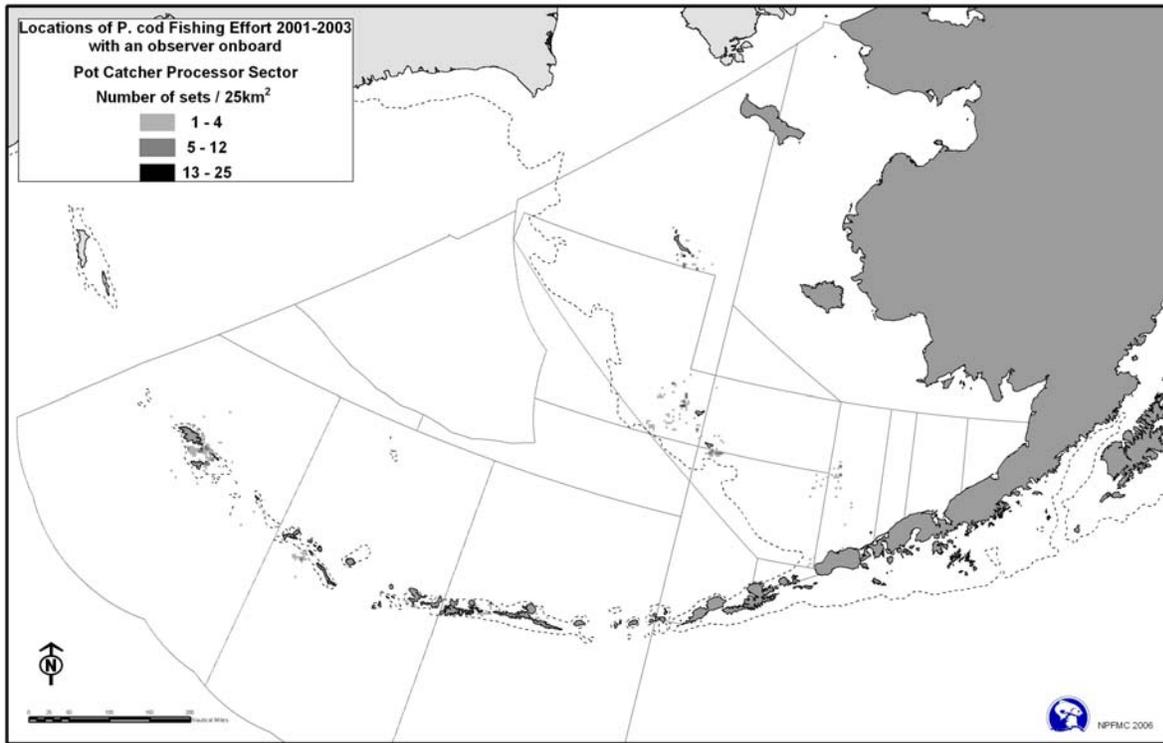
**Figure 3-4** Location of hook-and-line catcher vessel sector Pacific cod catch, 2001–2003



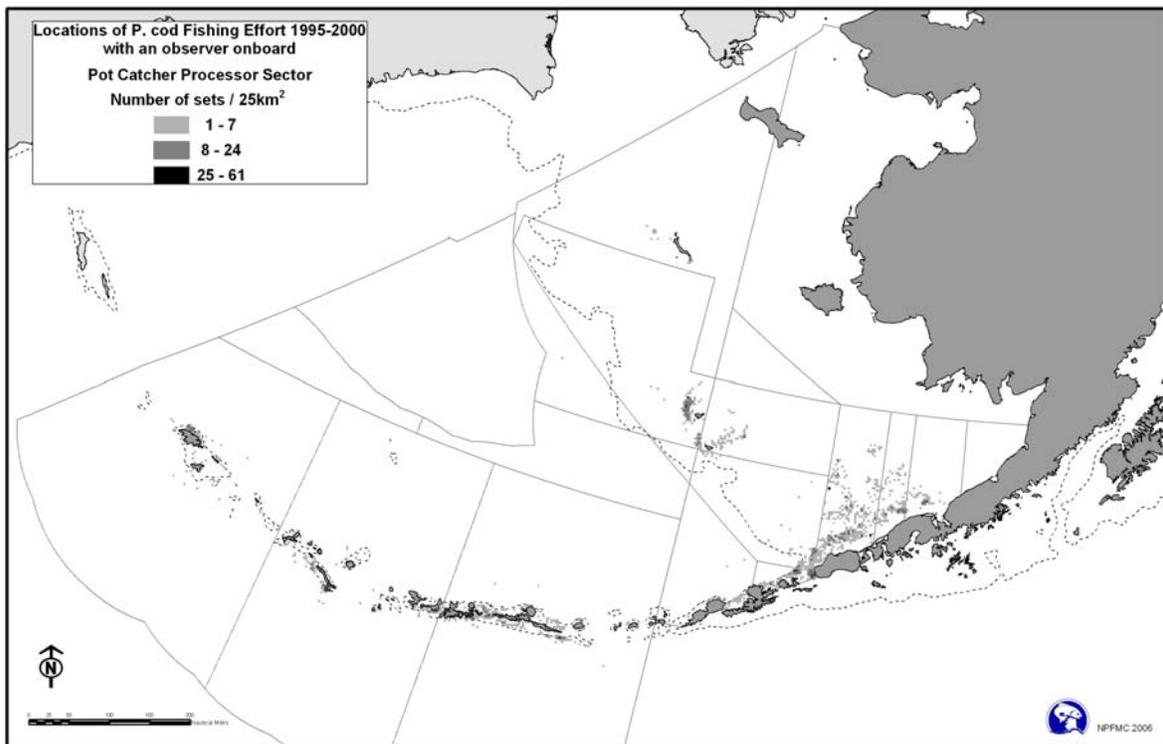
**Figure 3-5** Location of hook-and-line catcher vessel sector Pacific cod catch, 1995–2000



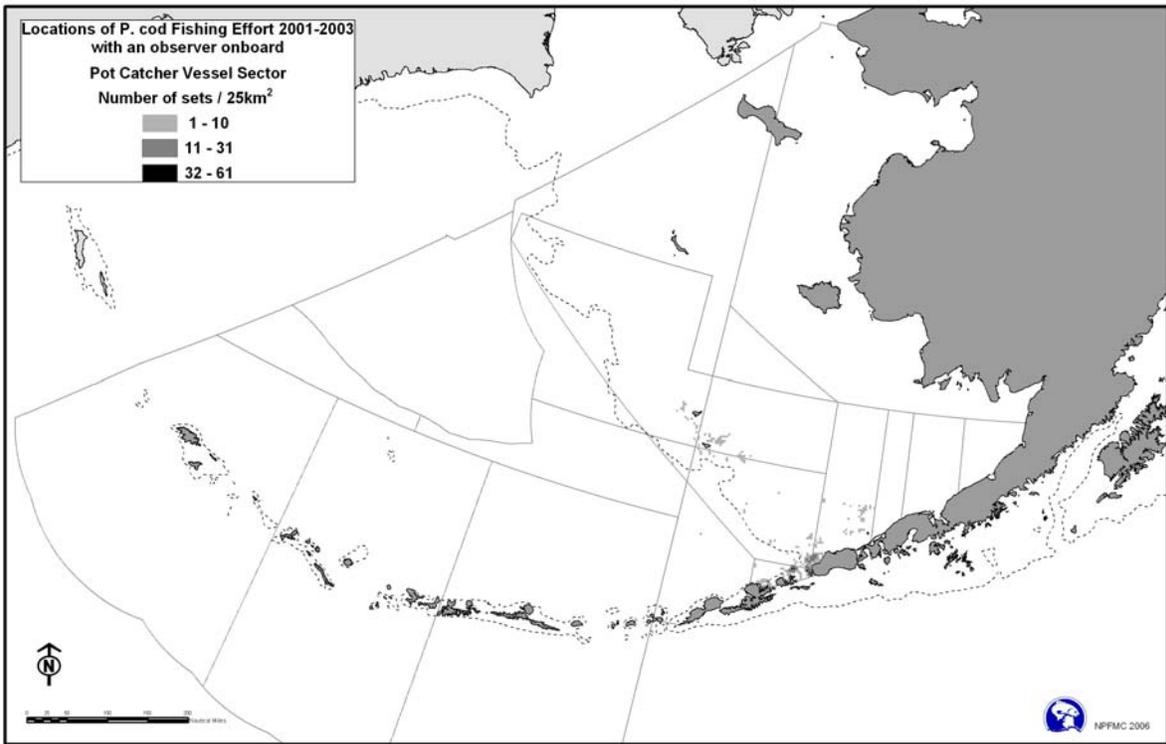
**Figure 3-6** Location of pot catcher processor sector Pacific cod catch, 2001–2003



**Figure 3-7** Location of pot catcher processor sector Pacific cod catch, 1995–2000



**Figure 3-8 Location of pot catcher vessel sector Pacific cod catch, 2001–2003**



**Figure 3-9 Location of pot catcher vessel sector Pacific cod catch, 1995–2000**

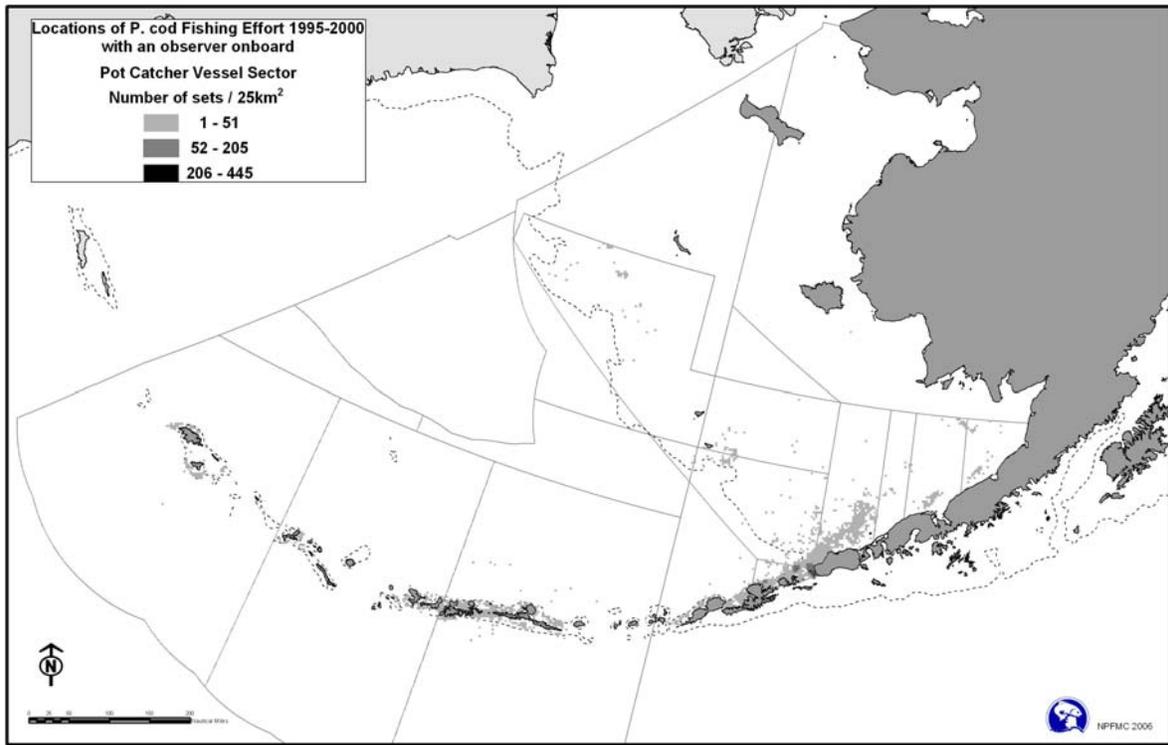


Figure 3-10 Location of trawl catcher processor sector Pacific cod catch, 2001–2003

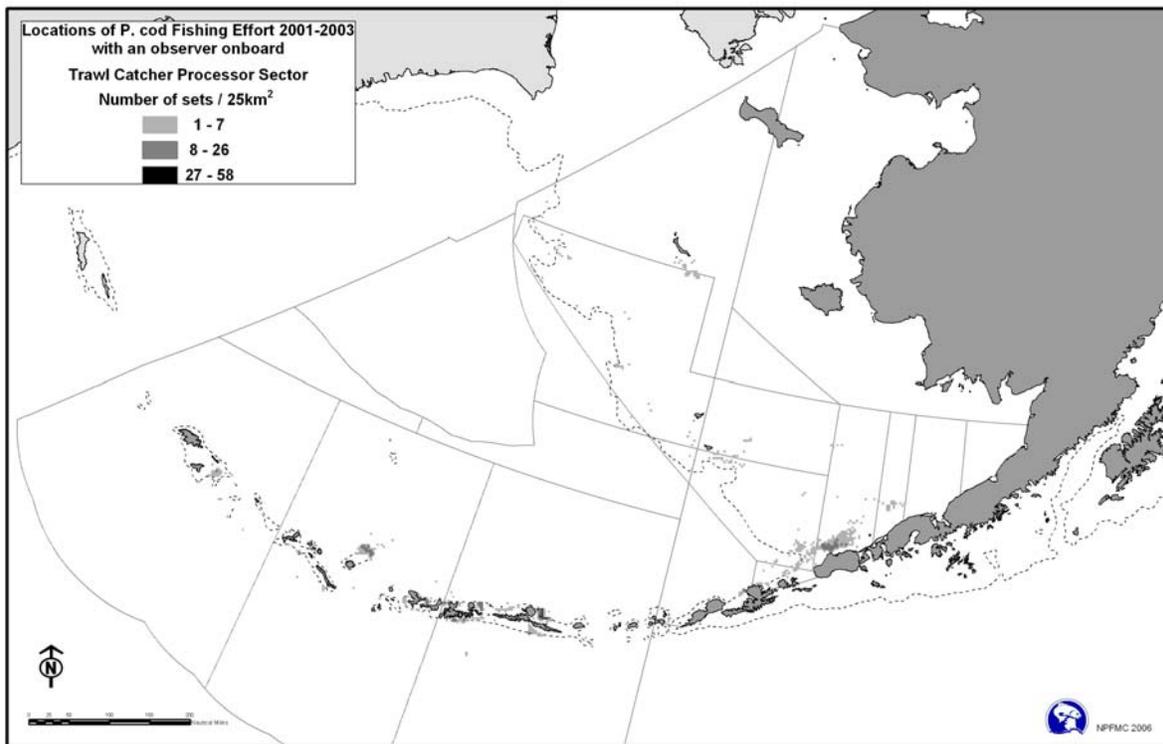
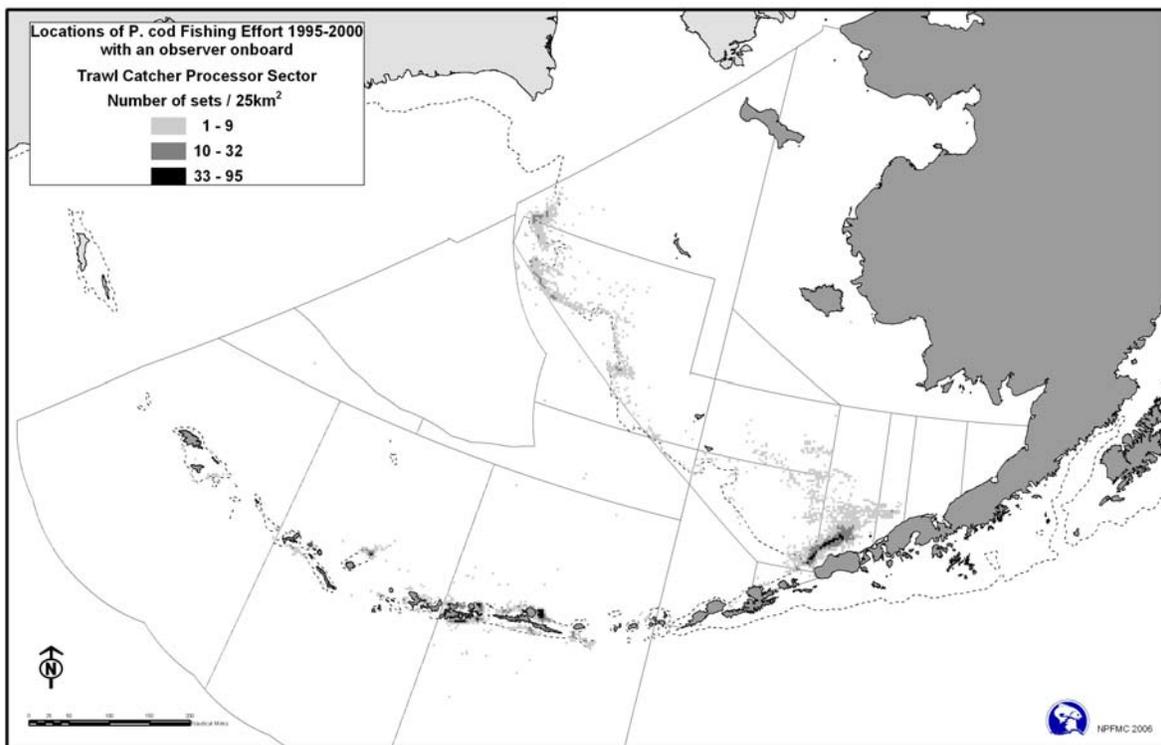
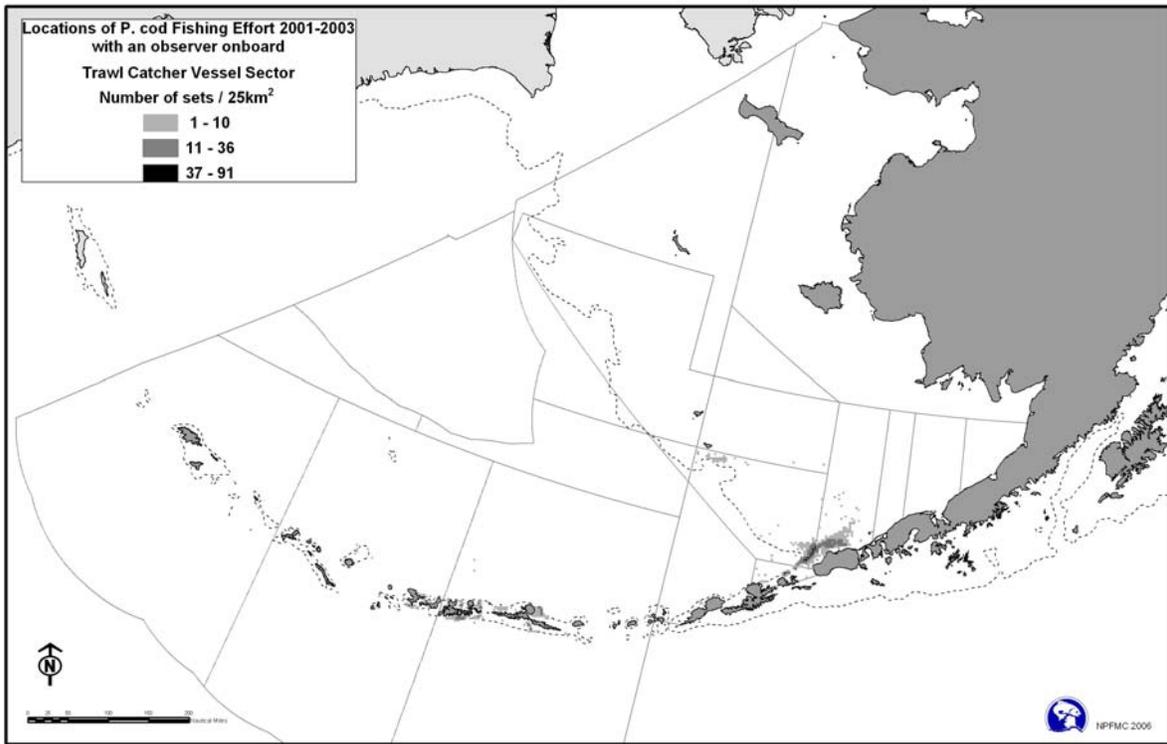


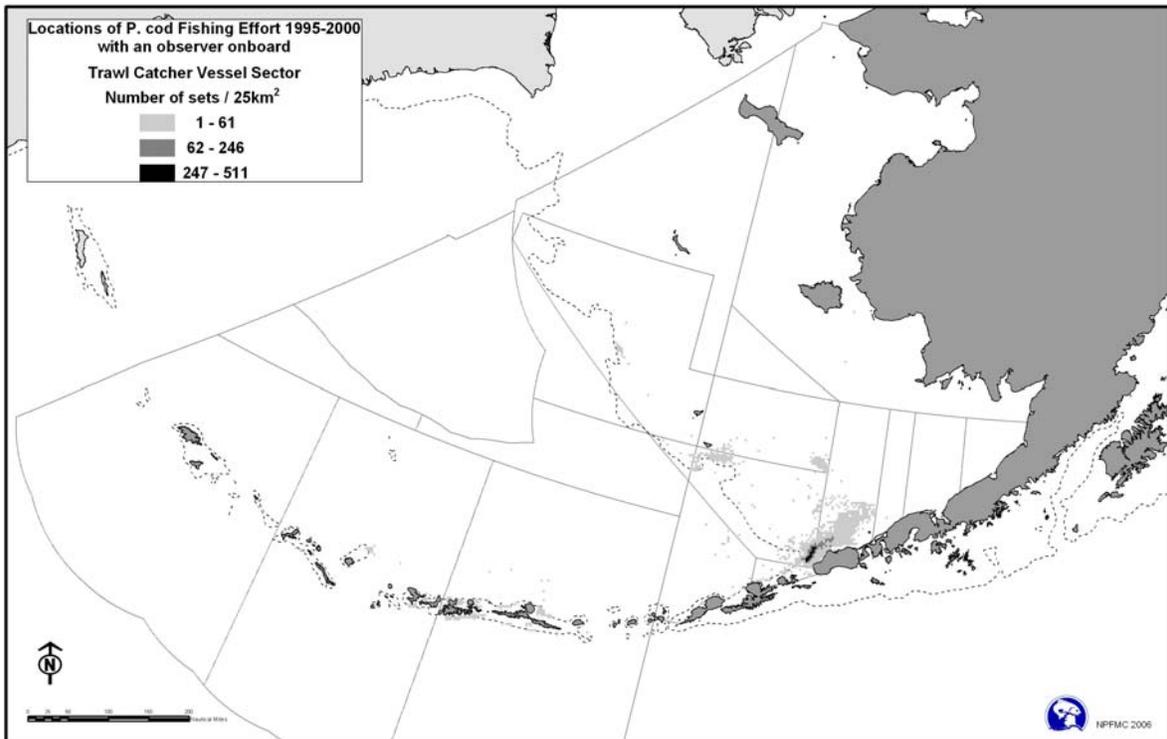
Figure 3-11 Location of trawl catcher processor sector Pacific cod catch, 1995–2000



**Figure 3-12 Location of trawl catcher vessel sector Pacific cod catch, 2001–2003**



**Figure 3-13 Location of trawl catcher vessel sector Pacific cod catch, 1995–2000**



### 3.3.1 History of the Pacific cod sector allocations

Background information on the history of the BSAI Pacific cod sector allocations is provided in Section 1.1.1 and summarized here. Beginning in 1994, **BSAI Amendment 24** allocated the total allowable catch (TAC)<sup>38</sup> for BSAI Pacific cod to the various gear sectors as follows: 44% fixed gear (hook-and-line and pot); 54% trawl gear; and 2% jig gear. In 1995, the Council initiated **BSAI Amendment 46**, to extend the allocations authorized by Amendment 24 beyond 1996. Under Amendment 46, the general BSAI Pacific cod allocations were modified as follows: 51% fixed gear; 47% trawl gear (50% trawl catcher vessels/50% trawl catcher processors); and 2% jig gear.

Vessels began fishing in Federal waters off Alaska under the License Limitation Program (LLP) on January 1, 2000. Since the LLP was approved, changes in the fixed gear fleets prompted industry to petition the Council to further allocate cod in the BSAI among the various sectors of the fixed gear fleets. **Amendment 64**, approved by the Council in October 1999 and implemented September 1, 2000, further apportioned the 51% of the BSAI Pacific cod ITAC allocated to fixed (hook-and-line and pot) gear as follows: 80% hook-and-line catcher processors; 0.3% hook-and-line catcher vessels; 18.3% pot vessels (CP and CV); and 1.4% hook-and-line and pot vessels <60' LOA<sup>39</sup>. The percentage allocations selected closely represent the harvests in this fishery during 1995–1998, with an additional allocation for catcher vessels <60' LOA in order to allow for growth in the small boat sector.

Further changes to the BSAI cod fishery occurred in April 2000, when the Council approved BSAI FMP **Amendment 67**. Amendment 67 requires that fixed gear vessels participating in the BSAI Pacific cod fishery must qualify for a Pacific cod endorsement, which would be part of the participant's LLP license. In April 2000, the Council defined qualification criteria for hook-and-line catcher processors, hook-and-line catcher vessels  $\geq 60'$ , pot catcher processors, and pot catcher vessels  $\geq 60'$ . Eligibility for a cod endorsement is based on past participation in the BSAI fixed gear fisheries during specific combinations of the years 1995-1999. Four different endorsements are available, depending on the gear used to harvest cod (hook-and-line or pot) and whether or not the cod was processed onboard the harvesting vessel (catcher vessel or catcher processor). Amendment 67 exempts catcher vessels <60' from the requirement to have a cod endorsement to participate in the BSAI fixed gear cod fisheries. Amendment 67 effectively granted exclusive access to longtime participants in the BSAI fixed gear cod fishery and, thus, reduced the number of allowable participants.

Amendment 67 was approved by the Secretary on November 14, 2001, and became effective January 1, 2003. Until the NMFS appeal process is complete regarding both LLP licenses and endorsements, including the cod endorsement, the number of  $\geq 60'$  vessels that qualify to fish BSAI Pacific cod with non-trawl gear is not final. A review of the current Restricted Access Management (RAM) Division database indicates that, as of April 2006, 114 Pacific cod endorsements were issued for 109 individual  $\geq 60'$  non-trawl vessel licenses in the BSAI (6 vessel licenses claim or have multiple cod endorsements).<sup>40</sup>

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<sup>38</sup>Until 1998, each non-CDQ sector received a percentage of the total allowable catch (TAC). The CDQ Program allocation of BSAI Pacific cod was first effective in 1998, and it was established as a portion of the overall TAC. Unless otherwise specified, the "BSAI Pacific cod ITAC" referenced throughout this document means the amount of the TAC that is distributed to various gear sectors less the CDQ reserve. It is also referenced as the 'non-CDQ' portion of the TAC.

<sup>39</sup>The hook-and-line and pot CV <60' sectors were allowed to fish off of the general hook-and-line CV allocation and general pot CV allocation when these fisheries were open, respectively. When these fisheries were closed, the <60' sector harvest accrued toward the <60' hook-and-line/pot CV allocation of 1.4%.

<sup>40</sup>Vessels that qualified for a Pacific cod endorsement using both hook-and-line and pot gear will receive both endorsements on their license. However, one license cannot hold more than one endorsement for the same gear type (i.e., the same license cannot hold an endorsement for both a hook-and-line CP and a hook-and-line CV.) The vessel receives the 'CP' gear endorsement if it qualifies for both operating modes.

**Table 3-5 Number of BSAI Pacific cod endorsements issued for the ≥60' fixed gear sectors**

<b>Endorsement</b>	<b><u>H&amp;L CP</u></b>	<b><u>H&amp;L CV</u></b>	<b><u>Pot CP</u></b>	<b><u>Pot CV</u></b>	<b><u>Total*</u></b>
Interim	5	0	2	4	11
Transferable	39	9	6	49	103
Total	44	9	8	53	114

\*Note that because more than one endorsement can be on a single license, the total number of endorsements does not denote the total number of licenses. In sum, there are 11 endorsements issued on 10 interim licenses; and 103 endorsements issued on 99 transferable licenses, for a total of 114 endorsements issued on 109 licenses. Data as of April 2006.

Non-transferable (interim) licenses are issued in the case of an applicant that has made claims that differ from the “NMFS Official LLP Record.” This status may be due to Pacific cod endorsement claims or to claims related to any other license endorsements or designations. Of the 5 interim licenses with hook-and-line CP endorsements, 4 are undergoing appeal at least in part due to Pacific cod endorsement claims, although only two would have no cod endorsement for any gear type if the appeal was lost. Of the 2 interim licenses with a pot CP endorsement, the appeal is based on the pot CP claim, but the licenses already have a hook-and-line CP endorsement. Of the 4 interim licenses with pot CV endorsements, 2 are under appeal in part due to the pot CV cod endorsement. Because six vessels claim or have multiple cod endorsements, there are currently 114 endorsements issued on 109 licenses.<sup>41</sup> There are 10 total interim licenses and 99 total transferable licenses.

**Table 3-6 Amendment 67 BSAI Pacific cod endorsement criteria for the ≥60' fixed gear sectors**

Required catch history to earn a Pacific cod endorsement under Amendment 67 is defined as follows:	
I.	Hook-and-line catcher processors must have made at least 270 mt of cod landings in the directed (target) commercial BSAI Pacific cod fishery (excluding discards) in any one of the years 1996, 1997, 1998, or 1999.
II.	Hook-and-line catcher vessels ≥60' must have made at least 7.5 mt of cod landings in the directed (target) commercial BSAI Pacific cod fishery (excluding discards) in any one year 1995, 1996, 1997, 1998, or 1999.
III.	Pot catcher processors must have made at least 300,000 lbs of cod landings in the directed (target) commercial BSAI Pacific cod fishery (excluding discards) in each of any two years 1995, 1996, 1997, or 1998.
IV.	Pot catcher vessels ≥60' must have made over 100,000 lbs of cod landings in the directed (target) commercial BSAI Pacific cod fishery (excluding discards) in each of any two years 1995, 1996, 1997, 1998, or 1999.
V.	Jig landings of Pacific cod count toward the qualification requirements for pot catcher vessels and hook-and-line catcher vessels.
*Fixed gear vessels <60' LOA are exempt from the Pacific cod endorsement requirement.	

Note that starting in mid-2000, <60' fixed gear vessels received a separate allocation of 1.4% of the fixed gear BSAI Pacific cod TAC. The Council did not include <60' fixed gear vessels in the Pacific cod endorsement requirements. In considering the relatively small number of participating vessels and the historical effort of the <60' sector, the Council determined that limiting the <60' class was both unnecessary and detrimental to the small boat fleet. Therefore, a <60' non-trawl vessel must only hold a

<sup>41</sup>The 109 licenses are currently designated for 104 vessels (RAM database, 10/18/05). Two hook-and-line catcher processors hold more than one license, and three license holders (one with a hook-and-line CV cod endorsement and two with hook-and-line CP cod endorsements) had not designated a vessel at the time of the writing of this document.

general non-trawl BSAI groundfish LLP license, in order to target BSAI Pacific cod with hook-and-line or pot gear in Federal waters. There are currently 116 licenses issued to hook-and-line/pot vessels <60', although significantly fewer vessels actually participate in the directed BSAI Pacific cod fishery. Detailed information on the number of participants in the non-trawl and trawl sectors, as well as the LLP and/or eligibility requirements necessary to participate in each sector, is provided in Section 3.3.4.

**Amendment 77** represented the new plan amendment to continue or modify the fixed gear apportionments beyond 2003. Amendment 77 was initiated to respond to concerns that, absent a gear split, there is no mechanism to prevent one sector from increasing its effort in the fishery and eroding another sector's relative historical share. Amendment 77 proposed to continue the Pacific cod allocations among the fixed gear sectors, with an additional alternative that would create separate allocations for the pot catcher processor and pot catcher vessel sectors. In June 2003, under Amendment 77, the Council approved continuing the same overall fixed gear allocations under which the (non-CDQ) fixed gear Pacific cod fisheries had been operating since 2000, with an additional split between the pot sectors. The allocations approved under Amendment 77 and implemented January 1, 2004, are as follows: 80% hook-and-line catcher processors; 0.3% hook-and-line catcher vessels; 15.0% pot catcher vessels; 3.3% pot catcher processors; and 1.4% hook-and-line and pot vessels <60' LOA<sup>42</sup>

BSAI Amendment 77, with the exception of the alternative to split the pot share of the BSAI Pacific cod TAC, did not include any other fundamentally different alternatives than were considered under the original Amendment 64. While the availability of more recent data spurred the inclusion of new options for determining the split among the fixed gear sectors, the basic alternatives remained the same. This amendment did not affect the jig or trawl apportionment of BSAI Pacific cod, nor did it affect the size of the overall BSAI Pacific cod TAC.

Note that all of the recent BSAI Pacific cod allocation amendments also provide direction on how to reallocate quota that is projected to remain unused by a particular sector at the end of the year (see Table 3-2). Since the BSAI Pacific cod allocations have been in effect, NMFS has reallocated quota each year from the trawl and jig sectors to the pot and hook-and-line sectors. Reallocations between gear types (e.g., trawl CP to trawl CV, or hook-and-line CV to hook-and-line CP) have occurred less frequently and in lower amounts. In terms of metric tons, the majority of reallocations have been from the trawl sectors (CVs and CPs) since the gear specific allocations were established in 1994.

With the exception of the jig sector, any unused *seasonal apportionment* to a particular sector is reallocated to the next seasonal allowance for that sector. As a result, reallocations from one gear sector to another occur in the last season. Typically, reallocations from trawl to the fixed gear sectors occur in October and November, and always during the second half of the year (after June 10). Detail on the historical level of and reason for reallocations is provided in Section 3.3.5.7.

In sum, the existing overall allocations to the (non-CDQ) trawl, fixed, and jig gear sectors have been in place for nine years (since 1997), and the further split among the fixed gear sectors has been in place for over five years (since September 2000). The separate allocations between the pot catcher processor and pot catcher vessel sectors have been in place for two years (since 2004). A summary of these past allocation amendments and their primary provisions is provided in Table 1-2 in Chapter 1.

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<sup>42</sup>This sector can currently fish off of the general hook-and-line CV allocation and general pot CV allocation when these fisheries are open, respectively. When these fisheries are closed, the <60' sector harvest accrues toward the <60' hook-and-line/pot CV allocation of 1.4%.

### ***BSAI Pacific cod allocation to the CDQ Program***

The western Alaska CDQ Program was created by the Council in 1992, as part of the inshore/offshore allocations of pollock in the BSAI. Federal regulations (50 CFR 679.1(e)) state the goal of the program as follows:

*The goals and purpose of the CDQ Program are to allocate CDQ to eligible western Alaska communities to provide the means for starting or supporting commercial fisheries business activities that will result in an ongoing, regionally-based, fisheries-related economy.*

The original CDQ Program regulations were effective November 18, 1992, and have been amended numerous times since then. In 1996, amendments to the Magnuson-Stevens Act institutionalized the program. Originally, the CDQ Program was only allocated an annual pollock reserve. Since 1992, the CDQ Program has expanded several times and now includes allocations of Pacific halibut, sablefish, crab, pollock, all of the remaining groundfish species, and prohibited species. The percentage of the CDQ reserve allocated to the CDQ Program for each species is authorized in various statutes and regulations. Currently, the pollock CDQ allocation is 10% under the American Fisheries Act. The percentages of other CDQ reserves are as follows: 10% of crab species (with the exception of Norton Sound red king crab at 7.5%); 20% to 100% of halibut; 20% of fixed gear sablefish; and 7.5% of all other groundfish and prohibited species. Thus, the current annual CDQ Program allocation of BSAI Pacific cod is 7.5%.

On July 11, 2006, the President signed the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) into law, after the Council selected a final preferred alternative for Amendment 85. Among other actions, the MSA amendments include a change to make the CDQ Program Pacific cod allocation a directed fishing allocation of 10% upon the establishment of sector allocations (Section 305(i)(1)(B)(ii)(1)). As Amendment 85 establishes sector allocations of BSAI Pacific cod, the MSA thus requires that, at the same time sector allocations are established, the allocation of BSAI Pacific cod to the CDQ Program must increase to 10% as a directed fishing allocation. In brief, this requirements means that 10% of the BSAI Pacific cod TAC must be provided to the CDQ Program for directed fishing by vessels fishing on behalf of the CDQ groups, and an amount of Pacific cod in addition to the 10% must be provided to the CDQ Program to provide for incidental catch and bycatch of Pacific cod in other groundfish CDQ fisheries. The regulatory and FMP amendments necessary to implement this change are thus included in this amendment package, in order for the Council's proposal for Amendment 85 to be consistent with the MSA. **Appendix H** provides NOAA GC's legal opinion on the changes resulting from this Act that are proposed to be implemented in Amendment 85. Further FMP and regulatory amendments resulting from the Act are undergoing analysis and legal interpretation by NOAA GC.

### **3.3.2 Aleutian Islands Pacific Cod Fishery in State Waters**

At its December 2005 meeting, the Board generated a proposal (BOF proposal 399) to create a new regulation establishing a State waters Pacific cod fishery in the Aleutian Islands, west of 170° W longitude. Until then, the Pacific cod fishery in State waters had been managed as a parallel fishery to the Federal fishery. As such, the State managed its cod fishery in direct consort with Federal management regulations. The result has been that all harvests (inside or outside State waters) accrue against the Federal BSAI Pacific cod TAC, comport with Federal sector allocations, adhere to Federal season openings and closures, abide by established gear restrictions, etc.

Upon notice of the State's proposal, the Council requested a meeting with the Board. The Council and Board met jointly to discuss the proposal on February 3 in Anchorage, and the Board took action on this proposal during its February 23–25, 2006, meeting in Ketchikan.

The State waters Pacific cod fishery in the Aleutian Islands would start on or after March 15, and only after the Federal Pacific cod trawl CV A season has closed. The Board established this fishery through an emergency regulation, so that the fishery could begin in March 2006. The primary elements of the fishery include:

1. The guideline harvest level (GHL) for the State waters fishery will be an amount calculated as 3% of the Federal BSAI Pacific cod ABC. The future calculation (the “source” of the GHL) will be the Council’s decision should the BSAI ABC be split into separate AI and BS ABCs in a future TAC specifications process. The State water fishery, however, would remain the equivalent of 3% of the combined BS and AI ABC.
2. The fishery will only be authorized for 2006 and 2007. The fishery may occur only from March 15 through December 31 each year, or until the GHL is taken.
3. Legal fishing gear will be pot, jig, hand troll, non-pelagic trawl, and longline. Non-pelagic trawl and longline gear may not be used during May 1 through September 15, unless these vessels are operating in “the <60’ vessel size limitation areas” near Adak Island. (In Sitkin Sound, near Adak Island, the vessel size limit is in effect year-round for all gear types.)
4. The fishery will start only on or after March 15, and also only after the Federal Pacific cod trawl catcher vessel A season is closed.
5. A maximum of 70% of the GHL may be harvested prior to June 10. Any unharvested GHL during the first season can be rolled into the second season such that not more than 70% of the total annual GHL can be harvested in the first season.
6. During the year, the Commissioner of ADF&G may determine that a portion of the GHL may be left unharvested. The Commissioner will notify NMFS and the Council of that amount so that it may be reallocated to the Federal fisheries that are still open at that time.
7. The fishery requires registration with ADF&G of the type of gear to be used.
8. The daily trip limit is 150,000 lbs of Pacific cod; there is also a limit of up to 300,000 lbs of unprocessed Pacific cod onboard the vessel. A vessel may not have more processed fish onboard than the round weight equivalent of the fish reported on ADF&G fishtickets during the AI State waters Pacific cod fishery. Participants must notify ADF&G daily of the amount harvested and the total amount on board.
9. All Pacific cod harvested must be retained. If a participant harvests an amount in excess of the daily trip limit, that excess amount of product must be forfeited to the State. No penalty for overages will be assigned to a participant who immediately reports the overage.
10. The Commissioner of ADF&G may impose bycatch limitations or retention requirements.

The State regulations authorizing this fishery allow the fishery to begin on or after March 15, 2006, upon closure of the Federal BSAI trawl CV cod A season. NMFS closed the directed trawl CV Pacific cod fishery in the BSAI on March 8, 2006, in order to avoid exceeding the A season allocation, thus, the State water AI fishery began at noon on March 15. As the 2006 TAC had already been specified and sectors were fishing under the existing allocations, NMFS effected an inseason adjustment under Federal regulations (50 CFR 679.25) to re-specify the TAC on March 14, to account for the 3% reduction for the

GHL. This necessitated re-calculating the sector allocations and seasonal apportionments that are currently published in Federal regulations.<sup>43</sup>

This action also necessarily affects the 2006 BSAI Pacific cod CDQ reserve, as that reserve is calculated as 7.5% of the BSAI Pacific cod TAC. Thus, all sectors realized a proportional reduction of 3% of their current Federal allocations as a result of this action. Three percent of the 2006 ABC of 194,000 mt represents about 5,820 mt (or 12,830,772 lbs). Note that the State fishery is limited to 70% of the total GHL in the first half of the year (prior to June 10) and any unharvested quota from the first season is rolled over to the second season (on or after June 10). Under a 5,820 mt GHL, this equates to 4,074 mt in the first season and 1,746 mt in the second season. This provision mirrors the overall Pacific cod seasonal apportionments in place under the current Steller sea lion mitigation measures.

As stated above, the overall effect of a State waters Pacific cod fishery in the Aleutian Islands west of 170° W longitude is that all sectors, including the CDQ fishery, will realize a proportional reduction of 3% of their current Federal allocations. Because the same gear types are allowed to fish the GHL as are allowed in the Federal fishery, recognizing that trawl and hook-and-line are excluded from the AI State water fishery during May 1 – September 15, it is not clear to what extent each sector will participate in and benefit from the State water fishery in the Aleutians. The first season of the fishery opened on March 15 and ended on March 24, 2006. Twenty-six vessels registered and participated in the fishery, including one large trawl CP, five hook-and-line CPs, one pot CV  $\geq 60'$ , sixteen trawl CVs  $\geq 60'$ , and three trawl CVs  $< 60'$ . In addition, two floating processors and two shorebased processors (located in Dutch Harbor and Adak) participated. About 94% of the first season GHL of 8.98 million pounds was harvested.

The overall economic effect of this fishery on the sectors is uncertain at present. However, it is anticipated that while the intent is to allow additional harvests by the identified sectors in State waters west of 170° W longitude, the overall effect will be a redistribution of cod harvests and associated revenues from vessels of all gear types that fish in Federal waters in the AI or in the Bering Sea (within Federal or State waters) and from ports east of 170° W. Thus, there will likely be a disproportionate negative effect on those sectors that do not desire to fish in State waters in the Aleutian Islands, compared to those sectors that have harvested and want to continue to harvest Pacific cod in the Aleutians within State waters. In general, the fixed gear and jig gear sectors have reduced the AI share of their total BSAI Pacific cod harvest in recent years, while the trawl sectors have generally increased the AI share of their total BSAI Pacific cod harvest (see Appendix F for details on AI harvest by sector). In the first season of the fishery, the majority of the GHL was harvested by trawl catcher vessels.

Note also that the State AI cod fishery is seasonally apportioned such that it is consistent with the temporal dispersion measures in place to protect Steller sea lions in the overall Federal BSAI cod fishery: a maximum of 70% of the GHL may be harvested prior to June 10. Any unharvested GHL during the first season can be rolled into the second season such that not more than 70% of the total annual GHL can be harvested in the first season. Thus, if both the overall Federal BSAI Pacific cod fishery and the State AI cod fishery stay within the current allowable 70% – 30% seasonal split, these Steller sea lion mitigation measures would not be compromised.

The press release announcing the AI State Pacific cod fishery states that bycatch limits that apply in the parallel fishery will apply in the State waters fishery (ADF&G news release, 3/1/06). Halibut mortality from a State waters groundfish fishery cannot be deducted from a Federal fishery category, thus, the PSC allowances for the Federal Pacific cod fisheries will not be modified as a result of this action. The State

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<sup>43</sup>See Table 5 (2006 and 2007 Gear Shares and Seasonal Allowances of the BSAI Pacific cod TAC) in 71 FR 10870, March 3, 2006.

could choose to enforce Federal closures that result from reaching PSC limits in State waters, but that decision is at the Commissioner's discretion. Note that both trawl and longline gear are prohibited from participating in the State water AI fishery from May 1 – September 15; these are the only gear sectors that are subject to PSC bycatch allowances in the Federal Pacific cod fishery. Pot and jig gear are exempt from PSC limits due to historically very low bycatch rates. However, the 2006 A season GHL was harvested in ten days, primarily by trawl vessels. It is uncertain how long it will take participating vessels to harvest the B season GHL of a little over 4 million pounds, which started June 10. The B season closed September 1, with less than 10% of the quota harvested, but the State may re-open this fishery later in the year (Bowers, pers. comm.). The B season is limited to jig and pot gear until September 15, after which hook-and-line and trawl gear are allowed.

Note that observer coverage is not required under a State water fishery. However, it is assumed that this fishery will operate similarly to the Gulf of Alaska State Pacific cod fishery, in that if the vessel in the State fishery has a Federal Fisheries Permit (FFP), then any time the vessel operates in the State fishery it is subject to observer coverage requirements, and any time an observer is onboard in the State fishery can be counted toward the Federal observer coverage requirements. One presumes that this is based on the premise that any time a vessel has an FFP, it is authorized to fish in the EEZ when the fishery is open. When the Federal GOA Pacific cod fishery closes, generally, the majority of the fleet surrenders the FFP in order to relieve itself of observer coverage requirements. A few vessels, however, choose to continue to keep their FFP and carry observers in the State water cod fishery, in order to satisfy their observer coverage requirements. In the fishery's first season, six vessels voluntarily carried a Federal observer.

Finally, note that the Board's action to establish the State water AI Pacific cod fishery was limited to 2006 and 2007.<sup>44</sup> Thus, while the overall effect on the Federal BSAI Pacific cod fishery is that the ABC would be reduced by 3% prior to the TAC and sector allocations (including CDQ) being established, this action may be limited to two years. In that case, the State water AI Pacific cod fishery would not overlap with the action being considered under Amendment 85. This amendment package continues to use the 2006 TAC of 194,000 mt for illustrative purposes throughout the analysis.

### **3.3.3 Description of the harvesting and at-sea processing gear sectors**

This section describes the ten harvesting and processing sectors in the non-CDQ BSAI Pacific cod fisheries that are proposed to receive sector allocations under this amendment. Information in this section is based mainly on information provided in the Alaska Groundfish Fisheries Final Programmatic Supplemental Environmental Impact Statement (NMFS, 2004a). Additional detail regarding specific components of the sectors used in this analysis can be found in Sector and Regional Profiles of the North Pacific Groundfish Fisheries—2001 (Northern Economics, Inc. and EDAW, Inc., 2001). Note that the CDQ sector is described separately in Section 3.3.6.

#### **3.3.3.1 Catcher Vessels**

Six catcher vessel sectors are described in the following subsections. The type of fishing gear used and vessel length are primarily used to define the sectors, although the AFA trawl catcher vessel sector is also defined by statute. With the exception of the AFA sector, it is important to note that these sectors are not necessarily exclusive—vessels may have made landings with more than one gear type and may be eligible to participate in more than one sector. The six catcher vessel sectors are as follows:

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<sup>44</sup>The Board is scheduled to review a proposal to extend this fishery beyond 2007 at its October 2006 meeting.

AFA trawl catcher vessel	Pot catcher vessel $\geq 60'$
Non-AFA trawl catcher vessel	Hook-and-line/pot catcher vessel $< 60'$
Hook-and-line catcher vessel $\geq 60'$	Jig vessels
<i>AFA trawl catcher vessel sector</i>	

Description of the Sector. Includes all trawl catcher vessels that are issued an AFA permit making them eligible to participate in the directed BSAI pollock fishery. In 2005, 111 vessels were issued AFA trawl catcher vessel permits.

Participation in Groundfish Fisheries. The majority of these vessels rely almost exclusively on pollock harvested in the Bering Sea. Pollock is the most important fishery for the sector, accounting for nearly all of the retained groundfish landings. Pacific cod has been the second most important species in terms of volume. Some of these vessels also participate in the summer Pacific whiting fishery off the coasts of Oregon and Washington. In addition, some vessels in this category may tender salmon or undergo maintenance in June and July, if they are not engaged in the whiting fishery. The bimodal distribution of groundfish activity of most of the vessels in this sector is a function of the two primary regulatory seasons for pollock—the roe season in the winter and spring and the non-roe season in the summer and fall. Because of the sector’s reliance on the pollock resource, the Bering Sea is the most important fishing area. While nearly all of the groundfish harvested by the larger vessels is delivered to shoreside processors, many of the smaller vessels deliver their catch to motherships, and occasionally to catcher processors. The number of vessels in this sector has declined as a result of the removal of less efficient vessels.

The AFA trawl CV sector is defined under the AFA, and thus the number of eligible participants has been determined and is fairly constant. These vessels currently operate in a cooperative system established through the AFA for BSAI pollock. The implementing regulations for the AFA established sideboards on the participation by AFA-qualified vessels in the other BSAI groundfish fisheries, including Pacific cod. Of the 111 AFA CVs, 9 are catcher vessels that deliver to shoreside plants and are exempt from the sideboards. Nineteen additional catcher vessels have a mothership endorsement and are exempt from the sideboards after March 1. The harvest of Pacific cod is also managed through an inter-cooperative agreement. This sector has shared a BSAI Pacific cod allocation with the non-AFA trawl catcher vessels sector since 1997.

*Non-AFA trawl catcher vessel sector*

Description of the Sector. Includes trawl catcher vessels that are not AFA-eligible to participate in the directed BSAI pollock fishery. Vessels in this sector are typically between 60’ and 125’, but occasionally vessels  $< 60'$  or  $> 125'$  participate in this sector. Vessels in this sector need a trawl LLP (CV operating type) to participate in the Federal fisheries.

Participation in Groundfish Fisheries. The annual cycle of operations of vessels in this sector differs from that of AFA trawl catcher vessels. Differences include the reliance of the non-AFA fleet on the BSAI Pacific cod fishery, the GOA groundfish fishery, and the participation of several vessels in this sector in the halibut IFQ fishery using longline gear. In addition, the smaller vessels in this sector are allowed to participate in the State of Alaska commercial seine fisheries for salmon. Alaska's limited entry program for salmon fisheries established a 58-foot length limit for seine vessels entering these fisheries after 1976. Many trawl catcher vessels less than 60 feet in length were built to be salmon purse seine vessels, while others were designed to function as both trawlers and seiners. This sector has shared a BSAI Pacific cod allocation with the AFA trawl catcher vessel sector since 1997.

### *Pot catcher vessel sector ≥60' sector*

Description of the Sector. Includes all vessels ≥60' LOA operating as catcher vessels using pot gear. As of January 1, 2003, pot catcher vessels ≥60' must have a 'Pacific cod pot CV' endorsement on their LLP license to target BSAI Pacific cod with pot gear. As of early 2006, 55 licensed vessels have this endorsement. Of the 55 licenses, 49 are transferable; the remaining 6 are interim.

Participation in Groundfish Fisheries. The vast majority of vessels in this sector participate primarily in crab and Pacific cod, although some may also participate in the sablefish IFQ fishery. Several of these vessels also have substantial landings with hook-and-line gear. Between 1995 and 2000, participation first declined as *C. opilio* harvests increased, but participation increased sharply starting in 2001 as *C. opilio* levels declined. Pacific cod has been the most important groundfish species in terms of harvest volume, but sablefish accounts for a relatively larger share of ex-vessel value. From mid-2000 through 2003, this sector shared a BSAI Pacific cod allocation with the pot catcher processor sector. This sector has had a separate BSAI Pacific cod allocation since 2004, although <60' pot vessels can fish off this allocation when the directed fishery is open.

### *Hook-and-line catcher vessel ≥60' sector*

Description of the Sector. Includes all vessels ≥60' LOA operating as a catcher vessel using hook-and-line gear. Most of these vessels fish almost exclusively for sablefish in the IFQ fishery, but also harvest rockfish and Pacific cod. Beginning in 2003, hook-and-line catcher vessels ≥60' must have a 'Pacific cod hook-and-line CV' endorsement on their LLP license to target BSAI Pacific cod with hook-and-line gear. As of early 2006, 9 licensed vessels carry this endorsement. All 9 licenses are fully transferable.

Participation in Groundfish Fisheries. These are medium-sized vessels that target halibut and higher priced groundfish, such as sablefish and some rockfish species, mainly in the eastern and central GOA. The general decline in the number of vessels in this sector since 1994 may be the outcome of the IFQ program for the sablefish and halibut longline fishery. The activities of the sector have generally focused on sablefish and rockfish, although in some years Pacific cod has also been significant. This sector has had a BSAI Pacific cod allocation since mid-2000, although <60' hook-and-line vessels can fish off this allocation when that directed fishery is open.

### *Hook-and-line/pot catcher vessel <60' sector*

Description of the Sector. Includes all catcher vessels that are <60' LOA using pot or hook-and-line gear. Vessels in this sector need a non-trawl LLP (CV operating type) to participate in the Federal fisheries. As of early 2006, 116 non-trawl licenses were issued to <60' CVs with BS and/or AI area endorsements. Six of the 116 licenses are interim.

Participation in Groundfish Fisheries. These vessels focus on salmon, halibut, and higher priced groundfish, using a mix of gear types, mainly in the eastern and central GOA. Groundfish harvests decline significantly when these vessels switch to harvesting salmon and halibut. The observed significant decline in vessel numbers after 1994 may be a result of the implementation of the sablefish and halibut longline fishery IFQ program. High-value sablefish has been the most important groundfish species for this sector. Pacific cod has been the second most important species in terms of volume. This sector has had a separate BSAI Pacific cod allocation since mid-2000, although vessels in this sector can fish off the general pot catcher vessel and hook-and-line catcher vessel BSAI Pacific cod allocations by gear type, respectively, when those directed fisheries are open.

## *Jig sector*

Description of the Sector. Includes all vessels using jig gear. Vessels in this sector do not need an LLP in the BSAI if they are <60' LOA and are using no more than five jig machines, one line per machine, and 15 hooks per line. (Note that all vessels <32' LOA operating in the BSAI are exempt from LLP requirements.) While the jig sector is typically comprised only of catcher vessels, one jig vessel has operated as a CP in the BSAI Pacific cod fishery in some of the years under consideration. All harvest by jig vessels (CP or CV) is counted toward the current BSAI Pacific cod jig sector allocation; thus, this vessel's harvest is included in the jig sector harvest history provided in this amendment.

Participation in Groundfish Fisheries. Vessels using jig gear typically target Pacific cod and rockfish, but also catch halibut and sablefish. Groundfish catches are important to the vessel operators in this sector, but non-groundfish species such as salmon account for the majority of the total earnings for a large portion of the fleet. From 1995 through 2003, the number of vessels in this sector fluctuated between 10 and 42. The significant decline in vessel numbers after 1994 is assumed to be a result of the implementation of the sablefish and halibut longline fishery IFQ program. Between 1995 and 2003, the volume of groundfish retained by this sector averaged about 200 mt, annually. Landing volumes were significantly greater for rockfish and Pacific cod than for other species during the entire 1995-2003 period. This sector has received a BSAI Pacific cod allocation since 1994.

### **3.3.3.2 Catcher Processors**

Four catcher processor sectors are described in the following subsections. While the type of fishing gear used and vessel length are used to define the sectors, each sector is also defined by statute. With the exception of the AFA sector, it is important to note that these sectors are not necessarily exclusive—vessels may have made landings with more than one gear type and may be eligible to participate in more than one sector. The four catcher processor sectors are as follows:

AFA trawl catcher processor	Pot catcher processor
Non-AFA trawl catcher processor	Hook-and-line catcher processor

#### *AFA Trawl Catcher Processor Sector*

Description of the Sector. Includes 20 vessels listed by name in the AFA as eligible to harvest BSAI pollock in the directed fishery.<sup>45</sup> The Consolidated Appropriations Act of 2005 (Section 219(a)(1)) defines eligibility in the AFA trawl catcher processor sector as the owners of each catcher processor listed in paragraphs (1) through (20) of Section 208(e) of the AFA.

Participation in Groundfish Fisheries. These large factory trawlers have the processing equipment to produce surimi and/or fillets from pollock, Pacific cod, and other groundfish. These vessels also have room for equipment to produce fishmeal, minced product, and other product forms. The size of these vessels enables them to operate in the Bering Sea during poor weather. However, they now operate in a pollock cooperative under AFA, which allows them to modify operations in terms of when they fish and what they process, to account for changing weather, markets, and management restrictions. The number of catcher processors in this sector has decreased since 1995 as a result of a combination of excess

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<sup>45</sup>One additional trawl CP qualifies under 208(e)(21) of the AFA, and is limited to a small percentage of the AFA CP allocation of pollock, and is not sideboarded in other fisheries. However, only the 20 listed AFA CPs are considered part of this sector for purposes of this action. The additional trawl CP that qualifies under 208(e)(21) would be considered part of the non-AFA trawl CP sector for purposes of this action.

capacity, reduced quotas for the offshore sector, and the decommissioning of vessels under the AFA. Pollock is the primary species harvested by this sector, but Pacific cod are also targeted by one AFA trawl catcher processor and some have produced surimi from yellowfin sole. This sector is currently subject to annual sideboard limits in the non-pollock BSAI groundfish fisheries, including Pacific cod. This sector has shared a BSAI Pacific cod allocation with the non-AFA trawl catcher processor sector since 1997.

### *Non-AFA Trawl Catcher Processor Sector*

Description of the Sector. The Consolidated Appropriations Act of 2005 (Section 219(a)(1) defines eligibility in the non-AFA trawl catcher processor sector as the owner of each trawl catcher processor that (1) is not an AFA trawl catcher processor; (2) to whom a valid LLP license that is endorsed for BS or AI trawl catcher processor fishing activity has been issued; and (3) that the Secretary determines has harvested with trawl gear and processed not less than a total of 150 mt of non-pollock groundfish during the period January 1, 1997 through December 31, 2002. As of June 2006, it appears that 26 vessels are eligible to participate in this sector.

Participation in Groundfish Fisheries. These are large and medium-sized factory trawlers that primarily produce headed and gutted products from Pacific cod, flatfish (primarily yellowfin sole and rock sole), Atka mackerel, and rockfish caught in the BSAI and GOA fisheries. These vessels have not historically processed more than incidental amounts of fillets and have no capability to process surimi. Generally, they are limited to headed and gutted or kirimi product forms. These vessels do not often target pollock, because headed and gutted pollock periodically sells for less than the cost of production. The number vessels in this sector decreased from 33 in 1995, to 22 in 2003. This sector has shared a BSAI Pacific cod allocation with the AFA trawl catcher processor sector since 1997.

### *Pot Catcher Processor Sector*

Description of the Sector. Includes vessels operating as catcher processors using pot gear. As of January 1, 2003, pot catcher processors must have a ‘Pacific cod pot CP’ endorsement on their LLP license to target BSAI Pacific cod with pot gear and process it onboard. The Consolidated Appropriations Act of 2005 (Section 219(a)(1) defined eligibility in the pot catcher processor sector as the holder of an LLP license that is transferable, or becomes transferable, and that is endorsed for BS or AI catcher processor fishing activity, C/P, Pacific cod, and pot gear. As of early 2006, 8 licensed vessels carried this endorsement. Of the 8 licenses, 6 are transferable and 2 are interim.

Participation in Groundfish Fisheries. These are large and medium-sized vessels that focus on crab fisheries in the Bering Sea and produce headed and gutted products principally from Pacific cod harvested in the BSAI and GOA. Many utilize their cod catches as a source of high quality bait for their crab fishing activities. Acquiring quality bait on the commercial market can be a considerable expense for crabbers. Because of the focus on crab, operating patterns are much different than for other catcher processors. The number of vessels in this sector has varied depending on the success of these vessels in the crab fisheries during any given year. In recent years, relatively low crab harvests and historically high prices of Pacific cod have made the cod fisheries more attractive for this sector. Other species processed by this sector are harvested incidentally. This sector shared a BSAI Pacific cod allocation with the pot CV sector starting in September 2000; since 2004, this sector has received its own allocation.

### *Hook-and-Line Catcher Processor Sector*

Description of the Sector. Includes vessels operating as catcher processors using hook-and-line gear. As of January 1, 2003, hook-and-line catcher processors must have a ‘Pacific cod hook-and-line CP’ endorsement on their LLP license to target BSAI Pacific cod with hook-and-line gear and process it

onboard. The Consolidated Appropriations Act of 2005 (Section 219(a)(1) defined eligibility in the longline catcher processor sector as the holder of an LLP license that is transferable, or becomes transferable, and that is endorsed for BS or AI catcher processor fishing activity, C/P, Pacific cod, and hook-and-line gear. As of early 2006, 44 licensed vessels have this endorsement, 39 of which are transferable licenses and 5 are interim.

Participation in Groundfish Fisheries. These vessels, also known as freezer longliners, use hook-and-line gear and focus their effort on BSAI Pacific cod. Sablefish and Greenland turbot are secondary targets. Most hook-and-line catcher processors are limited to headed and gutted products. The vessels in this sector generally begin fishing for Pacific cod on January 1, and continue until the allocation is fully harvested by February, March, or April. They start fishing Pacific cod again on August 15, when the next halibut bycatch allowance becomes available, through November or December. Most vessels in this sector undergo maintenance and repair in the summer months, although several vessels process and custom freeze salmon during this period. The number of hook-and-line catcher processors has remained relatively stable, averaging about 40 vessels since 1995.

### **3.3.4 Eligibility Requirements by Sector**

This section provides a discussion of the participants and varying level of requirements currently in place to participate in the Federal directed BSAI Pacific cod fisheries. Note that no new eligibility requirements are proposed in this amendment, thus, the following requirements would not be modified by this action.

#### *License Limitation Program Requirements*

As stated previously, the LLP Program was implemented in 2000, and all sectors proposed to receive Pacific cod allocations under this amendment are subject to the LLP requirement when fishing BSAI Pacific cod in Federal waters with few exceptions. Those exceptions include: 1) vessels <32' LOA in the BSAI, and 2) jig vessels <60' LOA in the BSAI (using no more than 5 jig machines, one line per machine, and 15 hooks per line). In addition to the general LLP license, all sectors subject to the LLP requirement must also have a BS and/or AI area endorsement and the proper vessel and gear designations in order to fish BSAI Pacific cod with a particular gear and vessel type.<sup>46</sup>

Thus, in the current trawl Pacific cod fisheries, the only eligibility requirement is having the appropriate LLP license, including a BS and/or AI endorsement and trawl designation. Most jig vessels actively fishing BSAI Pacific cod are <60' LOA, thus, an LLP is not required. In the BSAI fixed gear (hook-and-line and pot) Pacific cod fisheries, however, additional LLP eligibility requirements were developed under Amendment 67. The qualifying criteria under Amendment 67 are provided in Section 3.3.1.

Given the requirements for the Pacific cod fixed gear endorsement and the general LLP license, there are a limited number of vessel licenses that are eligible to participate in the Federal BSAI Pacific cod fishery with fixed or trawl gear.

#### *AFA Eligibility Requirements*

Section 208(e) of the AFA establishes vessel and processor eligibility to harvest and process the BSAI pollock directed fishing allowance designated for each sector under the AFA. Section 208(e) lists the 20 trawl catcher processors that are eligible to participate as trawl catcher processors under the AFA, as well

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<sup>46</sup>A vessel's groundfish license is assigned a vessel designation of catcher processor (CP) or catcher vessel (CV), and a gear designation of trawl and/or non-trawl.

as the criteria used to qualify other catcher processors that are not listed (only one additional vessel qualifies under the criteria). Section 208(a)-(c) establishes the eligibility criteria and list for catcher vessels eligible under the AFA. In 2005, the NMFS database indicates that 111 catcher vessels were issued AFA permits.

In addition to determining eligibility for participation in the BSAI pollock fisheries, the implementing regulations for the AFA established sideboards on the participation by AFA-qualified vessels in the non-pollock BSAI groundfish fisheries and GOA groundfish fisheries, including Pacific cod. The 20 listed AFA CPs are currently subject to an annual Pacific cod sideboard limit. The one additional catcher processor that qualifies under 208(e)(21) of the AFA is limited to a small percentage of the AFA CP allocation of pollock, and is not sideboarded in other fisheries.

AFA catcher vessels are also subject to an annual sideboard limit<sup>47</sup> of BSAI Pacific cod. However, the Council elected to exempt AFA catcher vessels <125' from the BSAI Pacific cod sideboards if their total BSAI pollock landings were less than 5,100 mt and they made 30 or more landings in the directed BSAI Pacific cod fishery from 1995 – 1997. The rationale for these exemptions was that many of the AFA catcher vessels with relatively low pollock catch history have traditionally targeted BSAI Pacific cod during the winter cod fishery. AFA catcher vessels with mothership endorsements are also exempt from the BSAI Pacific cod catcher vessel sideboard directed fishing closures, after March 1 of each fishing year (50 CFR 679.64(b)(2)(i)).

There are thus 21 permitted AFA catcher processors and 111 permitted AFA catcher vessels that comprise the AFA trawl CP and AFA trawl CV sectors, respectively. Of the 21 AFA CPs, 20 are currently subject to Pacific cod sideboard limits and considered part of the AFA CP sector for purposes of this action. Of the 111 permitted AFA CVs, 9 inshore vessels are exempt from the cod sideboards and 19 catcher vessels delivering to motherships are exempt, after March 1 of each fishing year. Note that, if an AFA sector receives a direct allocation of BSAI Pacific cod under this amendment, the cod sideboards for that sector would be replaced by the direct allocation.

### *Eligibility Requirements under the 2005 Consolidated Appropriations Act*

Lastly, the Consolidated Appropriations Act of 2005 (P.L. 108-447) (Act) establishes catcher processor sector definitions for participation in the catcher processor sectors of the BSAI non-pollock groundfish fisheries<sup>48</sup> and the fishing capacity reduction program authorized by Congress. The following sectors are defined in the Act under Section 219(a): AFA trawl catcher processor, non-AFA trawl catcher processor, hook-and-line catcher processor, and pot catcher processor.

With the exception of the non-AFA catcher processor sector, the Act does not appear to establish new eligibility requirements for participating in the BSAI Pacific cod fishery as part of the catcher processor sectors. The Act (Section 219(7)) specifies that this sector ‘means the owner of each trawl catcher processor:

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<sup>47</sup> The sideboard formula is based on the retained catch of each sideboard species by AFA catcher vessels of each sideboard species from 1995 – 1997 (1997 only for BSAI Pacific cod) divided by the available TAC for that species over the same period.

<sup>48</sup> The non-pollock groundfish fishery is defined as ‘target species of Atka mackerel, flathead sole, Pacific cod, Pacific Ocean perch, rock sole, turbot, or yellowfin sole harvested in the BSAI.’

- (A) that is not an AFA trawl catcher processor;
- (B) to whom a valid LLP license that is endorsed for BS or AI trawl catcher processor fishing activity has been issued; and
- (C) that the Secretary determines has harvested with trawl gear and processed not less than a total of 150 mt of non-pollock groundfish during the period January 1, 1997 through December 31, 2002.<sup>7</sup>

Thus, a non-AFA trawl catcher processor will have to meet the above criteria in order for the owner of that vessel to participate in that sector in the BSAI non-pollock groundfish fisheries, which includes Pacific cod by definition. Note that these criteria are also included under BSAI Amendment 80, to define the non-AFA trawl catcher processor sector for the purpose of flatfish sector allocations. NOAA GC has issued legal guidance (February 9, 2005) that “the Council and NOAA Fisheries cannot select or impose different, including more stringent, eligibility requirements for entrance to the non-AFA trawl catcher processor subsector.”<sup>49</sup>

**The application of these criteria means that a fixed number of vessels will qualify for the non-AFA trawl catcher processor sector.** The issue is outlined below:

- There are currently 44 trawl BSAI CP licenses being used on 41 non-AFA trawl CPs (vessels that are not listed in Section 208(e)(1)-(20) of the AFA).
- **Applying the criteria above, qualifies 26 vessels<sup>50</sup>** (on which 29 licenses are currently being used) for participation in the non-AFA trawl CP sector for non-pollock BSAI groundfish (*see the public review draft of BSAI Amendment 80 EA/RIR/IRFA*).
- Thus, there are 15 remaining trawl CP licenses that are not currently being used on eligible non-AFA trawl CPs, or on AFA trawl CPs.<sup>51</sup> Of the remaining 15 trawl CP licenses, 9 are being used on AFA catcher vessels, and 5 are being used on hook-and-line catcher processors.

The 15 trawl CP licenses, noted above, could continue to be used on vessels not eligible for the non-AFA trawl CP sector, or they could be transferred to eligible non-AFA trawl CPs in the future. Theoretically, holders of these 15 transferable trawl CP licenses that do not meet the criteria to participate in the non-AFA trawl CP sector for the non-pollock BSAI groundfish fisheries could also potentially participate in these fisheries as a trawl CV, or could participate as a trawl CP in fisheries not included in the Act’s definition of “non-pollock groundfish fishery” (e.g., arrowtooth flounder, rockfish species).

In sum, the non-AFA trawl CP sector is comprised of 26 eligible vessels under this amendment, as defined by the Act. Table 3-7 summarizes the number of valid LLP or other necessary permits eligible for use on a vessel to harvest BSAI Pacific cod in the directed Federal fishery under each of the defined sectors. Note that an LLP license is not necessary to fish BSAI Pacific cod in the parallel fishery that occurs in State waters (0 – 3 miles from shore). Table 3-8 shows the same number of BS/AI LLPs by

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<sup>49</sup>NOAA GC guidance was requested in December 2004 to clarify whether the Council could adopt more stringent criteria than are provided in the Act. NOAA provided a legal opinion on February 9, 2005, stating that the Council cannot adopt more stringent criteria than are provided in the Act for the purpose of establishing vessels eligible to participate in the non-AFA trawl CP sector.

<sup>50</sup>These 26 vessels are non-AFA trawl catcher processors that meet the harvesting criteria in 219(7)(C) of the Act. Thus, these vessels are qualified to participate in the non-AFA catcher processor sector for BSAI non-pollock groundfish fishery at any time they hold a valid LLP license that is endorsed for BS or AI trawl catcher processor fishing activity.

<sup>51</sup>Of the 15 trawl CP licenses not currently being used on eligible non-AFA trawl CPs or AFA trawl CPs, only 3 licenses are used on 3 vessels that have 1995 - 1996 BSAI Pacific cod history as trawl CPs. These 3 vessels currently operate as AFA trawl CVs.

sector, and also provides information on whether those LLPs also have a Gulf (Southeast, Central Gulf, or Western Gulf) endorsement and/or are linked to a crab license.

**Table 3-7 Number of permits issued to participate in the sectors of the Federal BSAI Pacific cod fishery**

SECTOR	Permit required and/or eligibility criteria per statute	BS only LLP	AI only LLP	BSAI LLP	Total # of valid LLPs
AFA Trawl CP	AFA CP permit/listed in 208(e)(1)-(20); trawl LLP (CP/BSAI)	1	0	19	20
Non-AFA Trawl CP	trawl LLP (CP/BSAI); not an AFA trawl CP; must have harvested with trawl gear and processed no less than 150 mt of non-pollock groundfish during 1997 through 2002.	5 (1 interim)	1	23 (2 interim)	29 LLPs (on 26 vessels) <sup>1</sup>
AFA Trawl CV	AFA CV permit; trawl LLP (CV/BSAI) <sup>2</sup>	60	0	51 (1 interim)	111
Non-AFA Trawl CV	trawl LLP (CV/BSAI)	44 (2 interim)	2	4	50
Hook-and-line CP	non-trawl LLP (BSAI/H&L CP cod endorsement)	2	0	42 (5 interim)	44
Hook-and-line CV >60'	non-trawl LLP (BSAI/H&L CV cod endorsement)	1	1	7	9
Pot CP	non-trawl LLP (BSAI/pot CP cod endorsement)	3	0	5 (2 interim)	8
Pot CV >60'	non-trawl LLP (BSAI/pot CV cod endorsement)	48 (2 interim)	0	5 (2 interim)	53
Hook-and-line/Pot <60'	non-trawl LLP (CV/BSAI)	90 (3 interim)	2	24 (3 interim)	116
Jig CV	LLP is not required for <60' jig CV in the BSAI	N/A	N/A	N/A	N/A

<sup>1</sup>Note that 44 BSAI trawl CP licenses exist (that are not associated with AFA vessels), but only 26 vessels (on which 29 LLPs are used) qualify under the eligibility criteria to participate in the non-AFA trawl CP sector for BSAI groundfish authorized in the Consolidated Appropriations Act of 2005. Of the remaining 15 trawl CP licenses currently being used on vessels ineligible for the non-AFA trawl CP sector, 9 are being used on AFA CVs and 5 others have a BSAI hook-and-line CP cod endorsement and are accounted for in the hook-and-line CP sector.

<sup>2</sup>Note that of the 111 total LLPs held by this sector, there are 102 trawl CV LLPs and 9 trawl CP LLPs (all 9 are transferable; 8 are endorsed for the BSAI and 1 is endorsed for the BS).

Note that a vessel is not limited to participating in one sector if it has the appropriate license and/or permit; thus, the sum of the number of licenses does not represent the number of unique vessels. Note also that the number of LLPs is higher than the number of unique vessels, as one vessel may carry more than one license or a vessel may not yet have been designated for use on a license.

Note that the three non-AFA trawl CVs that qualify under Alternative 2, Component 1, Option 1.1, have BS endorsements only.

**Table 3-8 Number of BS/AI LLPs by sector and GOA and crab endorsements**

SECTOR	Permit required and/or eligibility criteria per statute	BS/AI LLPs by sector	Number of BSAI LLPs that also have GOA endorsements	Number of BSAI LLPs linked to crab LLP
AFA Trawl CP	AFA CP permit/listed in 208(e)(1)-(20); trawl LLP (CP/BSAI)	20	4	0
Non-AFA Trawl CP <sup>1</sup>	trawl LLP (CP/BSAI); not an AFA trawl CP; must have harvested with trawl gear and processed no less than 150 mt of non-pollock groundfish during 1997 through 2002.	29	26	0
AFA Trawl CV	AFA CV permit; trawl LLP (CV or CP/BSAI) <sup>2</sup>	111	102	42
Non-AFA Trawl CV	trawl LLP (CV/BSAI)	50	46	11
Hook-and-line CP	non-trawl LLP (BSAI/H&L CP cod endorsement)	44	32	7
Hook-and-line CV >60'	non-trawl LLP (BSAI/H&L CV cod endorsement)	9	7	3
Pot CP	non-trawl LLP (BSAI/pot CP cod endorsement)	8	4	6
Pot CV >60'	non-trawl LLP (BSAI/pot CV cod endorsement)	53	23	52
Hook-and-line/Pot <60'	non-trawl LLP (CV/BSAI)	116	102	15
Jig CV	LLP is not required for <60' jig CV in the BSAI	N/A	N/A	N/A

<sup>1</sup>Note that 44 BSAI trawl CP licenses exist (that are not associated with AFA vessels), but only 26 vessels (on which 29 LLPs are used) qualify under the eligibility criteria to participate in the non-AFA trawl CP sector for BSAI groundfish authorized in the Consolidated Appropriations Act of 2005. Of the remaining 15 trawl CP licenses currently being used on vessels ineligible for the non-AFA trawl CP sector, 9 are being used on AFA CVs and 5 others have a BSAI hook-and-line CP cod endorsement and are accounted for in the hook-and-line CP sector.

<sup>2</sup>Note that 111 AFA CV permits are issued: 102 vessels carry trawl CV LLPs and 9 vessels carry trawl CP LLPs. Note that a vessel is not limited to participating in one sector if it has the appropriate license and/or permit; thus, the sum of the number of participants does not represent the number of unique vessels. Note also that the number of LLPs may be higher than the number of unique vessels, as one vessel may carry more than one license or a vessel may not yet have been designated for use on a license.

### 3.3.5 Catch History and Participants in the (non-CDQ) BSAI Pacific Cod Fisheries

The following sections provide retained catch history information for the ten (non-CDQ) sectors that are to receive Pacific cod allocations under this proposed amendment. It is important to note that for this purpose, these sectors are not necessarily exclusive—vessels can be eligible to participate in more than one sector and may have made landings with more than one gear type, and may therefore be counted in more than one sector. It is also important to note that no attempt has been made to distinguish between landings made in the directed Pacific cod fisheries and incidental catch of Pacific cod in other target fisheries. The amendment language requires data on retained BSAI Pacific cod harvest by sector, regardless of whether the harvest was targeted. The retained catch history data also exclude cod that was destined for meal as the primary product. Recall that the action in this amendment was first included in BSAI Amendment 80, and was extracted from that amendment package and initiated as a separate action in October 2004. The data set specific only to Amendment 85 was first provided to the Council in February 2005, and discussed as the baseline data on which BSAI Pacific cod allocations would be based.

#### 3.3.5.1 Retained catch by sector in the BSAI

Baseline information on the BSAI Pacific cod fishery from 1995 through 2003 is presented in Table 3-9. That table shows the retained harvest (excluding meal) and number of vessels that participated in the non-CDQ BSAI Pacific cod fishery by sector. All retained catch (excluding meal), as well as catch resulting from reallocated quota, is included. This is the catch history used to determine the sector allocations proposed in Alternative 2, Component 2 (see Section 3.4.1.2). Note that the overall allocations among the trawl, fixed, and jig gear sectors were effective starting in 1994 and revised in 1997. A further split of the fixed gear allocations was established in September 2000 and revised in 2004. The pot CP and pot CV sectors did not receive separate allocations until 2004. These previous allocations affect the sectors' harvest history, as they provided a limit on the amount of cod the sector can harvest (not including reallocated quota).

Table 3-9 shows that on average during the period 1995 through 2003, the hook-and-line catcher processor sector harvested the largest share (about 49%) of the BSAI Pacific cod TAC allocated to the non-CDQ fishery. The AFA trawl catcher vessel sector harvested almost 22%, and the non-AFA trawl catcher vessel sector harvested about 2% during the same time period. The AFA trawl catcher processor sector harvested almost 2%, and the non-AFA trawl catcher processor sector harvested about 13%. The  $\geq 60'$  pot catcher vessel and catcher processor sectors harvested almost 9% and over 2%, respectively. The  $< 60'$  fixed gear sector, the jig catcher vessel sector, and the hook-and-line catcher vessel sector each harvested less than 1%.

In addition, Table 3-9 shows the unique number of vessels that fished in each sector during this time period. The number of participating jig vessels has ranged from a high of 42 in 1995, to a low of 10 in 1998. Both AFA sectors have remained relatively stable in number (about 12 CPs and 95 CVs on average), as has the hook-and-line catcher processor sector (about 40 vessels on average).<sup>52</sup> The non-AFA trawl catcher processor sector has decreased, from 33 vessels in 1995, to 23 vessels in 2003, and the non-AFA trawl catcher vessel sector has ranged from 9 to 22 vessels. The  $\geq 60'$  hook-and-line catcher vessel sector has ranged from 3 to 20 vessels. The pot catcher processor sector has ranged from 3 to 13 vessels. The most substantial fluctuation has been in the  $\geq 60'$  pot catcher vessel sector, which has ranged from a

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<sup>52</sup>Note that because the harvest data do not include cod that was turned into meal as the primary product, vessels which produced cod only for meal would not be included in the vessel counts in Table 3-9. This is relevant primarily to the AFA trawl CP sector. Retained cod harvest including meal is provided in Appendix G.

high of 110 vessels in 2000, to a low of 55 vessels in 2002. The <60' fixed gear sector has ranged from a low of 11 vessels in 1998, to a high of 41 vessels in 2001.

Note that the eligibility requirements for the sectors have also changed over the time period shown in Table 3-9. Notably, the AFA was passed in 1999, which gave the AFA trawl CV and CP sectors exclusive access to the BSAI pollock fishery. In addition, the License Limitation Program was implemented in 2000, and the recent variations in the ≥60' fixed gear CV sectors are primarily due to the implementation of the BSAI Pacific cod LLP endorsement under Amendment 67 in 2003. Details on the relevant eligibility requirements are provided in Section 3.3.4.

**Table 3-9 BSAI Pacific cod annual harvest (retained mt, excluding meal) by sector, 1995 – 2003**

SECTOR	1995		1996		1997		1998		1999	
	(mt)	# vessels	(mt)	# vessels						
<60 HAL/Pot CVs	900	38	131	16	56	13	38	11	176	18
AFA 9	4,546	6	4,067	6	4,015	7	3,966	7	0	0
AFA Trawl CPs	4,300	14	3,228	12	4,556	11	4,354	13	3,686	11
AFA Trawl CVs	39,919	91	51,269	99	53,264	92	37,579	93	32,946	99
Jig CVs	589	42	247	34	167	17	191	10	204	15
Longline CPs	87,870	43	82,700	39	108,590	37	83,642	38	68,271	38
Longline CVs >60'	19	7	8	7	42	10	2	3	91	20
Non-AFA Trawl CPs	16,045	33	17,877	30	19,584	30	21,860	23	22,087	24
Non-AFA Trawl CVs	3,190	12	3,317	17	3,177	9	1,541	12	1,669	11
Pot CPs	4,406	8	8,275	13	4,913	9	3,052	8	3,223	13
Pot CVs >60'	15,252	106	22,282	95	15,050	77	8,344	70	11,731	89
<b>TOTAL</b>	<b>177,036</b>	<b>400</b>	<b>193,402</b>	<b>368</b>	<b>213,414</b>	<b>312</b>	<b>164,569</b>	<b>288</b>	<b>144,084</b>	<b>338</b>
SECTOR	2000		2001		2002		2003		sum 95-03	sum/total
	(mt)	# vessels	(mt)	%						
<60 HAL/Pot CVs	251	38	1,018	41	1,537	30	1,741	25	5,849	0.38%
AFA 9	0	0	0	0	0	0	0	0	16,594	1.07%
AFA Trawl CPs	1,709	8	1,432	8	1,287	11	1,409	10	25,961	1.67%
AFA Trawl CVs	36,099	98	18,691	98	33,786	97	33,562	91	337,114	21.70%
Jig CVs	79	16	102	19	169	18	154	15	1,901	0.12%
Longline CPs	75,181	41	86,436	42	79,269	40	89,580	39	761,539	49.02%
Longline CVs >60'	223	19	1,332	20	170	6	93	6	1,980	0.13%
Non-AFA Trawl CPs	25,828	23	23,628	22	29,757	22	28,157	23	204,824	13.18%
Non-AFA Trawl CVs	2,802	11	3,006	13	5,797	18	7,542	22	32,042	2.06%
Pot CPs	2,491	10	2,991	5	2,059	5	1,530	3	32,939	2.12%
Pot CVs >60'	16,565	110	13,916	69	12,465	55	17,176	70	132,781	8.55%
<b>TOTAL</b>	<b>161,228</b>	<b>374</b>	<b>152,553</b>	<b>337</b>	<b>166,296</b>	<b>302</b>	<b>180,944</b>	<b>304</b>	<b>1,553,525</b>	<b>100.00%</b>

Source: Harvest data are from WPR reports and ADF&G fishtickets, 1995 - 2003.

Note: In every year, some percentage of the harvest cannot be assigned to a given catcher vessel sector due to missing fishtickets from mothership deliveries. This harvest was not attributed to any sector in this table and is excluded from the annual total. The percent of harvest that cannot be assigned varies by year and ranges from 0.03% - 2.0%. Pacific cod harvested with hand troll gear and harvest from the 3 surimi-fillet non-AFA CPs was not included.

Note: The 'AFA 9' sector refers to the 9 catcher processors listed in Section 209 of the AFA that were made permanently ineligible for fisheries in the U.S EEZ.

Note: In 2003, a very small portion of the retained catch attributed to the pot CV >60' sector was harvested by a pot CP who chose to operate as a CV in this instance. Note, however, that this vessel is designated on two LLPs, one with a pot CP cod endorsement and one with a pot CV cod endorsement. Attributing this catch to the pot CP sector would not have changed the overall percentage shares by sector.

**Table 3-10 BSAI Pacific cod annual harvest share by sector (retained harvest, excluding meal) including AFA 9 catch history, 1995–2003**

SECTOR	1995	1996	1997	1998	1999	2000	2001	2002	2003	average
<60 HAL/Pot CVs	0.5%	0.1%	0.0%	0.0%	0.1%	0.2%	0.7%	0.9%	1.0%	0.4%
AFA Trawl CPs	5.0%	3.8%	4.0%	5.1%	2.6%	1.1%	0.9%	0.8%	0.8%	2.7%
AFA Trawl CVs	22.5%	26.5%	25.0%	22.8%	22.9%	22.4%	12.3%	20.3%	18.5%	21.5%
Jig CVs	0.3%	0.1%	0.1%	0.1%	0.1%	0.0%	0.1%	0.1%	0.1%	0.1%
Longline CPs	49.6%	42.8%	50.9%	50.8%	47.4%	46.6%	56.7%	47.7%	49.5%	49.1%
Longline CVs >60'	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.9%	0.1%	0.1%	0.1%
Non-AFA Trawl CPs	9.1%	9.2%	9.2%	13.3%	15.3%	16.0%	15.5%	17.9%	15.6%	13.5%
Non-AFA Trawl CVs	1.8%	1.7%	1.5%	0.9%	1.2%	1.7%	2.0%	3.5%	4.2%	2.1%
Pot CPs	2.5%	4.3%	2.3%	1.9%	2.2%	1.5%	2.0%	1.2%	0.8%	2.1%
Pot CVs >60'	8.6%	11.5%	7.1%	5.1%	8.1%	10.3%	9.1%	7.5%	9.5%	8.5%
Total	1	1	1	1	1	1	1	1	1	100.0%

Source: Harvest data are retained catch (excluding meal) from WPR reports and ADF&G fishtickets, 1995 - 2003. Each sector's annual harvest share was calculated for the individual year as a percentage of the total retained legal catch by all sectors.

Note that Table 3-10 shows each sector's annual harvest share for each individual year, as a percentage of the total retained catch by all sectors. The far right column shows each sector's *average* of the annual harvest share percentages during 1995 – 2003. This differs from the 'sum/total' column shown in Table 3-9, in which each sector's total catch during 1995 – 2003 is divided by all sectors' total catch during that same time period. The sector allocations under consideration in Alternative 2, Component 2 are calculated as shown in Table 3-10, as the sector's average of the annual harvest share during the series of catch history years.

The 'AFA 9' sector refers to the nine vessels whose claims to catch history and any endorsements or permits for eligibility in any U.S. fisheries in the EEZ were extinguished under Section 209 of the AFA. These nine vessels harvested about 16,600 mt, or 1% of the total retained BSAI Pacific cod harvest during 1995 – 2003. Recall that those 9 vessels were removed from the fishery in 1999, thus only harvest from 1995 – 1998 exists. If the 16,600 mt from these nine vessels is *included as part of the AFA trawl catcher processor sector's history as shown in Table 3-10*, the AFA trawl CP sector's average share of the total harvest during this time period is 2.7%. If the 16,600 mt from these nine vessels is *excluded* from the total harvest history altogether, the AFA trawl CP sector's share is reduced by 1%. In sum, each sector's annual harvest share would change as shown in Table 3-11.

**Table 3-11 BSAI Pacific cod annual harvest share by sector (retained harvest, excluding meal) excluding AFA 9 history, 1995–2003**

SECTOR	1995	1996	1997	1998	1999	2000	2001	2002	2003	average
<60 HAL/Pot CVs	0.5%	0.1%	0.0%	0.0%	0.1%	0.2%	0.7%	0.9%	1.0%	0.4%
AFA Trawl CPs	2.5%	1.7%	2.2%	2.7%	2.6%	1.1%	0.9%	0.8%	0.8%	1.7%
AFA Trawl CVs	23.1%	27.1%	25.4%	23.4%	22.9%	22.4%	12.3%	20.3%	18.5%	21.7%
Jig CVs	0.3%	0.1%	0.1%	0.1%	0.1%	0.0%	0.1%	0.1%	0.1%	0.1%
Longline CPs	50.9%	43.7%	51.9%	52.1%	47.4%	46.6%	56.7%	47.7%	49.5%	49.6%
Longline CVs >60'	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.9%	0.1%	0.1%	0.1%
Non-AFA Trawl CPs	9.3%	9.4%	9.4%	13.6%	15.3%	16.0%	15.5%	17.9%	15.6%	13.6%
Non-AFA Trawl CVs	1.8%	1.8%	1.5%	1.0%	1.2%	1.7%	2.0%	3.5%	4.2%	2.1%
Pot CPs	2.6%	4.4%	2.3%	1.9%	2.2%	1.5%	2.0%	1.2%	0.8%	2.1%
Pot CVs >60'	8.8%	11.8%	7.2%	5.2%	8.1%	10.3%	9.1%	7.5%	9.5%	8.6%
Total	1	1	1	1	1	1	1	1	1	100.0%

Source: Harvest data are retained catch (excluding meal) from WPR reports and ADF&G fishtickets, 1995 - 2003. Each sector's annual harvest share was calculated for the individual year as a percentage of the total retained legal catch by all sectors.

Of all of the sectors, the AFA CP sector's harvest share during 1995 – 2003 is most affected by whether the AFA 9 vessels' history is included within the AFA CP sector's history – the resulting difference is 1%. The following sector's average harvest share during 1995 – 2003 is not affected by the inclusion or

exclusion of the AFA 9: <60' fixed gear; jig CV; hook-and-line CV  $\geq 60'$ ; non-AFA trawl CV; and pot CP sectors. The remaining sectors are slightly affected. The non-AFA trawl CP sector and pot CV  $\geq 60'$  sector shares are each reduced by 0.1% if the AFA 9 history is included. The AFA trawl CV sector share is reduced by 0.2% if the AFA 9 history is included, and the hook-and-line CP sector share is reduced by 0.5%.

### 3.3.5.2 Harvest by sector in 2004 and 2005

Baseline BSAI Pacific cod harvest information from weekly production reports and fishtickets from 1995 – 2003 is presented in the previous section in Table 3-9. That table shows the retained harvest and number of vessels that participated in the non-CDQ BSAI Pacific cod fishery by sector and each sector's harvest share during 1995 – 2003 (excluding cod that was made into meal as the primary product). Only retained catch is included and the data are refined on an individual vessel basis and aggregated by sector. Table 3-9 represents the most recent data available for this refined data set and is used to determine the sector allocations proposed in Alternative 2, Component 2.

Although the alternatives and options developed during the past year do not include harvest data beyond 2003, it is important to consider the most recent data available by sector. Table 3-12, below, provides retained catch by sector, including cod destined for meal production, as reported from the NMFS catch accounting database, which utilizes observer data, shoreside processor landings data, and fishtickets. In the NMFS catch accounting database, observer estimates of discards are used to provide estimates of retained catch by sector.

**Table 3-12 BSAI Pacific cod retained catch by sector, 2004 - 2005**

<b>2004</b>		
NAME	MT	% share
Hook-and-line CP	93,923	48.5%
Hook-and-line CV >60'	25	0.0%
Hook-and-line and Pot Gear CV <60'	3,231	1.7%
Jig Gear	231	0.1%
Pot CP	3,234	1.7%
Pot CV >60'	11,397	5.9%
AFA Trawl CP	3,310	1.7%
Non-AFA Trawl CP	37,548	19.4%
Trawl CV	40,817	21.1%
<b>Total</b>	<b>193,716</b>	<b>100.0%</b>
<b>2005</b>		
NAME	MT	% share
Hook-and-line CP	98,753	52.7%
Hook-and-line CV >60'	19	0.0%
Hook-and-line and Pot Gear CV <60'	3,231	1.7%
Jig Gear	117	0.1%
Pot CP	3,338	1.8%
Pot CV >60'	11,583	6.2%
AFA Trawl CP	4,877	2.6%
Non-AFA Trawl CP	30,006	16.0%
Trawl CV	35,625	19.0%
<b>Total</b>	<b>187,549</b>	<b>100.0%</b>

Source: NMFS catch accounting database, 10/19/06. This database uses observer estimates of discards to estimate retained catch.

**Generally, while the two data sets are not exactly comparable due to the different data sources, the data in Table 3-12 indicate that the overall BSAI harvest shares by sector in 2004 – 2005 are within the range of what has occurred during 1995 – 2003 (compare to Table 3-11), with a couple of exceptions.** The <60' fixed gear share of the BSAI Pacific cod harvest increased in the past two years compared to the 1995 – 2003 average, likely due to additional quota reallocated from the jig sector starting in 2004. The table shows that this sector harvested about 1.7% of the BSAI Pacific cod harvest each year in 2004 and 2005, compared to an average retained harvest share of 0.4% during 1995 - 2003. The other notable exception is the non-AFA trawl CP sector, the harvest share of which was greater in 2004 compared to any other year during 1995 – 2005. While the harvest share of this sector has not been less than 15.3% since 2000, the much lower harvest shares during 1995 to 1998 result in an overall harvest share during 1995 – 2003 of 13.6% (see Table 3-11).

The ≥60' pot CV share of Pacific cod harvest decreased slightly in the past two years compared to most years during 1995 – 2003. The pot CP share, while greater in 2004 and 2005 than in 2002 and 2003, was still lower than the average retained harvest share of 2.1% during 1995 – 2003.

All sectors, with the exception of the <60' fixed gear sector and the non-AFA trawl CP sector, had harvests in 2004 and 2005 that fell within the range of the catch shares during 1995 – 2003. Harvest for some sectors, most notably the AFA trawl CP sector, would be slightly lower if meal cod was excluded in Table 3-12. Thus, while these data are not truly comparable to the retained harvest data in the previous tables due to the inclusion of meal and the use of a different data set, they provide a general view of the fishery in the two most recent years.

See **Appendix F** for reference tables on retained Pacific cod harvest by sector, split out by BS and AI subareas.

### **3.3.5.3 Harvest and allocations to the <60' pot and hook-and-line CV sector**

Table 3-13 provides BSAI retained Pacific cod harvest data for the <60' hook-and-line CV sector and the <60' pot CV sector. Note that these sectors currently receive a combined allocation and are proposed to continue a combined allocation under all alternatives in this amendment. Table 3-13 shows that, on average during the past five years for which data are available (1999 – 2003), the majority (66.8%) of the <60' fixed gear retained BSAI Pacific cod harvest has been taken by pot gear, and the remainder (33.2%) has been taken by hook-and-line gear.

Note that while on average in recent years the <60' fixed gear BSAI Pacific cod harvest has been dominated by vessels using pot gear, there have been a few years (1997, 1999, 2000) in which the <60' BSAI Pacific cod harvest has been dominated (>80%) by vessels using hook-and-line gear. Since the allocation to <60' fixed gear CVs was established in late 2000, the trend has been for the <60' pot CVs to take the majority of the <60' harvest and allocation. During 1999 – 2003, 81 unique <60' hook-and-line CVs and 18 unique <60' pot CVs had retained BSAI Pacific cod harvests. An annual average of 5 <60' pot CVs and 26 <60' hook-and-line CVs had retained cod harvests during this time period.

Note also that over the past five years (1999 – 2003), the top three <60' pot catcher vessels with the highest harvests constituted in excess of about 66% of the total <60' pot CV harvest each year. In the <60' hook-and-line sector, the top three vessel harvests comprised in excess of 70% of the total <60' hook-and-line sector harvest each year. Thus, in both sectors, a few vessels have been dominating the overall catch by sector to date.

**Table 3-13 Retained BSAI Pacific cod harvest by <60' fixed gear sector, 1999 – 2003**

Year	1999	2000	2001	2002	2003	Total 1999 – 2003 (and ave % by sector)
H&L CV harvest (mt) and % of total <60' fixed gear harvest	Conf.	Conf.	444.8 (43.7%)	205.5 (13.4%)	388.5 (22.3%)	<b>1,944.4</b> <b>(33.2%)</b>
# unique H&L CVs	14	35	37	23	19	<b>81</b>
Pot CV harvest (mt) and % of total <60' fixed gear harvest	Conf.	Conf.	573.5 (56.3%)	1,331.7 (86.6%)	1,352.2 (77.7%)	<b>3,904.3</b> <b>(66.8%)</b>
# unique pot CVs	4	3	4	7	6	<b>18</b>
<b>Total &lt;60' fixed gear harvest (mt)</b>	<b>176.1</b>	<b>250.6</b>	<b>1,018.3</b>	<b>1,537.2</b>	<b>1,740.8</b>	<b>5,848.7</b>

Source: ADF&G fishtickets, 1999 – 2003. Conf. = 2000 data obscured due to confidentiality rules. 1999 data obscured to protect revealing confidential data through simple subtraction.

The <60' pot and hook-and-line catcher vessel sector data are not easily separated from the general pot and hook-and-line CV data in the NMFS annual and seasonal catch reports. This is because the <60' pot/hook-and-line CV sector harvest is attributed to the general pot CV and general hook-and-line CV allocations, respectively, when those directed fisheries are open. Table 3-14 provides information on the amount of <60' fixed gear CV sector harvest attributed to the general CV allocations and to its own allocation in 2003 and 2004.

**Overall, in both 2003 and 2004, the vast majority of the general pot allocation was harvested by pot CVs greater than 60 feet LOA.** This has been the trend since 1995. Recall that the pot allocation was shared by both the pot CV and pot CP sectors in 2003, and that the pot sector received 839 mt in reallocated quota late in the year. In 2004, the pot CV sector had its own allocation, and about 3,439 mt was reallocated from this sector in late November. **In contrast, in both 2003 and 2004, the great majority of the general hook-and-line CV allocation was harvested by <60' hook-and-line CVs.** This has been the trend since 1995.

**Table 3-14 Amount of each fixed gear CV sector's harvest attributed to its allocation, 2003-2004**

Sector	Actual harvest (mt) by sector	Total harvest (mt) attributed to the sector's allocation	Allocation (accounts for reallocated quota)	Remaining quota (mt)	Percent of total harvest harvested by <60 CVs
<b>2004</b>					
General Pot CV (≥60')	Conf.	Conf.	11,735	Conf.	Conf.
General HAL (≥60')	Conf.	Conf.	303	Conf.	Conf.
<60' pot/HAL	3,196	2,890	2,961	71	100%
<b>2003</b>					
General Pot CV (≥60')	19,037	19,164	18,661	(503)	<1%
General HAL (≥60')	104	303	292	(11)	66%
<60' pot/HAL	1,746	1,420	1,363	(57)	100%

Source: NMFS catch accounting database, 2003 – 2004. Conf. = data masked for confidentiality reasons.

Note: The <60' pot/hook-and-line sector fishes off the general pot CV and general hook-and-line CV allocations, when those directed fisheries are open. This results in the *actual harvest by sector* being greater than the *total harvest attributed to the sector's allocation*.

As stated previously, since the allocation to <60' fixed gear CVs was established in late 2000, the trend has been for the <60' pot CVs to take the majority of the <60' harvest and allocation. Both gear types, however, increased their overall cod catch substantially, starting in 2001, compared to

**prior years in which no distinct allocation existed for the <60' fleet.** The <60' fixed gear sector harvested 19% and 64% of its allocation in 2000 and 2001, respectively. This sector first harvested its entire <60' allocation in 2002, and has since harvested its entire allocation plus additional quota from the general pot and hook-and-line CV allocations each year. In addition, 2004 was the first year in which jig quota was reallocated to the <60' fixed gear sector at the end of the jig seasons. In 2004, the <60' fixed gear sector received an initial allocation of 1,416 mt and was reallocated 1,545 mt from the jig sector on April 7, for a total allocation of 2,961 mt. In addition to harvesting its entire revised allocation, this sector harvested a portion of the general CV allocations. Similarly, in 2005, the <60' fixed gear sector received about 1,250 mt of reallocated jig quota.

The portion of the <60' fixed gear allocation (0.7% of the BSAI Pacific cod ITAC) that is harvested by pot or hook-and-line gear depends somewhat on the length of the overall pot CV and hook-and-line CV Pacific cod fisheries. Closure dates for the <60' fixed gear sector during 2001 – 2005 are provided in Table 3-15. Note that the general pot CV cod fishery has typically closed about a month earlier than the general hook-and-line CV cod fishery. Thus, the <60' hook-and-line CV sector has not always harvested a significant portion of the <60' allocation, because this sector's harvest is attributed to the general hook-and-line CV fishery when it is open. Almost all of the general hook-and-line CV harvest is attributed to <60' vessels.

By contrast, the <60' pot CVs typically start fishing soon after the general pot CV A season closes in February or March, thus, the <60' pot CVs harvest the majority of the <60' allocation between March and June. For example, in 2004, the general pot CV cod fishery A season TAC was harvested by February 13, while the general hook-and-line CV fishery A season closed March 10. Thus, the <60' pot CVs had a month to harvest the <60' allocation before the <60' hook-and-line CVs started fishing off that allocation. The entire <60' initial allocation was taken by April 19. Note also that the <60' hook-and-line CVs must stop fishing on June 10 for lack of a halibut bycatch allowance from June 10 – August 15. So even if quota is available in the summer months for the <60' fleet, it would be taken primarily by pot CVs.

In sum, the <60' fixed gear sector has harvested its entire initial BSAI Pacific cod allocation (excluding reallocated quota) since 2002. In 2002, this sector's Pacific cod fishery did not close until June. Since 2002, the initial <60' allocation has been taken by April. Reallocated jig quota has served to extend the <60' Pacific cod fishery in the BSAI for the past two years (2004–2005).

Note that as of May 2006, the <60' fixed gear BSAI Pacific cod fishery received a reallocation of 1,300 mt of jig quota on March 21, was closed on April 7, and was reopened with a second jig reallocation of 400 mt on April 25. The fishery was then closed on May 23. The A seasons for the pot CV  $\geq 60'$  and hook-and-line CV  $\geq 60'$  sectors closed on February 3 and February 24, respectively.

**Table 3-15 Closure summaries for pot and hook-and-line catcher vessels, 2001–2005**

Year	<60' fixed gear	Pot CV ≥60'	Hook-and-line CV ≥60'
2005	Closed 4/19, entire <60' initial allocation taken. 1,150 mt of jig quota reallocated to <60' on 4/12, 350 mt more on 5/10, and 500 mt more on 8/5. Pot reopened 8/8 and hook-and-line opened 8/15. 753 mt reallocated from <60' on 11/23.	A season closed 2/13. Reopened 9/1 for B season.	A season closed 3/10. Reopened 8/15 for B season.
2004	No closure. Entire <60' initial allocation taken. 1,545 mt of jig quota reallocated to <60' fixed gear on April 7.	A season closed 2/15. Reopened 9/1 for B season.	A season closed 3/18. Reopened 8/15 for B season. Closed 12/10.
2003	Closed 4/22, entire <60' allocation taken. Pot reopened on 9/1; H&L reopened on 8/15, to fish off general CV allocations. Closed 12/9.	A season closed 2/26. Reopened 9/1 for B season. Closed 12/9.	A season closed 3/28. Reopened 8/15 for B season. Closed 12/9.
2002	Closed 6/11, entire <60' allocation taken. Pot reopened on 9/1; H&L reopened on 8/15, to fish off general CV allocations.	A season closed 3/16. Reopened 9/1 for B season.	A season closed on 6/10 due to end of A season. Reopened 8/15 for B season.
2001	No closure. 64% of allocation taken.	A season closed 3/27. Reopened 9/1 for B season.	A season closed 3/27. Reopened 8/15 for B season. Closed 12/10.

Source: NOAA Status of Groundfish Fisheries by Gear Type, 2001 – 2005.

Note: The ≥60' pot CV and pot CP sectors shared a BSAI Pacific cod allocation in 2001 – 2003.

### 3.3.5.4 Participation patterns by sector

In addition to the number of vessels and their aggregate retained catch by sector, information on participation is important to consider. Tables that represent each vessel's participation history (non-CDQ) by sector during 1995 – 2003 are provided in **Appendix A**. The tables show the number of years out of the nine-year period that vessels had retained BSAI Pacific cod harvests and the number of unique vessels that are represented by that particular participation pattern. The tables also provide the unique number of vessels that participated in *each* year, during 1995–2003, both by total number of participating vessels and the number of vessels whose history is associated with an LLP. The tables in Appendix A represent participation patterns by all vessels that retained BSAI Pacific cod, whether that harvest was in Federal or State waters.

Several important issues were being considered by the Council that would affect Pacific cod vessels during 1995–2003. The first was the LLP. Qualifying years for LLP area endorsements were January 1, 1992 through June 17, 1995. The second issue was the BSAI Pacific cod TAC split among the fixed, trawl, and jig gear sectors, which was scheduled to sunset on December 31, 1996. The Council made its final decision on this amendment (Amendment 46) during the June 1996 meeting. The third issue was the BSAI Pacific cod TAC split among the fixed gear sectors, approved by the Council in October 1999. Finally, the Council made a decision on the Pacific cod endorsement for the ≥60' fixed gear sectors in April 2000. These actions may have provided incentive for vessels to fish in a manner that they would not have otherwise. However, it is not possible to determine exactly how or whether participation patterns were influenced by these amendments. It is clear that the first and last year for LLP endorsement qualification were years that many vessels fishing in just one year participated. This trend is consistent across the fixed gear sectors.

In general, the CP sectors have a fairly consistent number of vessels with BSAI Pacific cod harvests each year. In addition, nearly 100% of all retained BSAI Pacific cod harvests by CPs during 1995 – 2003 were

made by CPs associated with an LLP. The CV sectors are slightly more variable in number of vessels participating, although in the trawl CV sectors and the  $\geq 60'$  fixed gear CV sectors, more than 80% of the harvests in each sector were made by CVs that were associated with an LLP. In the AFA trawl CV sector, it was almost 100%.

The small boat sectors ( $<60'$  fixed gear CV and jig CV) and  $\geq 60'$  pot CV sector exhibited the most variability by year. In the  $<60'$  pot/hook-and-line CV sector there were 11 to 41 participants each year during 1995 – 2003, but a total of 152 unique vessels participated overall. About one-third of the total number of unique vessels was associated with an LLP, however, harvests by those LLP vessels represent about 79% of the total retained cod harvest by this sector. Similarly in the jig sector, there were 10 to 42 participants each year during 1995 – 2003, with a total of 112 unique vessels overall. Of the total vessels, about 29% were associated with an LLP, and harvests by those LLP vessels represent about 42% of the total retained cod harvest by this sector. This is not unexpected in the jig sector, as it is exempt from the LLP requirement in Federal waters. Finally, in the  $\geq 60'$  pot CV sector, 54 to 110 individual vessels had retained cod harvests annually, with a total of 208 unique vessels overall. About two-thirds of the total number of unique vessels that participated during this nine-year period were associated with an LLP, and those vessels represent almost 90% of the cod harvests made during this period.

### **3.3.5.5 Distribution of catch within each sector**

This section describes the distribution of retained BSAI Pacific cod harvests (excluding meal) within each sector, during the most recent five years of data available (1999 – 2003). This section is intended to provide information on the number of vessels that have been harvesting the majority of the sector allocations in the recent past. Table 3-16 shows the number of vessels in each sector that accounted for various percentages (25%, 50%, 75%, 90%, 100%) of the overall retained BSAI Pacific cod harvest for those sectors.

Overall, the six catcher vessel sectors have about five times the number of participants as the four catcher processor sectors during this time period (1999 – 2003). In most cases, a lower percentage of total participants in the sector are responsible for the great majority (90%) of the BSAI Pacific cod harvest in the catcher vessel sectors than in the catcher processor sectors. Thus, while there are significantly more catcher vessels with retained BSAI Pacific cod harvests than catcher processors, the sectors are similar in that a relatively small percentage of vessels is responsible for the majority of the catch.

In sum, about 39% of the participating CVs accounted for over 90% of the retained BSAI Pacific cod catch during 1999 – 2003. The remaining 61% of the vessels accounted for 10% of the harvest. About 57% of the participating CPs accounted for just over 90% of the retained BSAI Pacific cod catch by catcher processors. The remaining 43% of the vessels accounted for 10% of the harvest.

**Table 3-16 Number of vessels in each sector that accounted for various percentages of the sector's retained BSAI Pacific cod harvest, 1999 – 2003**

Sector	25%	50%	75%	90%	100%
AFA trawl CV	8	19	38	56	107
Non-AFA trawl CV	2	4	9	14	38
≥60' hook-and-line CV	--	--	4	6	37
≥60' pot CV	8	21	42	70	154
<60' fixed gear CV	--	--	8	19	98
Jig CV	--	7	14	28	59
AFA trawl CP	--	--	--	5	14
Non-AFA trawl CP	4	7	13	17	25
Hook-and-line CP	6	13	23	31	49
Pot CP	--	--	4	7	17

Source: Weekly production reports and ADF&G fishtickets, 1999 – 2003. Harvest excludes Pacific cod destined for meal production.

Note that vessel counts of less than four are not provided due to confidentiality rules. Analysts can provide <4 vessels for the non-AFA trawl CV sector, as the vessels with top 3 harvests have approved release of confidential harvest data for use in this analysis. Confidentiality waivers are on file with NOAA Fisheries.

### 3.3.5.6 Seasonal apportionments

The BSAI Pacific cod TAC has been apportioned among the different gear sectors since 1994 (trawl, fixed, and jig gear split), and a series of amendments have modified or continued the allocation system. As stated previously, current Federal regulations at 50 CFR 679.20(a)(7)(i) authorize distinct allocations of the non-CDQ BSAI Pacific cod TAC for the following sectors:

- **51% fixed gear**  
 (80% hook-and-line catcher processors)  
 (0.3% hook-and-line catcher vessels)  
 (3.3% pot catcher processors)  
 (15.0% pot catcher vessels)  
 (1.4% hook-and-line/pot vessels <60' LOA)<sup>53</sup>
- **47% trawl gear**  
 (50% trawl catcher vessels)  
 (50% trawl catcher processors)
- **2% jig gear**

**All of the allocations to the BSAI Pacific cod gear sectors are seasonally apportioned, with the exception of the <60' catcher vessels using hook-and-line or pot gear (see Table 3-17). The current seasonal apportionments are primarily a result of Steller sea lion protection measures established in 2001.**<sup>54</sup> Prior to 2001, only the fixed gear sectors were subject to seasonal apportionments. Seasonal allocations to the fixed gear sector were first authorized in 1994 under BSAI Amendment 24, and these were established during the annual specifications process. During 1994 – 2000, the fixed gear sector was subject to three seasonal allocations that ranged from 71%–79% in the A season (January 1 – April 30);

<sup>53</sup>Note that while the <60' fixed gear (hook-and-line and pot) catcher vessels receive a separate allocation of BSAI Pacific cod, these vessels currently fish off the general hook-and-line catcher vessel and pot catcher vessel allocations, respectively by gear type, when those fisheries are open.

<sup>54</sup>ESA Section 7 Consultation, Biological Opinion and Incidental Take Statement, NMFS Alaska Region. October 2001.

0%–23% in the B season (May 1 – August 31); and 3%–29% in the C season (Sept. 1 – December 31). The fixed gear apportionments were modified under the Steller sea lion measures to the existing seasons. The 2001 Biological Opinion consulted on a comprehensive management regime, of which temporal dispersion of the fisheries was one part. The overall approach to the temporal dispersion measures in the BSAI Pacific cod fishery was to meet a seasonal target of 70% (Jan. 1 – June 10) in the first season and 30% (June 10 – December 31) in the second season.<sup>55</sup> To accomplish this objective, the fixed gear sectors ≥60' LOA are allocated 60% in the first season and 40% in the second season. For trawl gear, the first season is allocated 60%, and the second and third seasons are allocated 20% each. Within the overall trawl allocation, the trawl catcher vessel sector is allocated 70% in the first season, 10% in the second season, and 20% in the third season. The trawl catcher processor sector is allocated 50% in the first season, 30% in the second season, and 20% in the third season.

The jig gear sector was also allocated 60% in the first half of the year and 40% in the second half, starting in 2002. The overall objective was to limit the amount of total cod harvest that could be taken in the first half of the year, in order to disperse the harvest of cod throughout the year in consideration of foraging sea lions. Under Amendment 77, the jig seasons were modified from the 60%-40% seasonal split to a trimester basis: 40% (Jan. 1 – Apr. 30); 20% (Apr. 30 – Aug. 31); 40% (Aug. 31 – Dec. 31), in order to provide for seasonal reallocations to the <60' fixed gear catcher vessel fleet earlier in the year. Amendment 77 was implemented on January 1, 2004.

**Table 3-17** outlines the current seasonal apportionments to each gear sector. Note that the CDQ BSAI Pacific cod fishery using hook-and-line gear is subject to the same seasonal apportionments as the non-CDQ fixed gear fishery: 60% (Jan. 1 – June 10) and 40% (June 10 – Dec. 31). Generally, the CDQ Pacific cod fishery begins as the non-CDQ Pacific cod fishery season is ending (see Section 3.3.6).

**Table 3-17 Current seasonal apportionments by gear type**

Date	TOTAL TRAWL				FIXED				JIG				Total trawl, fixed and jig % of ITAC
	% of ITAC	Season	Total Trawl % of allocation	Total Trawl % of ITAC	% of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC	% of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC	
	47%				50.3%				2%				99.3%
1-Jan	(no fishing allowed with trawl gear 1/1-1/20)												
20-Jan		A	60%	28.2%		A	60%	30.2%		A	40%	0.8%	69.0%
1-Apr		B	20%	9.4%						B	20%	0.4%	
10-Jun		C	20%	9.4%		B	40%	20.1%		C	40%	0.8%	30.3%
1-Nov	(no cod target allowed with trawl gear after 11/1)												
31-Dec													
<b>TOTAL</b>	<b>100%</b>		<b>47.0%</b>		<b>100%</b>		<b>50.3%</b>		<b>100%</b>		<b>2.0%</b>		<b>99.3%</b>

Note: The 0.7% of the BSAI Pacific cod ITAC allocated to the <60' fixed gear sector is not currently seasonally apportioned. If this allocation was included in the table, the far right-hand column would total 100%.

Table 3-18 and Table 3-19 compare the amount of the *initial allocation* by season to each sector with the *total catch* by season, for 2001 – 2002 and 2003 – 2004, respectively. In effect, most of the sectors that show a harvest in excess of 100% of their B and/or C seasons were harvesting reallocated quota from another season or gear sector in addition to their initial seasonal allocation. The data for 2001 – 2002 are from NMFS blend data and the shoreside reporting system, and the data for 2003 – 2004 are from the NMFS catch accounting database. NMFS changed to the catch accounting database in 2003.

<sup>55</sup>Table 5.4, p. 153 of the 2001 Biological Opinion, NMFS. October 2001.

These tables also combine the pot sectors' allocations (pot CP and CV sectors had separate allocations in 2004) and include the <60' fixed gear sector within the general hook-and-line and pot sectors. This is because the data for all years were not sufficiently broken out, and because the data are being used here to generally assess the extent to which each sector is harvesting each of its seasonal allocations. The <60' fixed gear sector does not have seasonal apportionments.

The tables show that in the past four years (2001 – 2004), the **trawl CV sector** has generally taken its entire A season allocation, and until 2004, had exceeded its B season allocation. In 2004, this sector harvested only 54% of its initial B season allocation. The trawl CV sector harvested a range of 14%–45% of its C season allocation over this same time period. Note that the low end is attributed to 2001, in which 40% (as opposed to the current 20%) of the sector's entire allocation was apportioned to the C season. Overall, the trawl CV sector harvested 52% (2001) to 99% (2003) of its entire initial allocation over the four year period.

Similar to the trawl CV sector, the **trawl CP sector** has generally taken its entire A season allocation, with the exception of 2001. The lower harvest overall in 2001, by both trawl sectors, is typically attributed to the Steller sea lion mitigation measures implemented that year, including the apportionment of 40% to the C season. Unlike the CV sector, however, the trawl CP sector has harvested less than half of its B season allocation during the same time period, and in excess of its C season allocation in 2002 – 2004. However, because of the significant amounts of B season quota that are rolled to the C season, the result is that the trawl CP sector harvested a range of 72%–88% of its overall allocation.

The **hook-and-line CP sector** harvested its entire A season allocation during 2001 – 2004, and in excess of its B season allocation each year. The B season harvest, which ranged from 147% to 188% of its initial B season allocation, was due to quota that was reallocated from other gear sectors (trawl, jig, pot) late in the year. Overall, the hook-and-line CP sector harvested about 123% of its overall allocation during this time period, due to reallocated quota.

The **hook-and-line CV sector** also harvested its entire A season allocation during 2001 – 2004. The B season harvest is more variable. In 2001 and 2002, the CV sector tripled and doubled its B season harvest, respectively, compared to its initial B season allocation, due to quota that was reallocated from the trawl and jig sectors. In 2003 and 2004, however, the hook-and-line CV sector harvested 82% and 75%, respectively, of its B season allocations. Recall that the hook-and-line CV sector currently receives 0.15% of the BSAI Pacific cod ITAC; thus, for instance, in 2004, the remaining 25% of this sector's B season allocation represented 31 metric tons. Overall, this sector harvested 90% to 240% of their entire initial allocations. The excess harvest is due to quota that was reallocated from other gear sectors late in the year.

The **pot sectors** are combined in these tables, as they did not have separate allocations until 2004. The data show that the pot sectors harvested their entire A season allocations during 2001 – 2004, and less of their B season allocations. Over the four year period, B season harvest as a percentage of the initial B season allocation ranged from 55% to 90%. Overall, the pot sectors harvested 84% to 115% of their entire initial allocations.

Finally, the **jig sector** allocation was seasonally apportioned starting in 2002 (60% - 40%) and then reapportioned (40% - 20% - 40%) starting in 2004. The jig sector has never harvested more than 5% of its A season allocation, and not more than 8% of its entire allocation. The highest jig harvest during this time period was in 2004, in which the jig sector harvested 8% (231 mt) of its allocation.

**Table 3-18 Comparison of initial allocation<sup>1</sup> and total catch (mt) of BSAI Pacific cod by season and sector, 2001–2002**

Year	2001				2002			
Season	Initial allocation	Total catch (mt)	Remaining quota	% taken	Initial allocation	Total catch (mt)	Remaining quota	% taken
<b>TRAWL CV</b>								
A season					30,433	30,584	-151	100%
B season	24,520	19,024	5,496	78%	4,348	7,152	-2,804	164%
C season	16,347	2,364	13,983	14%	8,695	3,946	4,749	45%
TOTAL	40,867	21,388	19,479	52%	43,475	41,683	1,792	96%
<b>TRAWL CP</b>								
A season					21,738	21,806	-68	100%
B season	24,520	17,738	6,782	72%	13,043	4,421	8,622	34%
C season	16,347	11,627	4,720	71%	8,695	10,268	-1,573	118%
TOTAL	40,867	29,364	11,503	72%	43,475	36,495	6,980	84%
<b>JIG</b>								
A season	no seasonal apportionmt.				2,220	71	2,149	3%
B season		71	3,407	2%	1,480	94	1,386	6%
C season					3,700	166	3,534	4%
TOTAL	3,478	71	3,407	2%				
<b>HOOK-AND-LINE CP</b>								
A season	42,331	43,902	-1,571	104%	45,048	44,932	116	100%
B season	28,220	52,203	-23,983	185%	30,032	44,366	-14,334	148%
TOTAL	70,551	96,105	-25,554	136%	75,080	89,298	-14,218	119%
<b>HOOK-AND-LINE CV</b>								
A season	159	235	-76	148%	169	175	-6	103%
B season	106	402	-508	379%	113	229	-116	203%
TOTAL	265	637	-372	240%	282	404	-122	143%
<b>POT</b>								
A season	9,683	11,616	-1,933	120%	10,305	11,208	-903	109%
B season	6,455	4,805	1,650	74%	6,870	3,795	3,075	55%
TOTAL	16,139	16,420	-281	102%	17,175	15,004	2,171	87%

Source: NMFS Blend database and fishtickets, 2001 - 2002.

<sup>1</sup>The initial allocation is the amount of BSAI Pacific cod that the sector is allocated at the beginning of the year in the annual specifications process. Note that these data do not reflect any reallocations that may occur inseason. Thus, sectors that appear to have exceeded their B or C season allocations received reallocated quota in addition to their initial allocation in most cases.

Note: The <60' hook-and-line and pot CV sectors' harvest is included in the general hook-and-line CV and pot gear harvest.

Note: The hook-and-line gear sector (and jig gear in 2002) seasonal apportionments are: 60% A (Jan. 1 - June 10); 40% B (June 10 - Dec. 31). The pot sector seasonal apportionments are: 60% A (Jan. 1 - June 10); 40% B (Sept. 1 - Dec. 31). In 2001, the trawl sectors seasonal apportionments were: A (Jan. 1 - June 10); B (June 10 - Nov. 1). Starting in 2002, the trawl CV sector apportionments are: 70% A (Jan. 20 - Apr. 1); 10% B (Apr. 1 - June 10); 20% C (June 10 - Nov. 1). The trawl CP sector apportionments are: 50% A (Jan. 20 - Apr. 1); 30% B (Apr. 1 - June 10); 20% C (June 10 - Nov. 1).

**Table 3-19 Comparison of initial allocation<sup>1</sup> and total catch (mt) of BSAI Pacific cod by season and sector, 2003 – 2004**

Year	2003				2004			
Season	Initial allocation	Total catch	Remaining quota	% taken	Initial allocation	Total catch	Remaining quota	% taken
<b>TRAWL CV</b>								
A season	31,574	36,050	-4,476	114%	32,791	34,801	-2,010	106%
B season	4,510	5,425	-915	120%	4,684	2,543	2,141	54%
C season	9,021	3,306	5,715	37%	9,369	3,749	5,620	40%
TOTAL	45,105	44,781	324	99%	46,844	41,093	5,751	88%
<b>TRAWL CP</b>								
A season	22,553	20,387	2,166	90%	23,422	22,350	1,072	95%
B season	13,531	3,082	10,450	23%	14,053	6,459	7,594	46%
C season	9,021	10,018	-997	111%	9,369	12,521	-3,152	134%
TOTAL	45,105	33,487	11,620	74%	46,844	41,330	5,514	88%
<b>JIG</b>								
A season	2,303	108	2,195	5%	1,595	60	1,535	4%
B season					797	170	627	21%
C season	1,536	48	1,488	3%	1,595	1	1,594	0%
TOTAL	3,839	156	3,683	4%	3,987	231	2,211	8%
<b>HOOK-AND-LINE CP</b>								
A season	46,747	46,089	658	99%	48,558	49,064	-506	101%
B season	31,164	47,323	-16,159	152%	32,372	47,723	-15,351	147%
TOTAL	77,911	93,412	-15,501	120%	80,930	96,787	-15,856	120%
<b>HOOK-AND-LINE CV</b>								
A season	175	175	0	100%	182	181	1	100%
B season	117	96	21	82%	121	90	31	75%
TOTAL	292	271	21	93%	303	272	32	90%
<b>POT</b>								
A season	10,693	14,125	-3,432	132%	11,108	11,220	-112	101%
B season	7,129	6,448	681	90%	7,405	4,378	3,027	59%
TOTAL	17,822	20,573	-2,751	115%	18,513	15,598	2,915	84%

Source: NMFS catch accounting database, 2003 - 2004.

Note: While the data are aggregated, the pot CP and pot CV sectors had separate allocations in 2004. The pot CP and CV sectors harvested 97% and 81% of their 2004 allocations, respectively.

<sup>1</sup>The initial allocation is the amount of BSAI Pacific cod that the sector is allocated at the beginning of the year in the annual specifications process. Note that these data do not reflect any reallocations within the sector that may occur inseason. Thus, sectors that appear to have exceeded their B/C season allocations received reallocated quota in addition to their initial allocation in most Note: The hook-and-line gear sector (and jig gear in 2003) seasonal apportionments are: 60% A (Jan. 1 - June 10); 40% B (June 10 - Dec. 31). The pot sector seasonal apportionments are: 60% A (Jan. 1 - June 10); 40% B (Sept. 1 - Dec. 31). Starting in 2004, the jig gear seasonal apportionments are: 40% A (Jan. 1 - Apr. 30); 20% B (Apr. 30 - Aug. 31); 20% C (Aug. 31 - Dec. 31). Starting in 2002, the trawl CV sector apportionments are: 70% A (Jan. 20 - Apr. 1); 10% B (Apr. 1 - June 10); 20% C (June 10 - Dec. 31). The trawl CP sector apportionments are: 50% A (Jan. 20 - Apr. 1); 30% B (Apr. 1 - June 10); 20% C (June 10 - Dec. 31).

\*Note that the <60' fixed gear sector is not subject to seasonal apportionments; thus, catch by that sector is not included in this table.

**Table 3-20 Trawl CP seasonal harvest percentages and reallocations of BSAI Pacific cod, average 2001–2004**

Trawl CP allocation = 23.5% of BSAI Pacific cod ITAC							
Seasons	% initial allocation	% harvested of initial allocation	% remaining from initial allocation	% of allocation that rolls to next season/sector	Reallocation scenario	% of ITAC allocated by season	% of ITAC harvested by season
A Jan. 20 - Apr. 1	50%	45.2%	4.8%	4.8%	rolls to B season	11.8%	10.6%
B Apr. 1 - June 10	30%	9.4%	20.6%	25.4%	rolls to C season	7.1%	2.2%
C June 10 - Nov. 1	20%	25.2%	-5.2%	20.2%	reallocated to fixed gear	4.7%	5.9%
Total	100%	79.8%	20.2%	20.2%		23.5%	18.8%

Note: Data to create this table are from Tables 3.14 and 3.15, average 2001–2004 total harvest, NMFS database.

**Table 3-21 Trawl CV seasonal harvest percentages and reallocations of BSAI Pacific cod, average 2001–2004**

Trawl CV allocation = 23.5% of BSAI Pacific cod ITAC							
Seasons	% initial allocation	% harvested of initial allocation	% remaining from initial allocation	% of allocation that rolls to next season/sector	Reallocation scenario	% of ITAC allocated by season	% of ITAC harvested by season
A Jan. 20 - Apr. 1	70%	65.3%	4.7%	4.7%	rolls to B season	16.5%	15.3%
B Apr. 1 - June 10	10%	11.6%	-1.6%	3.1%	rolls to C season	2.4%	2.7%
C June 10 - Nov. 1	20%	7.6%	12.4%	15.5%	reallocated to fixed gear	4.7%	1.8%
Total	100%	84.5%	15.5%	15.5%		23.5%	19.9%

Note: Data to create this table are from Tables 3.14 and 3.15, average 2001–2004 total harvest, NMFS database.

Table 3-20 and Table 3-21 summarize Table 3-18 and Table 3-19, and represent the allocation to and harvest by each trawl sector as a percentage of the BSAI Pacific cod ITAC. Table 3-20 shows that, on average for the period 2001 – 2004, the **trawl CP sector** was allocated 11.8%, 7.1%, and 4.7% of the ITAC during the A, B, and C seasons, respectively, for a total of 23.5% of the ITAC. The trawl CP sector actually harvested 10.6%, 2.2%, and 5.9% of the ITAC during each season, for a total of 18.8% of the ITAC. In effect, approximately 4.7% of the ITAC was reallocated from the trawl CP sector to the fixed gear sectors during this time period. **This table also shows that the trawl CP sector rolled over 20% of its total allocation from its B season to its C season, on average during 2001 - 2004.**

Table 3-21 shows that, on average for the period 2001 – 2004, the **trawl CV sector** was allocated 16.5%, 2.4%, and 4.7% of the ITAC during the A, B, and C seasons, respectively, for a total of 23.5% of the ITAC. The trawl CV sector actually harvested 15.3%, 2.7%, and 1.8% of the ITAC during each season, for a total of 19.9% of the ITAC. In effect, approximately 3.6% of the ITAC was reallocated from the trawl CV sector to the fixed gear sectors during this time period. **This table also shows that the majority of reallocated trawl CV quota was C season quota, as the trawl CV sector harvested its entire B season allocation on average during this time period.**

Finally, the tables below summarize both the trawl and fixed gear seasonal harvests as a percentage of the ITAC. Combined, both trawl sectors are allocated 28.2% of the BSAI Pacific cod ITAC in the A season and 9.4% in both the B and the C seasons (see Table 3-22). However, on average during the period 2001 – 2004, the trawl sectors combined have harvested 26.0%, 4.9%, and 7.7% of each seasonal allocation, respectively. **Thus, while the trawl sectors combined are allocated 47% of the overall BSAI Pacific cod ITAC, they have harvested about 38.6%, on average during the four-year period.** The quota not harvested by trawl gear can be attributed to the B and C seasons.

Note from Table 3-17 that the fixed gear sectors combined, not including the <60' fixed gear CV sector which is not subject to seasonal apportionments, are allocated 30.2% of the ITAC in the first half of the year and 20.1% in the second half, for a total of 50.3%. For **purposes of illustration** in Table 3-23, the

<60' fixed gear allocation is split 60% - 40%, to mirror the other fixed gear sectors, which increases the amount of the ITAC allocated to fixed gear to 30.6% in the first half of the year and 20.4% in the second half, for the total of 51%. Table 3-23 shows that, on average during the period 2001 – 2004, the fixed gear sectors combined have harvested 31.3% and 28.4% of each seasonal allocation, respectively. Thus, while the fixed gear sectors combined are allocated 51% of the overall BSAI Pacific cod ITAC, these sectors have harvested about 59.7% on average during the four-year period. The majority of the 'extra' quota harvested by the fixed gear sector is attributed to the jig and trawl sectors in the second half of the year; however, starting in 2004, jig quota that is projected to remain unharvested is reallocated to the <60' fixed gear CV sector toward the end of each jig season. Thus, a small portion of the 'extra' quota harvested by fixed gear is attributed to reallocated jig quota in the first half of the year.

**Table 3-22 Percent of BSAI Pacific cod ITAC harvested by trawl gear, average 2001–2004**

Date	Seasonal allocations to trawl			Seasonal harvest by trawl (ave. 2001 - 2004)		
	Season	Percent of Allocation	Percent of ITAC allocated to trawl	% of ITAC harvested by trawl CPs	% of ITAC harvested by trawl CVs	% of ITAC harvested by total trawl (CP and CV)
1-Jan	Directed trawl fishing for Pacific cod starts Jan. 20					
20-Jan	A	60%	28.2%	10.6%	15.3%	26.0%
1-Apr	B	20%	9.4%	2.2%	2.7%	4.9%
1-Apr						
10-Jun	C	20%	9.4%	5.9%	1.8%	7.7%
10-Jun	No trawl fishing for Pacific cod after Nov. 1					
1-Nov						
31-Dec						
<b>TOTAL</b>		<b>100%</b>	<b>47%</b>	<b>18.8%</b>	<b>19.9%</b>	<b>38.6%</b>

Source: NMFS Blend data, 2001 – 02. NMFS catch accounting database, 2003 – 04.

**Table 3-23 Percent of BSAI Pacific cod ITAC harvested by fixed and jig gear, average 2001–2004**

Date	Seasonal allocations to fixed gear			Seasonal harvest by fixed gear (ave. 2001 - 2004)			Seasonal harvest by jig (ave. 2001 - 2004)		TOTAL	
	Season	% of Allocation	Percent of ITAC allocated to fixed gear	% of ITAC harvested by H&L	% of ITAC harvested by pot	% of ITAC harvested by total fixed gear	% of ITAC allocated to jig	% of ITAC harvested by jig	% of ITAC allocated to fixed + jig	% of ITAC harvested by total fixed gear + jig
1-Jan	A	60%	30.6%	24.8%	6.5%	31.3%	0.8%	0.06%	31.8%	31.4%
10-Jun										
10-Jun	B	40%	20.4%	25.8%	2.6%	28.4%	0.8%	0.03%	21.2%	28.4%
31-Dec										
<b>TOTAL</b>		<b>100%</b>	<b>51.0%</b>	<b>50.6%</b>	<b>9.1%</b>	<b>59.7%</b>	<b>2.0%</b>	<b>0.08%</b>	<b>53.0%</b>	<b>59.8%</b>

Source: NMFS Blend data, 2001 – 02. NMFS catch accounting database, 2003 – 04.

### 3.3.5.7 Reallocations among gear types

With the exception of the jig sector, any unused *seasonal apportionment* to a particular sector is reallocated to the next seasonal allowance for that sector. This is the case for both CDQ and non-CDQ seasonal allocations. Near the end of the year, however, NMFS considers whether one or more (non-CDQ) sectors will not likely be able to use its remaining BSAI cod allocation. Federal regulations outline a system for reallocating quota that is projected to remain unused by a particular (non-CDQ) sector near the end of the year (50 CFR 679.20(a)(7)(ii)):

- Reallocations between the trawl gear sectors (e.g., trawl CV to trawl CP) are considered prior to reallocating to another gear type (e.g. trawl to fixed gear)
- Unused portions of a seasonal jig allocation are reallocated to the <60' fixed gear CV sector

- Unused hook-and-line CV sector and <60' fixed gear sector quota is reallocated to the hook-and-line CP sector
- Unused trawl quota is reallocated 95% to hook-and-line CP sector; 4.1% to pot CV sector; 0.9% to pot CP sector

In addition, NMFS has broad authority at 50 CFR 679.20(a)(7)(ii)(C) to reallocate Pacific cod that is projected to remain unused from either the trawl or non-trawl sectors through Federal Register notice, subject to the provisions above. For example, while unnecessary in the past, NMFS could reallocate unused pot CP (or pot CV) quota to the other pot sector before it is reallocated to the other gear sectors under this authority. This approach would be consistent with the way the trawl sectors are addressed, in that cod is reallocated within the gear type before being reallocated to a different gear type.

Since the BSAI Pacific cod allocations have been in effect, NMFS has reallocated quota each year from the trawl sectors and jig sector to the pot and the hook-and-line sectors. In addition, having received a separate allocation in 2000, and subject to new seasonal apportionments due to Steller sea lion measures, a reallocation occurred from the pot sector to the hook-and-line catcher processor sector in 2002, and again in 2004. Reallocations between gear types (e.g., trawl CP to trawl CV, or hook-and-line CV to hook-and-line CP) have occurred less frequently and in lower amounts.

The primary reason reallocations occur from the jig sector is due to insufficient effort in that sector in the BSAI. There are several reasons commonly cited for the trawl reallocations. These include increased difficulty catching cod with trawl gear late in the year, when cod are less aggregated (lower catch per unit effort); seasonal apportionments creating a 20% C season for trawl gear under Steller sea lion mitigation measures; closure of the directed trawl fisheries due to the halibut bycatch cap; relatively high annual quotas of alternative trawl fisheries such as pollock (for AFA vessels); and high value alternative trawl fisheries such as yellowfin sole, rock sole, and flathead sole (for non-AFA catcher processors).

Note that the increased difficulty in harvesting cod in the second half of the year, however, is not unique to one sector. All gear sectors have increased difficulty harvesting cod later in the year, when cod are less aggregated. Weather can be a significant factor for the smaller vessel sectors in the fall season. The hook-and-line sectors (CPs and CVs) are also limited by halibut bycatch in the second half of the year, as these sectors do not have any halibut bycatch allowance from June 10 – August 15. This effectively delays the start of the cod hook-and-line season until August 15, when halibut bycatch becomes available. And, as mentioned previously, while the fixed gear cod allocation was seasonally apportioned prior to 2001, these apportionments changed in 2001, with the Steller sea lion mitigation measures, and thus also reduced the amount of cod that the fixed gear sectors could harvest in the first half of the year. Finally, the hook-and-line sector exhibits an increased rate of incidental seabird take in the B season compared to the A season. Thus, the hook-and-line sector would also prefer to harvest its cod quota earlier in the year, to decrease incidental take of seabirds.

In terms of metric tons, the majority of reallocations have been from the trawl sectors (CVs and CPs) since the gear specific allocations have been in effect. Because any unused *seasonal apportionment* to a particular sector is reallocated to the next seasonal allowance for that sector, reallocations from one gear sector to another (with the exception of jig) occur in the last season. Typically, reallocations from trawl to the fixed gear sectors occur in October, November, or December, always during the trawl C season (June 10 – Nov. 1).

**Table 3-24 BSAI Pacific cod ITAC, catch, and reallocations (1995-2005)**

<b>Year &amp; Sector</b>	<b>Initial Allocation</b>	<b>Reallocations</b>	<b>Final Allocation</b>	<b>Catch</b>	<b>Reallocation as % of initial allocation</b>
<b>1995</b>					
Jig gear	5,000	(4,000)	1,000	600	-80%
Hook and Line/Pot	110,000	11,800	121,800	123,186	11%
Trawl gear	135,000	(7,800)	127,200	121,349	-6%
Total	250,000	-	250,000	245,135	
<b>1996</b>					
Jig gear	5,400	(4,400)	1,000	267	-81%
Hook and Line/Pot	118,800	19,400	138,200	127,317	16%
Trawl gear	145,800	(15,000)	130,800	113,089	-10%
Total	270,000	-	270,000	240,673	
<b>1997</b>					
Jig gear	5,400	(5,000)	400	172	-93%
Hook and Line/Pot	137,700	15,000	152,700	146,281	11%
Trawl catcher/processors	63,450	(12,000)	51,450	48,177	-19%
Trawl catcher vessels	63,450	2,000	65,450	63,035	3%
Total	270,000	-	270,000	257,665	
<b>1998</b>					
Jig gear	3,885	(3,500)	385	192	-90%
Hook and Line/Pot	99,067	11,500	110,567	111,751	12%
Trawl catcher/processors	45,649	(3,000)	42,649	41,639	-7%
Trawl catcher vessels	45,649	(5,000)	40,649	39,669	-11%
Total	194,250	-	194,250	193,251	
<b>1999</b>					
Jig gear	3,275	(2,800)	475	169	-85%
Hook and Line/Pot	83,500	11,800	95,300	95,002	14%
Trawl catcher/processors	38,475	(7,000)	31,475	31,111	-18%
Trawl catcher vessels	38,475	(2,000)	36,475	36,079	-5%
Total	163,725	-	163,725	162,361	
<b>2000</b>					
Jig gear	3,571	(3,000)	571	71	-84%
HAL/POT CV < 60	1,268	(38)	1,230		-3%
HAL Catcher/Processors	70,558	11,400	81,958	83,896	16%
HAL Catcher Vessels	272	0	272	901	0%
Pot gear	16,570	600	17,170	18,783	4%
Trawl catcher/processors	41,953	(9,000)	32,953	31,883	-21%
Trawl catcher vessels	41,953	0	41,953	41,593	0%
Total	176,145	(38)	176,107	177,127	

**Table 3-24 continued**

<b>Year &amp; Sector</b>	<b>Initial Allocation</b>	<b>Reallocations</b>	<b>Final Allocation</b>	<b>Catch</b>	<b>Reallocation as % of initial allocation</b>
<b>2001</b>					
Jig gear	3,478	(3,000)	478	71	-86%
HAL/POT CV < 60	1,235	0	1,235		0%
HAL Catcher/Processors	70,551	25,270	95,821	96,238	36%
HAL Catcher Vessels	265	400	665	637	151%
Pot gear	16,139	1,330	17,469	16,506	8%
Trawl catcher/processors	40,867	(10,000)	30,867	29,398	-24%
Trawl catcher vessels	40,867	(14,000)	26,867	21,354	-34%
<b>Total</b>	<b>173,402</b>	<b>-</b>	<b>173,402</b>	<b>164,204</b>	
<b>2002</b>					
Jig Gear	3,700	(3,400)	300	166	-92%
HAL/POT CV < 60	1,314	0	1,314		0%
HAL Catcher/Processors	75,080	14,840	89,920	89,397	20%
HAL Catcher Vessels	282	200	482	404	71%
Pot Gear	17,175	(3,140)	14,035	15,054	-18%
Trawl catcher/processors	43,475	(6,500)	36,975	36,496	-15%
Trawl catcher vessels	43,475	(2,000)	41,475	41,683	-5%
<b>Total</b>	<b>184,501</b>	<b>-</b>	<b>184,501</b>	<b>183,200</b>	
<b>2003</b>					
Jig Gear	3,839	(3,600)	239	156	-94%
HAL/POT CV < 60	1,363	0	1,363		0%
HAL Catcher/Processors	77,911	15,932	93,843	93,412	20%
HAL Catcher Vessels	292	0	292	274	0%
Pot Gear	17,822	839	18,661	20,573	5%
Trawl catcher/processors	45,105	(11,500)	33,605	33,486	-25%
Trawl catcher vessels	45,105	(1,671)	43,434	44,781	-4%
<b>Total</b>	<b>191,437</b>	<b>-</b>	<b>191,437</b>	<b>192,682</b>	
<b>2004</b>					
Jig Gear	3,987	(3,545)	442	231	-89%
HAL/POT CV < 60	1,416	1,545	2,961		109%
HAL Catcher/Processors	80,930	16,865	97,795	96,786	21%
HAL Catcher Vessels	303	0	303	272	0%
Pot Catcher/Processor	3,338	114	3,452	3,234	3%
Pot Catcher Vessels	15,174	(3,439)	11,735	12,364	-23%
Trawl catcher/processors	46,844	(5,413)	41,431	41,330	-12%
Trawl catcher vessels	46,844	(6,127)	40,717	41,093	-13%
<b>Total</b>	<b>198,836</b>	<b>-</b>	<b>198,836</b>	<b>195,310</b>	
<b>2005</b>					
Jig Gear	3,811	(3,645)	166	117	-96%
HAL/POT CV < 60	1,354	1,247	2,601	2,242	92%
HAL Catcher/Processors	77,344	22,175	99,519	100,004	29%
HAL Catcher Vessels	290	(60)	230	235	-21%
Pot Catcher/Processor	3,190	162	3,352	3,339	5%
Pot Catcher Vessels	14,502	(1,674)	12,828	12,232	-12%
Trawl catcher/processors	44,779	(9,273)	35,506	35,465	-21%
Trawl catcher vessels	44,779	(8,932)	35,847	35,747	-20%
<b>Total</b>	<b>190,049</b>	<b>-</b>	<b>190,049</b>	<b>189,381</b>	

Source: 1995 - 2002 data are from NMFS Blend data. 2003 - 2005 data are from catch accounting database. The 500 mt ICA for fixed gear and the 7.5% CDQ reserve are not included. Note: Catch data provided for the <60' fixed gear sector (2003 - 2004) are lower than actual catch due to the fact that some of this sector's catch is attributed to the general hook-and-line CV and pot CV

allocations. In 2000 - 2002, catch for the <60' fixed gear sector is combined with the general fixed gear CV sector harvest data. See Section 3.3.5.3 for detailed information.

Table 3-24 shows the initial allocation, revised allocation, and total catch for each sector that received a separate BSAI Pacific cod allocation in 1995 – 2004. It also shows each sector’s reallocation (either gain or loss) as a percentage of the sector’s initial allocation. Note that the data above were used by NMFS to manage the fishery and reallocate quota during this time period. Neither the incidental catch allowance for the fixed gear sectors (500 mt), nor the 7.5% CDQ reserve of BSAI Pacific cod, are included in the data.

Table 3-24 shows the amount of BSAI Pacific cod quota reallocated to the fixed gear sectors during 1995 – 2004, with a couple of noted exceptions in the pot fleet. It also shows the amount of BSAI Pacific cod quota reallocated from the trawl and jig sectors during that same time period (with one noted exception in the trawl CV sector). As stated previously, unused trawl quota is reallocated as follows: 95% to hook-and-line CP sector; 4.1% to pot CV sector; 0.9% to pot CP sector. This apportionment is based on the actual harvest of reallocated trawl and jig quota from 1996 – 1998. This was also how unused jig quota was redistributed until 2004, prior to Amendment 77. Under Amendment 77, unused portions of a seasonal jig allocation are first considered for reallocation to the <60' fixed gear CV sector.

**Table 3-25 Average BSAI Pacific cod reallocations by sector, 2000–2004**

Average 2000 - 2004	Initial Allocation (mt)	Reallocations (mt)	Reallocation as % of initial allocation
Jig	3,715	-3,309	-89%
HAL/POT CV < 60	1,312	309	24%
HAL Catcher/Processors	75,006	16,861	22%
HAL Catcher Vessels	283	120	42%
Pot gear	17,244	-739	-4%
Trawl catcher/processors	43,649	-8,483	-19%
Trawl catcher vessels	43,649	-4,760	-11%
Average of total	184,858	17,291	9%

Source: 2000 - 2002 data are from NMFS Blend data; 2003 - 2004 data are from NMFS catch accounting database.

Table 3-25 shows the average reallocations for 2000 – 2004, using the same data from Table 3-24. The year 2000 was selected as the starting point for the range since 2000 is the first year in which the fixed gear allocation was split among the hook-and-line CP, hook-and-line CV, pot gear, and <60' fixed gear sectors.

**In sum, on average 2000–2004, NMFS has annually reallocated 17,291 mt of BSAI Pacific cod quota among the sectors, which represents about 9% of the total initial allocation.** More specifically, NMFS has annually reallocated almost 8,500 mt from the trawl CP sector, almost 4,800 mt from the trawl CV sector, and 3,300 mt from the jig sector. These reallocations have represented an average of 19% of the trawl CP sector’s initial allocation, 11% of the trawl CV sector’s initial allocation, and 89% of the jig sector’s initial allocation. **Reallocations from the trawl sector accounted for 80% of the total trawl and jig rollover amount on average during 2000–2004, and reallocations from the jig sector accounted for 20%.**

Also since 2000, NMFS has reallocated an average of about 16,900 mt to the hook-and-line CP sector and 120 mt to the hook-and-line CV sector each year. This represents an average of 22% and 42% of each sector’s initial allocation, respectively. The pot sector both received additional quota and had quota reallocated from it over this same time period. Note that 2004 was the first year in which the pot sector allocation was split between the pot CP sector and the pot CV sector (under BSAI Amendment 77). In 2004, the pot CP sector received an additional 114 mt of quota; while about 3,400 mt was reallocated from the pot CV sector. Beginning in 2004, unused portions of a seasonal jig allocation were reallocated

to the <60' fixed gear CV sector. Thus, Table 3-26 shows that the <60' fixed gear sector first received reallocated quota in 2004.

As stated previously, with the exception of the jig sectors, reallocations from one sector to another occur late in the second half of the year. The timing of these reallocations may affect whether a particular sector is still operating on the fishing grounds and thus capable of harvesting any quota that is reallocated from another sector. This factor is taken into account when NMFS inseason managers make reallocations. Table 3-26 shows the frequency and timing of reallocations since 1997.

**Table 3-26 Dates of reallocations between gear sectors, 1997–2006**

Year	Gear types affected	Date of reallocation
1997	From trawl CP to trawl CV From jig and trawl CP to fixed gear	September 26 October 17
1998	From jig and trawl CP to fixed gear From trawl CP and trawl CV to fixed gear	October 13 November 10
1999	From jig and trawl CP to fixed gear From trawl CP and trawl CV to fixed gear	September 24 December 6
2000	From jig and trawl CP to H&L CP and pot	October 27
2001	From jig, trawl CP and trawl CV to H&L CP, H&L CV, and pot gear	October 4
2002	From jig, trawl CP and trawl CV to H&L CP, H&L CV, and pot gear From trawl CP, trawl CV and pot gear to H&L CP gear	September 27 November 20
2003	From jig, trawl CP, trawl CV, and pot gear to H&L CP and H&L CV gear From jig, trawl CP, and trawl CP to pot and H&L CP gear	October 10 December 1 & December 15
2004	From jig to <60' fixed gear From jig, trawl CP and trawl CV to H&L CP, pot CP, and pot CV gear From pot CV to trawl CP, trawl CV and H&L CP gear	April 7 October 14 November 26
2005	From jig to <60' fixed gear From jig to <60' fixed gear From jig to <60' fixed gear From jig, trawl CP and trawl CV gear to H&L CP, pot CP, and pot CV gear	April 12 May 12 August 5 October 6
2006 <sup>1</sup>	From jig to <60' fixed gear From jig to <60' fixed gear	March 21 April 25

Source: NMFS information bulletins, Sustainable Fisheries Division, 1997 – 2006.

<sup>1</sup>2006 data are only through May 4, 2006.

Note: The date of reallocation listed is the date the NMFS information bulletin was issued announcing the reallocation. The actual reallocation may have occurred a few days earlier than the date listed.

### 3.3.5.8 PSC by sector

The prohibited species allowances are currently shared among the (non-CDQ) BSAI trawl and non-trawl fisheries, according to the guidelines outlined in 50 CFR 679(e). The species included in PSC allocations include halibut, herring, red king crab, *C. opilio* Tanner crab, *C. bairdi* Tanner crab, salmon (divided into Chinook and non-Chinook). The non-Chinook salmon bycaught in the BSAI trawl fisheries are primarily chum salmon. The Federal regulations provide a sequential process in allocating PSC in the BSAI fisheries. Initially, 7.5 percent of each PSC limit is set aside for the CDQ program as PSQ reserve. The remainder of the PSC limit is allocated to the non-CDQ trawl and non-trawl fisheries operating in the BSAI, and are allocated among the non-trawl and trawl fisheries groups through the annual harvest specifications process. The current (2006) annual PSC allowances for the BSAI Pacific cod trawl and non-trawl fisheries are listed in Table 3.38. The trawl cod limits are as follows: halibut mortality – 1,434

mt; herring – 27 mt; red king crab – 26,563 animals; *C. opilio* – 139,331 animals; Zone 1 *C. bairdi* – 183,112 animals; and Zone 2 *C. bairdi* – 34,176 animals. The Pacific cod hook-and-line fisheries have a halibut bycatch limit, which is 775 mt of halibut mortality. The pot and jig sectors are exempt from PSC limits.

The halibut PSC limit is set in regulation and is not tied to population assessment for the halibut resource. The limits for the other PSC species (herring, red king crab, *C. bairdi* crab, *C. opilio* crab and Chinook salmon) are set to fluctuate as the resource abundance fluctuates. Crab PSC is tied to PSC limitation zones for red king, *C. bairdi*, and *C. opilio* crab, whereas the PSC limits for the other species are for the entire BSAI. Section 3.4.1.5 shows two area maps for the respective red king crab/*C. bairdi* PSC zones and the *C. opilio*. Zones 1 of the red king crab/ *C. bairdi* PSC zone is comprised of zones 508, 509, 512 and 516. Zone 2 of the red king crab/ *C. bairdi* PSC zone is comprised of zones 513, 517 and 521 (See Section 3.4.1.5). The *C. opilio* bycatch limitation zone (COBLZ) zone is comprised of management areas 513, 524, 531, 533, and 534 (see Section 3.4.1.5). The various levels of PSC allocation for different levels of resource abundance for red king crab, *C. bairdi* crab, and *C. opilio* are also shown in this section. The 2006 PSC levels are established as outlined below.

Trawl fishery PSC halibut allocation. The trawl fisheries receive an initial allocation of 3,674 mt of Pacific halibut mortality. From this total, 7.5 percent is subtracted to accommodate PSC bycatch in the CDQ fisheries, leaving 3,400 mt for all BSAI trawl fisheries. The remaining amount of BSAI halibut PSC is allocated among the different trawl and non-trawl fishery groups through the harvest specifications process. The current allocation to the Pacific cod trawl fishery is 1,434 mt of halibut mortality, with the remainder going to other BSAI trawl fisheries.

Non-trawl PSC halibut allocation. The limit for non-trawl fishery allocation is set at 900 mt of halibut mortality, less the 7.5 percent CDQ reserve, leaving 833 mt as the PSC halibut allowance for all BSAI hook-and-line fisheries (jig and pot gear are exempt). The current halibut mortality PSC limit for the BSAI hook-and-line cod fishery is 775 mt.

Trawl PSC red king crab allocation. The trawl PSC limit for red king crab varies between 32,000 crab and 197,000 crab, depending upon threshold levels of red king crab resource abundance. The specific resource abundance limits and the respective trawl PSC red king crab limits are shown in Section 3.4.1.5. From the initial PSC determination, the 7.5 percent CDQ reserve is removed, and the remaining amount is split among the various fisheries through the annual harvest specifications process. The current PSC limit for zone 1 red king crab is 182,225 crab, for all trawl fisheries, with the Pacific cod trawl fisheries being allocated 26,563 crab out of that total.

Trawl PSC *C. bairdi* allocation – Zone 1. The trawl PSC limit for zone 1 *C. bairdi* crab varies between 0.5 percent of the total abundance (minus 20,000 animals) at the low end, to 980,000 crab at the high end, depending upon threshold levels of *C. bairdi* resource abundance. The specific resource abundance limits and the respective trawl PSC *C. bairdi* zone 1 limits are shown in Section 3.4.1.5. From the initial PSC determination, the 7.5 percent CDQ reserve is deducted, and the remaining amount is split among the various fisheries through the annual harvest specifications process. The current PSC limit for zone 1 *C. bairdi* crab is 906,500 for all BSAI trawl fisheries, with the Pacific cod trawl fisheries receiving 183,112 of that total.

Trawl PSC *C. bairdi* allocation – Zone 2. The trawl PSC limit for zone 2 *C. bairdi* crab varies between 1.2 percent of the total abundance (minus 30,000 animals) at the low end, to 2,970,000 crab at the high end, depending upon threshold levels of *C. bairdi* resource abundance. The specific resource abundance limits and the respective trawl PSC *C. bairdi* i zone 2 limits are shown in Section 3.4.1.5. From the initial PSC determination, the 7.5 percent CDQ reserve is deducted, and the remaining amount is split among the

various fisheries through the Council TAC-setting process. The current PSC limit for zone 2 *C.bairdi* crab is 2,747,250 for all BSAI trawl fisheries, with the Pacific cod trawl fisheries receiving a relatively small proportion, 324,176 of that total.

Trawl PSC *C. opilio* allocation. The PSC limit for *C. opilio* within the *C. opilio* bycatch limitation zone (COBLZ) varies in response to resource abundance levels, as do *C. bairdi* and red king crab.

PSC limits for *C. opilio* Tanner crab are also based upon resource abundance as follows:

- a) PSC Limit. The PSC limit will be 0.1133 percent of the total abundance, minus 150,000 *C. opilio* crabs, unless;
- b) Minimum PSC Limit. If 0.1133 percent, multiplied by the total abundance, is less than 4.5 million, then the minimum PSC limit will be 4.35 million animals; or
- c) Maximum PSC Limit. If 0.1133 percent, multiplied by the total abundance, is greater than 13 million, then the maximum PSC limit will be 12.85 million animals.

The current PSC limit for *C. opilio* within the COBLZ is 4,494,569 million crab for all BSAI trawl fisheries, with the Pacific cod trawl fisheries receiving a relatively small proportion, 139,331 crab.

### *PSC Use by Sector*

#### Halibut mortality

Table 3-27 shows halibut PSC use by sector and year. This table shows the pattern of halibut PSC use by all sectors in the directed Pacific cod fishery during 1995 – 2003. During 1995–2003, the annual average halibut mortality in the trawl fishery has been: non-AFA trawl CPs – 458.7 mt; AFA trawl CPs – 20.81 mt; and trawl CVs – 736.51 mt. The annual average halibut PSC amount for these three sectors totaled 1,216 mt. Note that the halibut PSC allowance for the Pacific cod trawl fishery is typically 1,434 mt.

Table 3-27 also shows the respective halibut mortality for other (non-trawl) gear sectors for the directed Pacific cod fishery. During 1995–2003, the halibut mortality in the hook-and-line CP fishery averaged 684.9 mt per year, and the hook-and-line CV averaged 5.9 mt per year, for a total of about 691 mt per year. Note that the halibut PSC limit for the BSAI hook-and-line cod fishery is typically 775 mt. The halibut mortality data for the pot sectors indicate relatively minor attributable amounts; note that the pot (and jig) gear sectors do not have halibut mortality limits.

**Table 3-27 BSAI PSC halibut mortality (mt) by sector, 1995-2003**

Sector	Year	Annual/Sector Totals	Sector	Year	Annual/Sector Totals
non-AFA Trawl CP	1995	352.05	Pot CP	1995	2.39
	1996	280.24		1996	5.21
	1997	323.21		1997	3.92
	1998	350.61		1998	0.81
	1999	730.53		1999	0.33
	2000	420.77		2000	0.12
	2001	404.63		2001	0.21
	2002	598.27		2002	0.07
	2003	668.33		2003	0.13
		Totals '95-'03		4128.64	
	Sector average/year	458.74		Sector average/year	1.47
AFA Trawl	1995	39.32	Pot CV	1995	7.77

<b>CP</b>	1996	29.19		1996	15.61
	1997	15.03		1997	6.73
	1998	19.59		1998	2.91
	1999	28.08		1999	2.44
	2000	14.82		2000	0.93
	2001	*		2001	1.43
	2002	*		2002	5.19
	2003	*		2003	2.21
	Totals '95-'03	187.29		Totals '95-'03	45.22
	Sector average/year	20.81		Sector average/year	5.02
<b>Trawl CV All</b>	1995	962.14	<b>Hook-and-line CV</b>	1995	12.07
	1996	1,294.56		1996	4.07
	1997	917.43		1997	1.77
	1998	792.99		1998	0.82
	1999	605.45		1999	3.65
	2000	499.75		2000	5.24
	2001	261.92		2001	14.32
	2002	511.88		2002	8.22
2,003	782.51	2003	2.97		
	Totals '95-'03	6,628.63		Totals '95-'03	53.13
	Sector average/year	736.51		Sector average/year	5.90
<b>Hook-and-line CP</b>	1995	779.46	<b>AFA Nine</b>	1995	79.51
	1996	784.18		1996	35.68
	1997	846.14		1997	20.31
	1998	718.37		1998	22.75
	1999	496.29		Totals '95-98	158.25
	2000	706.10		Sector average/year	39.56
	2001	761.85			
	2002	576.47			
2003	495.07				
	Totals '95-'03	6,163.93			
	Sector average/year	684.88			

Source: NPFMC PSC data files, August 2005.

\*Individual data cannot be released due to confidentiality concerns.

#### Crab mortality

Table 3-50 in Section 3.4.1.6 shows the average annual PSC mortality for red king crab by the various Pacific cod fishery sectors from 1995–2003 as follows: non-AFA trawl CPs – 4,730 crab; AFA trawl CPs – 166 crab; and trawl CVs – 1,114 crab. The average annual total of red king crab PSC for these three sectors totaled just 6,010 animals.

Table 3-51 in Section 3.4.1.6 shows the average annual *C.bairdi* Zone 1 and Zone 2 PSC mortality by sector for 1995–2002. For Zone 1, the PSC data show: non-AFA trawl CPs – 72,391 crab; AFA trawl CPs – 469 crab; and trawl CVs – 59,810 crab. The average annual total of Zone 1 *C.bairdi* PSC for these three sectors totaled 132,670 crab.

For Zone 2 *C.bairdi*, the PSC data show: non-AFA trawl CPs – 25,546 crab; AFA trawl CPs – 1,685 crab; and trawl CVs – 19,376 crab. The average annual total of Zone 2 *C.bairdi* PSC for these three sectors totaled 46,607 crab.

Finally, Table 3-52 in Section 3.4.1.6 shows the BSAI mortality for *C. opilio* by sector for 1995–2002 in the COBLZ. The annual average PSC harvest of *C. opilio* crab within the COBLZ during 1995 – 2002 is: non-AFA trawl CPs – 34,645 crab; AFA trawl CPs – 189 crab; and trawl CVs – 6,768 crab. The average annual *C. opilio* PSC for these three sectors totaled 41,602 crab.

### 3.3.5.9 AFA CV and AFA CP sector Pacific cod sideboard harvest

Currently, the trawl CP sector BSAI Pacific cod allocation is shared by the AFA trawl CP sector and the non-AFA trawl CP sector. These sectors are described in Section 3.3.3. Section 208(e) of the AFA establishes vessel and processor eligibility to harvest and process the BSAI pollock directed fishing allowance designated for each sector under the AFA. Section 208(e) lists the 20 vessels, by name, that are eligible to participate as trawl catcher processors under the AFA; these vessels comprise the ‘AFA trawl CP’ sector.

In addition, the trawl CV BSAI Pacific cod allocation is shared by the AFA trawl CV sector and the non-AFA trawl CV sector, as described in Section 3.3.3. Section 208(a)-(c) of the AFA establishes the eligibility criteria and list of catcher vessels eligible to harvest pollock under the AFA. The NMFS’ database indicates that 111 catcher vessels were issued AFA catcher vessel permits in 2005.

Although separate BSAI Pacific cod allocations are not currently established for the AFA CP and AFA CV sectors, the implementing regulations for the AFA established “sideboards”, which are limits on the participation by AFA-qualified vessels in the other BSAI (non-pollock) groundfish fisheries, including Pacific cod. The 20 listed AFA CPs are currently subject to an annual BSAI Pacific cod sideboard limit (10,554 mt in 2006).<sup>56</sup> The one additional catcher processor that qualifies under 208(e)(21) of the AFA is limited to a small percentage of the AFA CP allocation of pollock, and is therefore not sideboarded in other fisheries. Recall that this catcher processor is part of the non-AFA trawl CP sector for purposes of the non-pollock BSAI groundfish fisheries, as defined under the Consolidated Appropriations Act of 2005.

AFA catcher vessels are also subject to an annual sideboard limit (35,216 mt in 2006) for BSAI Pacific cod.<sup>57</sup> The Council elected to exempt AFA catcher vessels from the Pacific cod sideboards if their annual BSAI pollock landings averaged less than 1,700 mt, from 1995 – 1997, and they made 30 or more landings of BSAI Pacific cod during that time period. The rationale for these exemptions was that many of the AFA catcher vessels with relatively low pollock catch history have traditionally targeted BSAI Pacific cod during the winter cod fishery. In addition, AFA CVs with mothership endorsements are exempt from BSAI Pacific cod catcher vessel sideboard directed fishing closures after March 1 of each fishing year. Of the 111 AFA CVs, 9 are exempt from the cod sideboards under the 1,700 mt exemption and 19 have mothership endorsements and are therefore exempt after March 1. The remaining 83 AFA CVs are subject to BSAI Pacific cod sideboard limits.

Note that the cod sideboards operate as harvest limits for the AFA CP and CV sectors; they provide a cap that the AFA sectors must not exceed, but do not guarantee an allocation up to that amount. Currently, the

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<sup>56</sup>The Pacific cod sideboard (harvest limit) for AFA trawl CPs is equal to the 1997 aggregate retained catch of Pacific cod by AFA CPs in non-pollock target fisheries (as listed in paragraphs 208(e)(1) through (20) and 209 of the AFA divided by the amount of Pacific cod caught by trawl CPs in 1997 multiplied by the Pacific cod TAC available for harvest by trawl CPs in the year in which the harvest limit will be in effect (50 CFR 679.64 (a)(1)(ii)). This equates to 25.8% of the trawl CP allocation.

<sup>57</sup>The AFA CV sideboard (harvest limit) for BSAI Pacific cod is equal to the retained catch of BSAI Pacific cod in 1997 by AFA CVs not exempted under paragraph (b)(2)(i)(A) of 50 CFR 679.64, divided by the BSAI Pacific cod TAC available to catcher vessels in 1997; multiplied by the BSAI Pacific cod TAC available to catcher vessels in the year or season in which the harvest limit will be in effect. This equates to 86.1% of the trawl CV allocation.

AFA cod fishery is, in part, managed by the annual inter-cooperative agreement pursuant to a cod allocation agreement adopted by all AFA cooperatives in 2000. In general, this agreement clarifies which AFA CVs are exempt from the cod sideboards under Federal regulations and allocates the AFA cod sideboards among the nine cooperatives, which provides the basis for each individual cooperative to allocate at the individual vessel level. The agreement states that an overharvest of a sideboard limit by any member of a cooperative shall subject that member to a penalty. Thus, while the AFA authority is limited to allocating pollock, the cooperative structure has provided a mechanism by which the AFA vessels can also manage Pacific cod within the AFA CP and CV sectors.

Table 3-28 shows the amount of the BSAI Pacific cod sideboards harvested by the AFA CP and AFA CV sectors during 2000 – 2004. The data indicate that neither sector harvested its entire BSAI Pacific cod sideboard amount since these limits were implemented. Note that both retained and discarded Pacific cod accrue against a sector’s sideboard.

**Table 3-28 Harvest of BSAI Pacific cod sideboards (mt) in the AFA sectors, 2000 – 2004**

Year	AFA CP			AFA CV		
	Sideboard (mt)	Amt harvested (total mt)	Percent harvested	Sideboard (mt)	Amt harvested (mt)	Percent harvested
2000	11,034	3,313	30%	30,588	25,964	85%
2001	10,748	3,999	37%	31,480	11,477	36%
2002	11,434	3,586	31%	37,429	23,046	62%
2003	10,870	3,831	35%	38,831	29,625	76%
2004	12,080	3,309	27%	40,328	26,863	67%
Avg. 2000–2004	11,233	3,608	32%	35,731	23,395	65%

Source: 2000 – 2002 data are from shoreside electronic logbook, which contains no estimates of at-sea discards. 2003 – 2004 data are from NMFS catch accounting system (includes estimates of at-sea discards). For the AFA CV sector, this includes the total BSAI Pacific cod harvest by non-exempt AFA CVs and harvest by AFA CVs delivering to motherships before March 1. For the AFA CP sector, this includes the total BSAI Pacific cod harvest by the 20 CPs listed in Section 208(e) of the AFA.

### 3.3.6 CDQ Program

This section provides general information about the western Alaska CDQ program. More detailed information about the CDQ Program and CDQ groups may be found at the NOAA Fisheries, Alaska Region web site: [www.fakr.noaa.gov/cdq/default.htm](http://www.fakr.noaa.gov/cdq/default.htm), the Alaska Department of Commerce, Community and Economic Development web site: [www.dced.state.ak.us/bsc/CDQ/cdqstats.htm](http://www.dced.state.ak.us/bsc/CDQ/cdqstats.htm), and the Bering Sea Fishermen’s Association’s web site: [www.cdqdb.org](http://www.cdqdb.org).

#### 3.3.6.1 Establishment and Purpose of the CDQ Program

The western Alaska CDQ Program was created by the Council in 1992, as part of the inshore/offshore allocations of pollock in the BSAI. As stated in the BSAI Groundfish FMP, the purpose of the CDQ program is as follows:

*The Western Alaska Community Development Quota Program is established to provide fishermen who reside in western Alaska communities a fair and reasonable opportunity to participate in the Bering Sea/Aleutian Islands groundfish fisheries, to expand their participation in salmon, herring, and other nearshore fisheries, and to help alleviate the growing social economic crisis within these communities... Through the creation and implementation of community development plans, western Alaska communities will be able to diversify their local economies, provide*

*community residents with new opportunities to obtain stable, long-term employment, and participate in the Bering Sea/Aleutian Islands fisheries which have been foreclosed to them because of the high capital investment needed to enter the fishery.*

As implemented by Federal regulation, the purpose of the CDQ program is to help western Alaska communities diversify their local economies, by investing in commercial fisheries other fisheries-related projects, and to provide new opportunities for stable, long-term employment. The original CDQ program regulations went into effect on November 18, 1992, and have since been amended numerous times. In 1996, the Magnuson Stevens Act (Section 305(i)) institutionalized the program.

The fishery resources allocated under the CDQ program are under Federal jurisdiction, but the program is jointly managed by NOAA Fisheries and the State of Alaska (State). Currently, the State is primarily responsible for the day-to-day administration and oversight of the economic development aspects of the program and for recommending quota allocations for each CDQ group. NOAA Fisheries is primarily responsible for fisheries management aspects of the groundfish and halibut CDQ fisheries and broad program oversight. The specific criteria used to evaluate applications and make CDQ allocation recommendations are implemented in State regulations. The Alaska Regional Administrator, NOAA Fisheries, acting on behalf of the U.S. Secretary of Commerce, and the Council, review the State's recommendations and the Regional Administrator makes the final decision on allocations to the CDQ groups.

Note that the President signed the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) into law on July 11, 2006. Among other actions, this Act amends Section 305(i) of the Magnuson Stevens Act, which pertains to the CDQ Program. The MSA amendments include a change to make the CDQ Program Pacific cod allocation a directed fishing allocation of 10% upon the establishment of sector allocations (Section 305(i)(1)(B)(ii)(1)). As Amendment 85 establishes sector allocations of BSAI Pacific cod, the MSA thus requires that, at the same time these sector allocations are established, the allocation of BSAI Pacific cod to the CDQ Program must increase to 10% as a directed fishing allocation. In brief, this requirement means that 10% of the BSAI Pacific cod TAC must be provided to the CDQ Program for directed fishing by vessels fishing on behalf of the CDQ groups, and an amount of Pacific cod in addition to the 10% must be provided to the CDQ Program to provide for incidental catch of Pacific cod in other groundfish CDQ fisheries. The regulatory and FMP amendments necessary to implement this change are thus included in this amendment package, in order for the Council's proposal for Amendment 85 to be consistent with the MSA. Further FMP and regulatory amendments resulting from the Act are undergoing analysis and legal interpretation by NOAA GC.

### **3.3.6.2 CDQ Communities and Groups**

The communities in the CDQ program are predominantly populated by Alaska Natives; one of the community eligibility criteria was that a community must be certified by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to be a Native village. The communities are typically remote, isolated settlements with few natural assets with which to develop and sustain a viable diversified economic base, and are located no more than 50 nm from the BSAI coast of western Alaska. Basic community and social infrastructure is often underdeveloped or lacking, and transportation and energy costs are high. As a result, economic opportunities have been few, unemployment rates have been chronically high, and communities (and the region) have been economically depressed.

While the CDQ communities border very productive fishing grounds in western Alaska, they have historically been unable to exploit this proximity. The full development of the domestic fishing and processing industry in the BSAI fisheries occurred relatively quickly, between 1976 and 1990. However,

the very high capital investment required to compete in these fisheries precluded small communities from participating in their development. The CDQ program serves to ameliorate some of these circumstances by extending an opportunity to eligible communities to directly benefit from the productive harvest and use of these resources.

Currently, 65 communities participate in the CDQ program, based on eligibility criteria in the Magnuson Stevens Act. The eligible communities have formed six non-profit corporations (CDQ groups) to manage and administer the CDQ allocations, investments, and economic development projects. The six CDQ groups are Aleutian Pribilof Island Community Development Association (APICDA), Bristol Bay Economic Development Corporation (BBEDC), Central Bering Sea Fishermen's Association (CBSFA), Coastal Villages Region Fund (CVRF), Norton Sound Economic Development Corporation (NSEDC), and Yukon Delta Fisheries Development Association (YDFDA). The Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241), approved July 11, 2006, listed the eligible communities and their representative CDQ groups in the statute.

### **3.3.6.3 CDQ Program Allocations, Harvest, and Value**

Since 1992, the CDQ Program has expanded several times and now includes allocations of pollock, halibut, sablefish, crab, most of the remaining groundfish species (Pacific cod, Atka mackerel, flatfish, and rockfish), and prohibited species catch (i.e., bycatch allowances for salmon, halibut, and crab). CDQ Program allocations vary by species. While originally set at 7.5 percent, Congress increased the pollock CDQ allocation to 10 percent in 1998 as part of the American Fisheries Act. The percentage of other catch limits allocated to the CDQ Program ("CDQ reserves") is determined by: the BSAI Crab Rationalization Program (10 percent of crab species, except for Norton Sound red king crab, which is 7.5 percent. See 70 FR 10174, March 2, 2005); the BSAI Groundfish FMP for most other groundfish and prohibited species (7.5 percent, except 20 percent for fixed gear sablefish); and, 50 CFR 679 for halibut (20 percent to 100 percent in each area). The BSAI Pacific cod allocation to the CDQ Program was first established in 1998 at 7.5% of the TAC, and remains at that percentage to-date.

Establishing the annual groundfish CDQ reserves is an extension of the annual groundfish specifications process. Once annual BSAI species categories and TAC amounts are established, an initial TAC amount of 85 percent of the aggregated BSAI TACs is calculated for all species, except pollock and fixed gear sablefish. The remaining 15 percent of the annual TAC is split equally between the CDQ Program (7.5%) and a non-specified groundfish reserve (7.5%). The annual 7.5 percent CDQ reserve is then apportioned among the TAC categories in place for a given year, based on the proportion each TAC category contributes to the aggregate BSAI TAC limit. The Bering Sea and Aleutian Islands pollock TACs each contribute 10 percent to CDQ reserves, while the fixed gear sablefish TAC contributes 20 percent to a CDQ reserve. Annual groundfish CDQ and PSQ allocations for 1998 to 2006 are available at the NOAA Fisheries web site cited in the introductory paragraph in Section 3.3.6. Figure 3-14 illustrates the process involved in establishing the annual CDQ reserves. The process establishing PSQ reserves is similar.

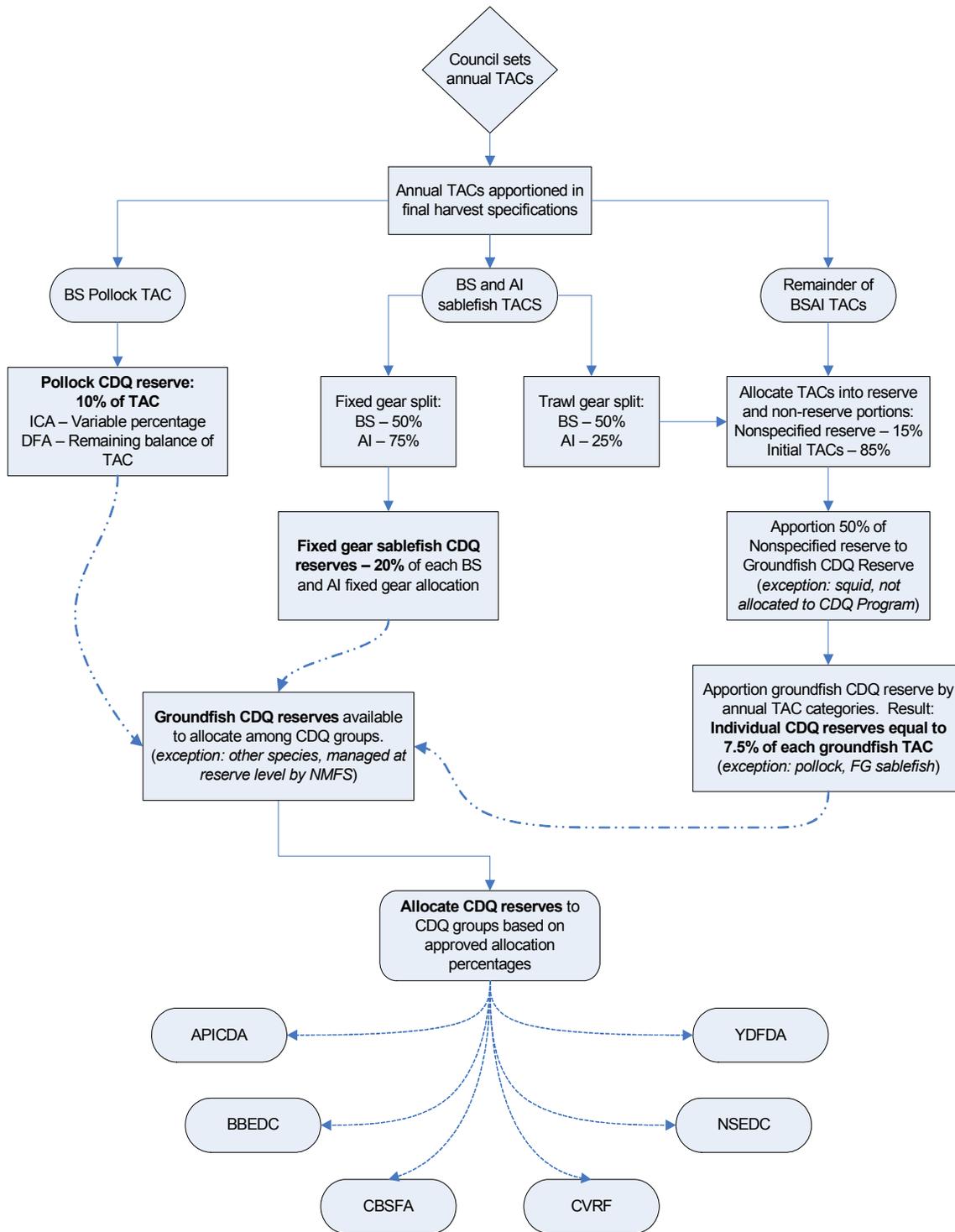
To date, CDQ reserves and prohibited species quota (PSQ) have been allocated among CDQ groups based on allocation percentages recommended by the State and approved by NMFS. The application for the quota through 2005 was a group's Community Development Plan (CDP). The percentages allocated to each group varied by species and were reviewed on a periodic basis with the initiation of a new allocation cycle and submittal of a new CDP for that cycle. Changes to each group's prior allocation could be made based on need as well as the group's overall performance in achieving its plans and objectives. Annual groundfish CDQ allocations for 1998 to 2006 are available at the NMFS Alaska Region web site. Most groundfish and prohibited species caught by vessels fishing for CDQ groups accrue against the CDQ allocations. Groundfish or prohibited species caught in the groundfish CDQ fisheries do not accrue

against the non-CDQ apportionment of the TAC or PSC limits, with limited exceptions. The CDQ groups are required to manage their catch to stay within all of their CDQ allocations.

Note, however, that the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) recently amended Section 305(i) of the Magnuson Stevens Act, resulting in significant changes to the fisheries management and administration of the program described above. The FMP and regulatory amendments necessary to implement all aspects of the statute are the subject of ongoing analysis by NMFS and NOAA GC. As an example of the changes, the statute fixes the CDQ allocations to each group at 2005 levels and requires evaluation by the State for possible modification (of up to 10%) of those allocations every ten years. In addition, the CDP developed by each group is no longer an application for CDQ and does not require approval by the Secretary. In addition, some species of CDQ allocations will be increased to 10% and managed as directed fishing allowances in the future, meaning that the 10% will serve the target fishery for that species, and incidental catch of the same species would require an additional allowance. For the purpose of the background information in this section, it is primarily important to note that significant changes are imminent.

The 2006 CDQ allocations include approximately 188,000 metric tons of groundfish, over 2 million pounds of halibut (including PSC amounts), and approximately 3 million pounds of crab. Annual CDQ allocations provide a revenue stream for CDQ groups through various channels, including the direct catch and sale of some species, leasing quota to various harvesting partners, and income from a variety of investments. The majority of CDQ allocations, with the exception of halibut, are leased to various partner companies. The six CDQ groups had total revenues in 2003 of approximately \$87 million, primarily from pollock royalties. Since 1992, the CDQ groups have accumulated net assets worth approximately \$231 million (as of 2003), including ownership of small local processing plants, catcher vessels, and catcher processors that participate in the groundfish, crab, salmon, and halibut fisheries.

**Figure 3-14 Establishment and distribution of groundfish CDQ reserves**



### 3.3.6.4 Revenue Generation and Asset Accumulation

The revenue stream from the lease of CDQ allocations has permitted the development of considerable savings by the CDQ groups. These savings provide important capital for making investments, and asset accumulation by CDQ communities is one measure of the performance of the program. Amassing equity interest in real assets represents a clear community development strategy. Data suggest that CDQ groups, when taken as a whole, have retained almost half of their gross revenues in some form of equity, whether vessel ownership, processing facilities, marketable securities, loan portfolios, and/or IFQ holdings. Table 3-29 shows historic consolidated revenues, expenses, and increases in net assets for the combined activities of all CDQ groups.

**Table 3-29 CDQ Group Revenues, Expenses, and Increase in Net Assets, 1999-2003**

Year Ending	1999	2000	2001	2002	2003
Total unrestricted revenues and gains	\$54,062,354	\$58,306,163	\$76,377,278	\$69,362,946	\$86,687,267
Total expenses	\$24,921,406	\$32,781,529	\$36,033,547	\$49,666,315	\$49,515,380
Increase in net assets (adjusted)	\$30,116,694	\$26,049,839	\$41,205,740	\$22,707,501	\$37,925,087

Source: NOAA Fisheries and the State of Alaska Department of Commerce, Community, and Economic Development CDQ Program Office.

Table 3-30 outlines the combined annual balance sheets for the six CDQ groups from 1999 through 2003. The value of CDQ group assets in aggregate increased from about \$13 million in 1992 to over \$262 million in 2003 (the most recent year for which data are audited and available). Liabilities have shown considerable fluctuation. Liability growth since 2000 is due to a large increase in investments that carry an element of debt, particularly investments in the offshore pollock sector.

**Table 3-30 CDQ Group Liabilities and Net Assets, 1999-2003**

Years Ending	1999	2000	2001	2002	2003
Total current assets	\$46,784,417	\$46,770,141	\$47,279,273	\$89,622,388	\$110,205,408
Total assets	\$111,072,690	\$152,758,789	\$190,280,968	\$227,066,645	\$262,474,892
Total liabilities	\$7,288,182	\$23,947,973	\$19,240,885	\$34,058,020	\$31,541,180
Total net assets	\$103,784,508	\$128,810,816	\$171,040,083	\$193,008,625	\$230,933,712

Source: NOAA Fisheries and the State of Alaska Department of Commerce, Community, and Economic Development CDQ Program Office.

### 3.3.6.5 CDQ employment and Income

Employment opportunities have been one of the most tangible benefits of the CDQ Program for many western Alaska village residents. The CDQ program has had some success in securing career track employment for many residents of qualifying communities, and has created opportunities for non-CDQ Alaskan residents as well. Jobs generated by the CDQ program include work aboard harvesting vessels or processing plants, internships with partner companies or government agencies, and administrative positions. In recent years, annual CDQ-related jobs have ranged from 1,339 people in 1999 to 2,080 in 2003. The number of jobs does not necessarily equal the number of people employed, as one person can take advantage of several short-term jobs in any given year. CDQ wages in those same years has ranged from \$10.6 million to \$11.9 million.

The importance of CDQ pollock-related employment in terms of number of jobs and wages appears to be declining relative to employment in other fisheries. This trend reflects the expansion of the CDQ program to include other fisheries and the increased investment by CDQ groups in vessels and processing infrastructure for those fisheries. The average wage for a CDQ pollock-related job continues to surpass that of a position in other fisheries, but that differential may also be decreasing. Residents in some regions prefer local employment opportunities, and investments in regional on-shore fisheries projects have led to increased employment opportunities within or near CDQ communities.

### 3.3.7 Ex-vessel prices and revenues (non-CDQ)

Ex-vessel BSAI Pacific cod prices in the non-CDQ fixed gear sector ranged from \$0.213 (2002) to \$0.303 (2000) per pound round weight during 2000–2004. During this same time period, prices for the trawl sectors ranged from \$0.193 – \$0.291 per pound round weight. Prices paid to pot and hook-and-line vessels were similar; in some years, pot catcher vessels received slightly more per pound than hook-and-line catcher vessels, and in other years, hook-and-line vessels were paid a slightly higher price. The 2004 ex-vessel price for fixed gear vessels was \$0.254 per round pound. The 2004 ex-vessel price for trawl-caught cod was \$0.219 per round pound. These ex-vessel prices were developed from gross earnings statements prepared by the Commercial Fisheries Entry Commission and are provided in the 2004 Economic SAFE for the Groundfish Fisheries off Alaska (Hiatt, November 2005). Note, however, that public testimony in February and April 2006, suggests that the 2006 ex-vessel price per round pound of BSAI Pacific cod in the A season is upwards of \$0.40. Ex-vessel prices can be used to project changes in estimated gross ex-vessel revenues resulting from the proposed alternatives.

The estimated ex-vessel value of BSAI Pacific cod by trawl catcher vessels averaged \$16.1 million during 2000–2004, with a low of \$9.9 million (2001) and a high of \$21.9 million (2000). For hook-and-line catcher vessels, the average during 2000–2004 was \$1.1 million, with a low of \$0.4 million (2003) and a high of \$3.0 million (2002). For pot catcher vessels, the average during 2000–2004 was \$8.7 million, with a low of \$5.9 million (2002) and a high of \$12.1 million (2003). The estimated ex-vessel value of BSAI Pacific cod caught by catcher vessels of all gear types averaged about \$26.0 million during this time period.

The estimated ex-vessel equivalent value<sup>58</sup> of BSAI Pacific cod by trawl catcher processors averaged \$17.0 million during 2000–2004, with a low of \$14.0 million (2001) and a high of \$20.4 million (2003). For hook-and-line catcher processors, the average estimated ex-vessel equivalent value during 2000–2004 was \$63.2 million, with a low of \$54.4 million (2002) and a high of \$67.9 million (2003). For pot catcher processors, the average estimated ex-vessel equivalent value during 2000–2004 was \$1.4 million, with a low of \$1.0 million (2002 and 2003) and a high of \$1.8 million (2004). The estimated ex-vessel equivalent value of BSAI Pacific cod caught by catcher processors averaged \$81.6 million during 2000–2004, with a low of \$70.2 million (2002) and a high of \$89.3 million (2003). Overall, the total estimated ex-vessel equivalent value of BSAI Pacific cod caught by all gear types averaged \$107.5 million during 2000–2004. Note that ex-vessel value is calculated using the prices provided above, and the value added by at-sea processing is not included in these estimates of ex-vessel equivalent value (Hiatt, 2005).

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<sup>58</sup> Estimated ex-vessel equivalent value has no empirical meaning. It is presented here only to allow a very crude means of contrasting the economic activity of the respective CP and CV sectors. CPs do not engage in an ex-vessel transaction, although they do incur costs to acquire the raw fish they subsequently process (although operating and capital cost data are not available from which these could be derived). The first market transaction CPs engage in is a post-processing first wholesale transaction. CVs do not process their catch, so the first market transaction they engage in is a pre-processing ex-vessel transaction. These are strictly noncomparable transactions, but public interest in contrasting the economics of fishing activities of these two sectors has resulted in the “creation” of this otherwise nonsensical value estimate.

### 3.3.8 Products produced from Pacific cod

The product mix information for 2000–2004 is provided in Table 3-31. In sum, catcher processors of all gear types produce mostly eastern and western cut headed and gutted (H&G) products and a few ancillary products. Shorebased processors produce fillets, salted and split, and H&G products, along with a wide variety of ancillary products. The following section provides the production and gross value of Pacific cod products in the BSAI by at-sea and shoreside processors for 2000–2004.

### 3.3.9 First Wholesale Prices and Revenues

The amount paid to the first processors of fish for their product is first wholesale revenue. This analysis provides 2004 production patterns and prices (Table 3-31), and gross value (Table 3-32 for at-sea processors, and Table 3-33 for shoreside processors) of BSAI Pacific cod products. Data from the 2004 COAR reports were used to estimate first wholesale price, by product form and at-sea or shoreside processing sector.

Estimates of the 2004 total product value per round metric ton of retained Pacific cod catch are provided in the 2005 SAFE report as follows: \$1,132 per round mt of retained BSAI Pacific cod for catcher processors, and \$959 per round mt of retained BSAI Pacific cod for shoreside processors.<sup>59</sup> The average prices per pound of cod product are provided in the tables below.

The 2004 average price per pound for cod products is as follows in Table 3-31: \$1.08 per pound for all BSAI Pacific cod products by at-sea processors and \$1.14 per pound for BSAI Pacific cod products from shoreside processors. The 'all products' price estimate is a weighted average, indicating the total first wholesale value of all products taken together and divided by the total net weight of all products. Confidential data are excluded before calculating the totals. Table 3-31 indicates that higher priced products make up a relatively larger fraction of the product mix for shoreside processors than for at-sea processors, and that lower-priced products make up a relatively smaller fraction of the product mix for shoreside processors. In all years, headed and gutted fish make up roughly 90% of all products for at-sea processors, while fillets make up a larger fraction of the product mix for shoreside processors.

**Table 3-31 Price per pound of Pacific cod products in the fisheries of the BSAI of Alaska by processing sector, 2000-2004 (dollars)**

		2000		2001		2002		2003		2004	
		At-sea	Shoreside								
Pacific cod	Whole fish	\$ .44	\$ .43	\$ .46	\$ .31	\$ .27	\$ .37	\$ .44	\$ .52	\$ .43	\$ .44
	H&G	\$1.17	\$ .89	\$1.09	\$ .83	\$ .96	\$ .85	\$1.13	\$ .98	\$1.09	\$1.08
	Salted/split	-	-	-	\$1.42	-	-	-	-	-	-
	Fillets	\$2.33	\$2.51	\$1.49	\$1.81	\$1.58	\$2.40	\$2.29	\$2.31	\$2.20	\$1.84
	Other products	\$1.29	\$ .65	\$1.39	\$ .80	\$1.01	\$ .68	\$ .89	\$ .54	\$1.02	\$ .74
	All products	\$1.22	\$1.55	\$1.11	\$1.16	\$ .98	\$1.12	\$1.15	\$1.22	\$1.08	\$1.14

Note: Prices based on confidential data have been excluded.

Source: Weekly production reports and Commercial Operators Annual Reports (COAR), NOAA Fisheries.

<sup>59</sup>Table 27 of the 2005 Economic SAFE report, p. 58.

**Table 3-32 Production and gross value of BSAI Pacific cod products by at-sea processors, 2000–2004 (1,000 metric tons product weight and million dollars)**

		2000		2001		2002		2003		2004	
		Quantity	Value								
Pacific cod	Whole fish	.26	\$ .3	.24	\$ .2	.83	\$ .5	1.06	\$1.0	1.21	\$1.1
	Head & gut	57.22	\$148.0	60.83	\$146.3	59.70	\$126.7	62.98	\$156.8	70.92	\$170.2
	Fillets	2.36	\$12.2	1.43	\$4.7	2.35	\$8.2	2.56	\$12.9	.61	\$3.0
	Other products	2.96	\$8.4	3.46	\$10.6	4.54	\$10.1	4.63	\$9.1	3.40	\$7.6
	All products	62.80	\$168.8	65.95	\$161.8	67.42	\$145.6	71.22	\$179.9	76.14	\$182.0

Source: Weekly production report and commercial operators annual report, NOAA Fisheries. These estimates include all production from catch counted against Federal TACs.

**Table 3-33 Production and gross value of BSAI Pacific cod products by shoreside processors, 2000–2004 (1,000 metric tons product weight and million dollars)**

		2000		2001		2002		2003		2004	
		Quantity	Value								
Pacific cod	Whole fish	.50	\$ .5	.26	\$ .2	.39	\$ .3	.90	\$1.0	.33	\$ .3
	Head & gut	1.09	\$2.2	2.52	\$4.6	5.95	\$11.2	4.95	\$10.7	8.41	\$20.0
	Salted/split	-	-	3.29	\$10.3	-	-	-	-	-	-
	Fillets	5.35	\$29.6	2.59	\$10.3	3.25	\$17.2	5.16	\$26.3	2.27	\$9.2
	Other products	4.27	\$6.1	4.17	\$7.4	5.14	\$7.7	5.60	\$6.7	2.08	\$3.4
	All products	11.22	\$38.4	12.83	\$32.8	14.73	\$36.4	16.62	\$44.7	13.08	\$32.9

Source: Weekly production report and commercial operators annual report, NOAA Fisheries. These estimates include all production from catch counted against Federal TACs.

In addition, Table 3-32 and Table 3-33 provide the production and gross value of Pacific cod products in the BSAI by at-sea and shoreside processors for 2000 – 2004, respectively. In 2004, for example, at-sea processors had a combined product weight of 76,140 mt, with an estimated gross value of \$182.0 million (estimate of \$2,390 per mt). Shoreside processors had a combined product weight of 13,080 mt with an estimated gross value of \$32.9 million (estimate of \$2,515 per mt).

For context, all Pacific cod products off Alaska (both GOA and BSAI) generated an estimated \$245.8 million (2002) to \$288.7 million (2003) during 2000 – 2004, with a five year average of \$271.0 million. BSAI Pacific cod products comprised about \$204.6 million (or 76% of the total on average). Of the most recent data available, all Pacific cod products off Alaska generated an estimated \$281.7 million in 2004, and \$214.8 million (76%) of the total was attributed to Pacific cod products of the BSAI area.

### 3.3.10 Percent of Sector Estimated Revenues Attributed to BSAI Pacific Cod

The analysts reviewed data similar to those reviewed for previous cod allocation amendments: (1) harvest levels by vessels in each sector; (2) ex-vessel prices and first wholesale prices by product form; and (3) estimated ex-vessel and first wholesale revenues resulting from that harvest. Chapter 4 also includes data on where harvests are delivered for processing or for first sale (in the case of catcher processors), and the residency of the vessel owner as reported on the CFEC vessel license file. Much of the information cannot be presented in its detailed form due to confidentiality restrictions, but is summarized qualitatively. The information in this section is provided as a broad indicator of the relative importance of the BSAI Pacific cod fishery to vessels in the identified sectors in the recent past.

It is important to note that eligibility to participate in each sector has changed since 1995. The data below include 1999 – 2003, the most recent five years of data available. Eligibility requirements are outlined in Sections 3.3.3 and 3.3.4.

**Percent of Ex-vessel Revenue Attributed to BSAI Pacific cod – CV Sectors**

The following table provides the relative distribution of total ex-vessel revenues across several fisheries in the CV sectors during 1999 – 2003, in order to compare the percentage of estimated ex-vessel revenues attributed to BSAI Pacific cod and all other fisheries. The data provide a general assessment of the relative dependence on BSAI Pacific cod as a part of total ex-vessel revenues by sector, during 1999 – 2003. The table also provides the number of unique vessels that participated in BSAI Pacific cod, other BSAI groundfish, and Gulf groundfish, by sector, during this period.

Table 3-34 indicates that of the total estimated ex-vessel value for each catcher vessel sector, the percentage attributed to BSAI Pacific cod is as low as 1.6% ( $\geq 60'$  hook-and-line CV sector) to as high as 34.7% (non-AFA trawl CV sector). The remaining CV sectors had the following percentages attributed to BSAI Pacific cod:  $<60'$  fixed gear sector - 3.7%; AFA trawl CV – 9.9%; jig CV – 12.8%;  $\geq 60'$  pot CV – 14.5%.

The majority of ex-vessel revenues in the  $<60'$  fixed gear and  $\geq 60'$  hook-and-line CV sectors were from halibut, with slightly lesser amounts from Gulf of Alaska groundfish landings and other (non-Pacific cod) BSAI groundfish. The majority of ex-vessel revenues in the jig sector, while much lower overall, were also attributed about evenly between halibut and Gulf groundfish (34% each), with lesser amounts in salmon (13%). In the  $\geq 60'$  pot CV sector, the great majority of revenues were from crab landings (75%), with very small amounts of halibut and Gulf groundfish.

The two trawl CV sectors also exhibit much different trends. The AFA trawl CV sector had by far the highest total ex-vessel revenues of all CV sectors, and about three times greater than the non-AFA trawl CV sector. The non-AFA trawl CV sector had the highest percentage attributed to BSAI Pacific cod (35%), but still had the majority of its revenues attributed to Gulf groundfish (46%) and lesser amounts ( $<8\%$ ) spread across all other fisheries. As far as BSAI groundfish, however, the primary species of importance to this sector is Pacific cod. In the AFA trawl CV sector, 79% of ex-vessel revenues are attributed to other BSAI groundfish (pollock), with about 10% from BSAI Pacific cod, and much lower amounts in other fisheries.

**Table 3-34 Estimated ex-vessel value by catcher vessel sector and fishery, 1999 - 2003**

Sector	Average annual estimated ex-vessel value, all species, 1999 - 2003	Total estimated ex-vessel value, all species, 1999 - 2003	Percent of sector's total estimated ex-vessel value							Number of unique vessels		
			% BSAI Pcod	% Other BSAI Groundfish	% Gulf Groundfish	% Crab	% Halibut	% Other Species	% Salmon	BSAI Pcod	BSAI other groundfish	Gulf groundfish
$<60'$ hook-andline/pot CV	\$13,108,117	\$65,540,584	3.7%	10.5%	24.4%	1.1%	57.5%	1.1%	1.6%	92	51	60
AFA trawl CV	\$179,359,763	\$896,798,816	9.9%	79.0%	6.6%	4.1%	0.3%	0.0%	0.0%	107	107	84
Jig CV	\$1,006,014	\$5,030,071	12.8%	3.7%	33.6%	1.1%	34.1%	2.2%	12.6%	58	15	39
Hook-and-line CV $>60'$	\$8,790,571	\$43,952,854	1.6%	4.4%	27.1%	15.7%	51.2%	0.0%	0.0%	33	23	27
Non-AFA trawl CV	\$6,864,061	\$34,320,307	34.7%	1.6%	46.4%	4.1%	7.7%	1.7%	3.8%	37	26	30
Pot CV $>60'$	\$59,061,986	\$295,309,932	14.5%	0.9%	3.8%	74.7%	5.9%	0.2%	0.0%	148	83	79

Source: ADF&G fishtickets and ex-vessel prices from Economic SAFE report, 1999 – 2003.

Note: The number of unique vessels is defined by the number of vessels with BSAI Pacific cod landings. Thus, if a catcher vessel did not have any cod landings during 1999 – 2003, it would not be included in this table.

*Percent of First Wholesale Revenue Attributed to BSAI Pacific cod – CP Sectors*

Table 3-35 provides the relative distribution of total first wholesale revenues across three categories of groundfish fisheries in the CP sectors during 1999 – 2003, in order to compare the percentage of estimated first wholesale revenues attributed to BSAI Pacific cod and all other *groundfish* fisheries. Thus, the data provide a general assessment of the relative dependence on BSAI Pacific cod as a part of total first wholesale revenues attributed to *groundfish* by sector, during 1999 – 2003. The table also provides the number of unique vessels that participated in BSAI Pacific cod, other BSAI groundfish, and Gulf groundfish, by sector, during this period. Data indicating the percentage of first wholesale revenues from BSAI Pacific cod compared to all other fisheries (including non-groundfish) are not available at this time.

Table 3-35 indicates that of the total estimated first wholesale value of groundfish products for each catcher processor sector, the percentage attributed to BSAI Pacific cod is lowest in the AFA trawl CP sector (1.0%) and highest in the hook-and-line CP sector (82.3%). The pot CP sector is 63.3% and non-AFA trawl CP sector is 21.2%. The AFA trawl CP sector exhibited the highest estimates of total first wholesale value attributed to groundfish products during this time period, followed by the non-AFA trawl CP sector, hook-and-line CP sector, and pot CP sector.

**Table 3-35 Estimated first wholesale value by catcher processor sector and groundfish fishery, 1999 – 2003**

Sector	Average annual estimated first wholesale value, all species, 1999 - 03	Total estimated first wholesale value, all species, 1999 - 03	Percent of total estimated first wholesale value			Number of unique vessels		
			% BSAI Pcod	% Other BSAI Groundfish	% Gulf Groundfish	BSAI Pcod	BSAI other groundfish	Gulf groundfish
AFA Trawl CP	\$204,465,014	\$1,022,325,070	1.0%	99.0%	0.0%	18	18	0
Hook-and-line CP	\$118,132,403	\$590,662,016	82.3%	7.0%	10.7%	45	44	34
Non-AFA trawl CP	\$149,543,972	\$747,719,860	21.2%	65.2%	13.6%	25	25	23
Pot CP	\$4,659,618	\$23,298,092	63.3%	0.1%	36.6%	13	6	10

Source: Weekly production reports and first wholesale product prices from Economic SAFE, 1999 – 2003.

Note: The number of unique vessels is defined by the number of vessels with BSAI Pacific cod landings. Thus, if a catcher processor did not have any cod landings during 1999 – 2003, it would not be included in this table.

The majority of estimated first wholesale revenue from groundfish products in the hook-and-line CP sector is from BSAI Pacific cod (82%), with much lower amounts from Gulf and other BSAI groundfish. There were 45 unique vessels in the hook-and-line CP sector during this time period, with 44 of those vessels also participating in BSAI other groundfish and the majority also participating in Gulf groundfish. About two-thirds of the first wholesale revenue from all groundfish products in the pot CP sector is from BSAI Pacific cod (63%), with the remainder from Gulf groundfish. Of the 13 unique vessels in the pot CP sector during this time period, 10 participated in Gulf groundfish and 6 in other BSAI groundfish.

Overall, the trawl CP sectors had much higher total first wholesale revenues from groundfish products than the non-trawl CP sectors. The non-AFA trawl CP sector had the majority (65%) of its first wholesale revenues from groundfish products attributed to other BSAI groundfish (flatfish), with lesser amounts in BSAI Pacific cod and Gulf groundfish. In the AFA trawl CP sector, almost all (99%) of the estimated first wholesale revenues from groundfish products are attributed to other BSAI groundfish, primarily pollock. The remaining 1.0% was from BSAI Pacific cod, as there was no participation in Gulf groundfish by this fleet.

Note again that data were not available at this time to provide total first wholesale revenue estimates for all fisheries (i.e., including fisheries other than groundfish) for the CP sectors. Table 3-35 above only includes revenues from groundfish products. Note, however, that there is participation in the crab and halibut fisheries by the fixed gear CP sectors. **Table 3-36 is provided below to show the amount of ex-vessel value estimated for these sectors due to halibut and crab landings, as estimates of first wholesale value are not available at this time.** The portion of the revenues generated when the vessel was operating as a CP versus a CV is not known. The estimates provided only indicate the estimated value of the halibut and crab landings, assuming they had been delivered for shoreside processing, based on the landings reported on the fishticket.

The average annual estimated ex-vessel value of crab and halibut landings by the hook-and-line CP sector during 1999 – 2003 is \$2.3 million and \$1.3 million, respectively. The estimated average annual ex-vessel value of crab landings by the pot CP sector during 1999 – 2003 is \$4.1 million (halibut data are confidential). Crab comprises a substantial portion of the estimated revenues to the pot CP fleet, but it is not possible to estimate at this time what portion of the landings reported were processed at sea. The trawl CP sectors did not have retained crab or halibut landings.

**Table 3-36 Estimated ex-vessel value of crab and halibut harvested by the fixed gear CP sector vessels while assumed operating as CVs<sup>1</sup>, average 1999 - 2003**

Sector	Estimated average crab ex-vessel revenue	Estimated average halibut ex-vessel revenue	Unique vessels crab	Unique vessels halibut
Hook-and-line CP	\$2,264,224	\$1,279,262	6	12
Pot CP	\$4,122,360	conf.	12	1

Source: ADF&G fishtickets and ex-vessel prices from Economic SAFE report, 1999 - 2003.

<sup>1</sup> By definition, unless operating in a CV mode, “ex-vessel” revenues accruing to these vessels could not exist.

### 3.3.11 Other sources of Pacific cod mortality

Another source of Pacific cod mortality is the bait fishery. Pacific cod is often used as bait by crab fishermen in the BSAI. To obtain bait, members of the crab fleet can either purchase cod from other fishermen or harvest the cod themselves. Many vessel operators opt to harvest their own cod; however, not all of the cod caught for bait is reported to the State or NMFS. Catcher vessels who, during an open crab season, take groundfish in crab pot gear for use as crab bait onboard their vessels (and the bait is neither transferred nor sold) are exempt from Federal reporting requirements.<sup>60</sup> During 2003 – 2004, a total of 824 mt of Pacific cod was reported as landed for bait and sold. During that same time period, 197 mt of Pacific cod was reported as landed for bait and used onboard the vessel. Almost all of this was reported by shoreside processors, and over half was harvested by pot vessels. Due to incomplete reporting, these amounts do not likely represent the entire amount of Pacific cod that was harvested for crab bait by the fixed gear sector.

Determining the amount of Pacific cod that was harvested for bait, but not reported, is difficult to estimate. Amendment 46 to the BSAI FMP attempted to provide a rough estimate. Two different methodologies were used to make those estimates. The first reviewed incidentally caught cod in the crab fisheries (NPFMC 1996). It was assumed that those fish would be used as bait. Estimates indicated that 8,452 mt and 5,428 mt of Pacific cod were taken during the years 1994 and 1995, respectively. These

<sup>60</sup>50 CFR 679.5(a)(iii)(B).

estimates were made by assuming that the average cod taken incidentally weighed 10 pounds, and the number of fish were multiplied by the assumed average weight.

The second method assumed that 10 pounds of bait cod were used for each pot pull that occurred in the BSAI (NPFMC 1996). During 1993, 2.7 million pot pulls were reported in the BSAI crab fishery. That equates to about 12,000 mt of bait. Fewer pots were pulled in 1996 and 1997 (1.2 and 1.3 million, respectively). Given these estimates of the amount of bait used, it appears that much of the bait harvested by these vessels is not reported.

Tracking the amount of cod harvested for bait has become more important in recent years, as the BSAI Pacific cod ABC and TAC have frequently been set equal to each other. Prior to 1998, the TAC was often set below ABC. The gap that existed between ABC and TAC allowed the bait fishery to proceed with little concern by fisheries managers. In 1998 – 2001, the BSAI Pacific cod ABC and TAC were set equal to each other. In 2002, 2003, and 2004, the TAC was again set lower than the ABC, by about 10%, 7%, and 3%, respectively. In 2005, 2006, and (projected for) 2007, the TAC and ABC were once again set equal to one another. If in future years there remains no buffer between ABC and TAC, accounting for bait may become a higher priority, even though the BSAI Pacific cod ABC is still set substantially below the overfishing level.<sup>61</sup>

In addition, the guidelines for National Standard 1 specify that all fishing mortality must be counted against the OY, including that resulting from bycatch, research fishing, and any other fishing activities. If regulations are implemented requiring bait to be reported, those harvests may well reduce the directed catch of cod by the various gear sectors. It is unknown which sectors would realize a greater negative impact if bait was accounted for more comprehensively in the future.

The amount of cod caught incidentally in the halibut IFQ fishery is also currently unknown. Additional data collection programs would need to be implemented to estimate that incidental catch. Recall that the majority of vessels in that fishery are <60' LOA and currently observers are not required. Therefore, accurate assessments of the incidental catch of Pacific cod in the halibut fishery cannot be made. Incidental catch of cod in the fixed gear groundfish fisheries is relatively low.

Note that all catch statistics used in the Pacific cod stock assessments are provided by NOAA Fisheries, Alaska Region. Pacific cod used as bait in the crab fishery are not included in these statistics. Full retention of Pacific cod taken in the halibut IFQ fishery is required whenever Pacific cod is open to directed fishing and full retention up to the maximum retainable allowance is required whenever Pacific cod is closed to directed fishing. Retained catches of Pacific cod taken in the halibut IFQ fishery are included in the official catch statistics used in the stock assessments, but discarded catches are not (Thompson, 2006).

### **3.3.12 Overview of the Steller sea lion measures for the BSAI Pacific cod fishery**

On November 30, 2000, NMFS issued a biological opinion on the FMPs, which determined that the pollock, Pacific cod, and Atka mackerel fisheries were likely to jeopardize the continued existence of the western population of Steller sea lions and to adversely modify its critical habitat. It contained an RPA, but before it could be implemented, the President signed Public Law 106-554 on December 21, 2000, which contained a one-year timetable to phase in the RPA. This year provided the Council with time to develop alternative protection measures that would avoid jeopardy and adverse modification of critical habitat for Steller sea lions.

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<sup>61</sup>The BSAI Pacific cod ABC was set at about 78% and 84% of the overfishing level in 2005 and 2006, respectively.

On October 19, 2001, NMFS released a biological opinion that concluded that the area and fishery-specific approach in the RPA would not be likely to jeopardize the continuing existence of the Steller sea lion, nor adversely modify its critical habitat. NMFS completed a Steller Sea Lion Protection Measures Final Supplemental Environmental Impact Statement (SEIS) in November 2001, which includes the agency's and the Council's preferred alternative. This alternative was developed by the Council's RPA Committee and modified by the Council at its September and October 2001 meetings. An emergency rule was implemented in 2002, implementing the protection measures, and that rule was followed by final rulemaking to implement those measures beyond 2002. The approach allows for different types of management measures in the Aleutian Islands, Bering Sea, and Gulf of Alaska. Essential measures include fishery specific closed areas around rookeries and haulouts, and season and gear apportionments. These are provided in the EA in Section 2.3.4.

The overall approach to the temporal dispersion measures in the BSAI Pacific cod fishery was a seasonal target of 70% (Jan. 1 – June 10) in the first season and 30% (June 10 – Dec. 31) in the second season.<sup>62</sup> To accomplish this objective, gear-specific measures were established (see Section 2.3.4). The objective is to limit the amount of total cod harvest that could be taken in the first half of the year, in order to disperse the harvest of cod throughout the year, in consideration of foraging sea lions. Section 2.3.4 of this analysis addresses whether the actions proposed in this amendment would be likely to jeopardize the continuing existence of the Steller sea lion, or destroy or adversely modify its critical habitat. Refer to the SSL Final SEIS (NMFS 2001b) for details and measures applicable to all fisheries. Note also that a new FMP-level BiOp is being reinitiated by NMFS in 2006. Upon the conclusion of that process, the existing Steller sea lion protection measures may be modified.

One of the concerns noted during development of the Steller sea lion SEIS is that management measures to protect the Steller sea lion may be more restrictive to catcher vessels (that are limited to fishing closer to shore) than to catcher processors. If the Steller sea lion measures shift the location of the cod fishery significantly farther offshore, there was a concern that, due to safety issues, the catcher vessel fleet would either take longer, or not be capable of, harvesting its entire allocation. Changes in fishery management regulations that result in vessels, particularly smaller vessels, operating farther offshore, appear likely to increase the risk of property loss, injury to crew members, and loss of life. Steller sea lion regulations that close, or severely restrict, fishing in nearshore critical habitat to operations targeting cod could compel vessel operators to choose between assuming these increased risks, and exiting these fisheries for some or all of the fishing season (NMFS 2001b).

The hook-and-line catcher vessel sector has had a separate allocation from the hook-and-line catcher processor sector since mid-2000. The hook-and-line catcher vessel sector receives about 0.15% of the BSAI Pacific cod ITAC, which typically equates to less than three hundred metric tons of Pacific cod. Since mid-2000, this sector has fully utilized its allocation, plus some additional quota reallocated from other gear sectors. Should similar allocations be maintained under this action, there is no evidence to suggest that this sector would be unable to continue to harvest its entire allocation in the future, notwithstanding a considerable increase in the Pacific cod TAC, or increasingly restrictive management measures to protect Steller sea lions.

The <60' fixed gear sector, which has also had a separate BSAI Pacific cod allocation since mid-2000, has harvested its entire allocation, starting in 2002, including some additional quota from the general hook-and-line and pot CV allocations, as well as from the jig sector in 2004 and 2005. The pot CV sector received a separate allocation starting in 2004. Having distinct quotas keeps these sectors from having to compete with the catcher processor sectors, which are comprised of some larger vessels and which can

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<sup>62</sup>Table 5.4, p. 153 of the 2001 Biological Opinion, NMFS. October 2001.

typically operate farther offshore for longer periods of time. While this is true regardless of management restrictions in place for the protection of Steller sea lions, the seasonal and spatial restrictions in the Steller sea lion RPA may tend to exacerbate the difficulties these vessels face in competing for the Pacific cod quota.

In general, however, the majority of the historical cod harvest by all gear types in the BSAI is taken in areas that were not closed by the Steller sea lion measures. Of potentially greater importance than the geographic restrictions may be the seasonal allocations that were relatively new to the jig and trawl sectors, and modified for the hook-and-line and pot sectors.

All gear sectors typically take the majority of their catch in the A season (January 1 – June 10), and prefer to do so as a result of higher CPUEs due to increased aggregation of cod, as well as market and weather conditions. The combined fixed gear sector allocation was seasonally apportioned, starting in 1994, and when the fixed gear allocation was split among the hook-and-line CP, hook-and-line CV, and pot sectors in mid-2000, only the hook-and-line CP sector continued to be subject to seasonal apportionments. The fixed gear apportionments varied, but were close to between 70%–85% in the first half of the year and 15%–30% in the second half of the year. These seasonal apportionments were modified under the Steller sea lion measures to the existing seasons and the 60% - 40% apportionments, and reinstated for the other fixed gear vessels  $\geq 60'$ .

For example, during 1995–2000, pot and hook-and-line catcher vessels harvested approximately 84% and 61% of their retained cod catch before June 10, respectively. With the 2001 Steller sea lion protection measures, both sectors were limited to 60% of their allocation during the A season. During 2001 – 2003, the pot and hook-and-line CV sectors harvested approximately 75% and 43% of their retained cod catch prior to June 10, respectively. The pot cod fishery in the BSAI was closed in mid to late March in both 2001 and 2002 upon reaching the A season TAC, and in 2003, the pot cod fishery A season closed in late February. In 2004, the first year in which each pot CV sector received a separate allocation, the pot CV sector A season TAC was reached in mid-February. In 2002, the combined pot sector did not harvest its entire B season allocation, and in 2004, the pot CV sector did not harvest its entire B season allocation.

The percentage of the retained harvest by the fixed gear CP sectors taken in the A season also declined slightly after 2000. During 1995–2000, pot and hook-and-line CPs harvested, on average, approximately 64% and 53% of their retained cod catch before June 10, respectively. With the 2001 Steller sea lion protection measures, both sectors were limited to 60% of their allocation during the A season. During 2001 – 2003, the pot and hook-and-line CP sectors harvested approximately 46% and 41% of their retained cod catch prior to June 10, respectively.

The 2001 Steller sea lion measures also implemented seasonal apportionments for the trawl sectors to which they were not previously subject. In 2001, two seasons were established for the trawl sectors, as part of the interim emergency rule to protect Steller sea lions.<sup>63</sup> The subsequent emergency rule in 2002 and final rule in 2003, established the three seasons under which the trawl sectors currently operate.

For example, prior to 2001, absent seasonal apportionments, the AFA trawl CV and non-AFA trawl CV sectors harvested approximately 97% and 95% of their retained cod catch before June 10, respectively. (Note that these sectors share an allocation of 23.5% of the BSAI Pacific cod ITAC.) With the final Steller sea lion protection measures, the trawl sector, as a whole, is limited to 80% of the trawl cod TAC

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<sup>63</sup>The 2001 trawl seasons (66 FR 7276, 1/22/01) were as follows: 60% (January 20 – June 10); 40% (June 10 – November 1).

during the first half of the year. During 2001 – 2003, the AFA and non-AFA trawl CV sectors harvested approximately 92% and 86% of their retained cod catch prior to June 10, respectively.<sup>64</sup>

The percentage of the retained harvest by the trawl CP sectors taken in the A season also declined slightly after 2000. During 1995–2000, non-AFA and AFA trawl CPs harvested, on average, approximately 69% and 81% of their retained cod catch before June 10, respectively. During 2001 – 2003, the non-AFA and AFA trawl CP sectors harvested approximately 65% and 76% of their retained cod catch prior to June 10, respectively. The trawl sectors have not harvested their entire BSAI Pacific cod allocations since the overall gear split has been in place (1994), which includes several years prior to the Steller sea lion protection measures. Further detail on the seasonal apportionments and amount of reallocated quota each year is provided in Section 3.3.5.6. In sum, while the seasonal allocations for each sector may affect the sectors' ability to harvest their entire allocations, it is uncertain whether current seasonal restrictions affect one sector more severely than another.

### 3.3.13 NMFS catch accounting system

Currently, NMFS accounts for each sector's allocation based on the gear type used and the mode of delivery. The assignment of catch to each allocation is dependent on how it is reported. The majority of catcher processors in the BSAI Pacific cod fishery are over 125 feet LOA and, thus, are 100% observed. Catcher vessels  $\geq 60'$  but  $< 125'$  are 30% observed, and pot vessels of all lengths  $\geq 60'$  LOA are 30% observed. Observers distinguish between catcher processor and catcher vessel activity for each set. Catch accounting for 100% observed vessels utilizes observer data. Catch accounting for 30% observed vessels (including all observed pot vessels) utilizes vessel weekly production reports for activity as a catcher processor, and reports from the shoreside or floating processor for activity as a catcher vessel. For the  $< 60'$  sector, which is not observed, catch accounting utilizes extrapolated data from the  $\geq 60'$  sectors, by gear type.

In this sense, previous amendments created quotas for fleets of vessels based on their activity: if a vessel is acting as a catcher processor, that catch is deducted from the catcher processor allocation; if a vessel acts as a catcher vessel, that catch is deducted from the catcher vessel allocation. With the implementation of Amendment 67, however, the Council identified criteria by which to define an eligible fleet of vessels in each  $\geq 60'$  fixed gear cod sector (hook-and-line CP, hook-and-line CV, pot CP, and pot CV). Under BSAI Amendment 67, a  $\geq 60'$  fixed gear license holder cannot receive two endorsements for the same gear type on one LLP. Thus, the license holder is awarded the 'highest' endorsement for which he/she qualifies, for example, either a pot CP or a pot CV, but not both. This created a group of licenses on vessels that met the landings criteria, and while their eligibility is based on harvests by normal activity type, their endorsement does not necessarily denote the mode in which they must operate.

For instance, while a pot vessel endorsed only as a CV for BSAI Pacific cod cannot act as a CP, a vessel endorsed as a CP can act as either a CP or a CV (i.e., NMFS cannot force a catcher processor to process its catch). Under the current system, therefore, a pot vessel endorsed as a CP could operate as a CV and its catch would be attributed to the pot CV allocation; and when it is operating as a CP its harvest would come off the pot CP allocation. Although the opportunity exists, with the implementation of both allocations and cod endorsements, this has been very rare in the past, as most catcher processors want to operate as such for economic reasons, and may not be well equipped to hold and transport round fish. In addition, an LLP is designated for a CP or a CV, and they are not easily changed back and forth. If a

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<sup>64</sup>Note that during these time periods, the AFA trawl CV sector's average annual harvest decreased by about 30% during 2001 – 2003, while the non-AFA trawl CV sector's average annual harvest about doubled in 2001 – 2003, compared to 1995 – 2000.

person holds a groundfish license with a CP vessel designation, they may, upon request to the Regional Administrator, have the license reissued with a CV designation. The vessel designation change to a catcher vessel is permanent, and that license is then valid for only those activities specified in the definition of catcher vessel designation. (50 CFR 679.4(C)). Thus, any other case in which a CP is delivering shoreside has likely been a unique situation that NMFS addresses on a case by case basis (e.g., if the freezer malfunctions).<sup>65</sup>

Note that in both 2003 and 2005, a very small amount of the pot CV allocation was attributed to a pot vessel that held a CP cod endorsement that was operating as a CV. The data cannot be provided here, due to confidentiality rules. This particular vessel is designated on two LLPs, one that carries a pot CP cod endorsement and one that carries a pot CV cod endorsement. Thus, this vessel is designated on two separate licenses with the proper endorsements to act in either operating mode in the BSAI Pacific cod fishery. NMFS has reported that this is the only vessel to which this situation applies.

Although the vessel mentioned above has the proper cod endorsements to act in either mode, a concern has been noted about the future potential for vessels with only a pot CP cod endorsement to deliver to an inshore processor, meaning that the harvest in question comes off the pot CV allocation. Note that if a CP operates as a CV and delivers Pacific cod shoreside during the years under consideration, those landings are attributed to the CV sector when determining sector allocations. Therefore, one could contend that as long as any CPs that at times operate as CVs do so at historical levels, their catch is accounted for in establishing the sector allocations. This issue appears only to be applicable to the pot CP and CV sectors; the hook-and-line CPs do not appear to operate as CVs in the Pacific cod fishery, and the AFA vessels mode of operation is defined by statute to restrict the activities of each sector.

In sum, the catch accounting system is independent of LLP permits or allocation scenarios. It currently attributes catch to an allocation depending on the gear type used and the vessel's mode of activity. If the Council wanted to recommend establishment of a specific fleet of vessels based on their historical activity—and not necessarily how they are operating at any one point in time in the future—the catch accounting system would need to be revised to reflect that intent. NMFS has noted that this change would represent a significant programming effort (see the public review draft of Amendment 85 for more details, 3/12/06).

### **3.3.14 Harvest Cooperative Formation**

Long-term allocations of the BSAI Pacific cod TAC among the various sectors and limited eligibility in a sector may provide an opportunity for members of some gear sectors to form harvest cooperatives in the BSAI Pacific cod fishery. Sectors that have strict controls on who can participate in the harvest of Pacific cod and a direct allocation of fish are most likely to be able to form a harvest cooperative. However, no conclusions can be drawn regarding whether cooperatives will actually form in the future. Too many unknowns exist for the analyst to develop a sound conclusion; instead, a discussion of current cooperatives and the factors that encourage or discourage their formation is presented in the public review draft of this analysis (NPFMC 3/12/06). Note that there is no explicit provision proposed in this amendment package that would create an increased advantage or motivation to form cooperatives over the status quo. Only inasmuch as modifying sector allocations to more closely represent the harvest by sector would this amendment impose additional incentive to form cooperatives.

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<sup>65</sup>NMFS reports that the primary operation mode change with CPs is between a catcher processor and mothership, rather than a catcher processor and catcher vessel, as a CP can act as a catcher processor or just as a processor.

In brief, it is assumed that individual sectors are more likely to be able to form cooperatives if all eligible participants are easily identified through, for example, a restrictive license limitation program or other formal mechanism, combined with separate allocations made to each sector. This assumption is based on the expectation that harvesting cooperatives are more likely to form in fisheries where the participants' activities are relatively homogenous and there are fewer participants. Thus, in sectors in which eligible participants are uniquely identified and their numbers strictly controlled, an exclusive cod allocation to such a sector can provide added incentives for regulated entities to organize harvest cooperatives. Some of these incentives may take the form of lower transaction costs incurred in negotiating and enforcing an agreement; increased operational, logistical, market, and/or other economic efficiencies realized through cooperative asset management; and internalization of "management externalities" (self-management), allowing for optimization of use of the cooperative's quota share, within the bounds of its own unique capabilities and constraints. Empirical evidence of these potentialities can be observed in the performance of the pollock AFA harvesting cooperatives. Clear efficiencies have been realized by cooperative members by slowing the pace of the fishery, increasing the utilization of each fish harvested, employing the most "appropriate" capital assets from among the cooperative's collective membership to exploit the available resource, thereby optimizing net economic and production yields, and self-regulating constraining input factors, such as PSC quotas, to maximize utilization of the available quota of the cooperative. These same general categories of efficiency gains would be expected to accompany harvest cooperative formation in the Pacific cod fisheries, which are the subject of this action.

NMFS does not currently have a mechanism with which to allocate catch history to individual cooperatives and the limited access sectors in the Pacific cod fisheries. Therefore, either additional regulations providing such authority and structure (similar to the cooperative system proposed for the non-AFA trawl CP sector in the non-pollock fisheries of the BSAI under Amendment 80) would be required, or all vessel owners would need to voluntarily join a cooperative and agree to abide by its bylaws.

While currently only the BSAI pollock fishery (AFA CP and CV sectors) and the North Pacific scallop fishery employ harvester cooperative structures to manage individual harvests, there are strong economic incentives to form cooperatives, as noted above. Sector allocations and associated cooperatives serve to allow participants to focus less on maximizing harvest *rates* and more on optimizing *quality* (in all its dimensions). Slowing down the fishery and allocating exclusive harvest privileges among members allows cooperatives to choose where and when to fish, which can serve to minimize waste, reduce incidental catch and bycatch, provide increased opportunity to develop and supply specialized product markets, and allow members to react to the natural variations of the fish resource, as well as those of the seafood marketplace.

### **3.3.15 Capacity Reduction Programs**

#### ***2005 Consolidated Appropriations Act***

The Consolidated Appropriations Act of 2005 (P.L. 108-447) establishes catcher processor sector definitions for participation in the non-pollock groundfish fisheries and the fishing capacity reduction program authorized by Congress.<sup>66</sup> The following sectors are defined in the Act under Section 219(a): AFA trawl catcher processor, non-AFA trawl catcher processor, hook-and-line catcher processor, and pot catcher processor.

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<sup>66</sup>The non-pollock groundfish fishery is defined as 'target species of Atka mackerel, flathead sole, Pacific cod, Pacific Ocean perch, rock sole, turbot, or yellowfin sole harvested in the BSAI.'

Under the Act's criteria, there are 20 AFA CPs and 26 non-AFA CPs that qualify for their respective sectors. There are also a maximum of 44 hook-and-line CP license holders (5 are interim licenses) and 8 pot CP license holders (2 are interim) that could potentially qualify. The application of the criteria with regard to defining the sectors is discussed in Section 3.3.4. This section refers only to the capacity reduction program that is also included in the Act.

Section 219(d)(2) specifies that the Secretary shall revoke all Federal fishery licenses, fishery permits, and area and species endorsements issued for a vessel, or any vessel named on an LLP license purchased through the fishing capacity reduction program. The Act provides flexibility as to which vessels get bought out, at what cost, and how remaining vessel owners will plan to re-pay the loan. The referendum is intended to ensure that the remaining fleet, which is responsible for re-paying the loan, agrees with the final terms of the plan.

As of the writing of this document, staff is aware of only one sector that is in the formal process of developing a cooperative for the purpose of participating in the capacity reduction program. **Note that this cooperative was formed for the purpose of the buyback program only, and does not represent a harvest cooperative.** In June and October 2005, a representative from the hook-and-line CP sector consulted with the Council on the efforts of the Freezer Longline Conservation Cooperative, which was incorporated in the State of Washington on February 26, 2004. This non-profit entity has functionally 100% membership of the eligible hook-and-line CP sector. Of the 44 LLP holders, 43 are members and only one interim LLP holder has not joined.

To date, the cooperative has agreed to develop a buyback program for the hook-and-line CP sector in the BSAI non-pollock fisheries, and it has organized the buyout rules and procedures and submitted them to the Secretary. The final plan that would be submitted by the cooperative would include the specific vessels to be bought and the details of how the loan will be repaid through the fee system. Given the loan amount allocated to this sector (\$36 million is specified in the Act), there is the potential the hook-and-line CP sector could be reduced by several vessels. The proposed rule to implement the capacity reduction program for the hook-and-line CP sector of the BSAI nonpollock groundfish fishery was published in August (71 FR 46364, 8/11/06).

It is uncertain whether the other catcher processor sectors will participate in the capacity reduction plan authorized under the Act. The Act specifies that the Secretary may make available any of the \$75 million authorized under the program to one or more of the catcher processor sectors for fishing capacity reduction that remains unused after January 1, 2009.

### *BSAI Crab Rationalization*

The Consolidated Appropriations Act of 2001 (Public Law 106–554) directed the Secretary of Commerce to establish a \$100 million fishing capacity reduction program in the BSAI king and Tanner crab fishery. Congress amended the authorizing Act twice (Public Law 107–20 and Public Law 107–117), once to change the crab reduction program's funding from a \$50 million appropriation and a \$50 million loan to a \$100 million loan, and once to clarify provisions about crab fishery vessels. NMFS published the crab reduction program's proposed implementation rule on December 12, 2002 (67 FR 76329) and its final rule on December 12, 2003 (68 FR 69331).

Because pot gear is used in both the BSAI Pacific cod and crab fisheries, it is conceivable that this recent capacity reduction program could have also reduced the eligible Pacific cod pot catcher processor and/or pot catcher vessel sectors. Note, however, that none of the 25 vessels removed from fisheries through the crab buyback program had a BSAI Pacific cod pot CP or pot CV endorsement on their LLP and were

therefore eligible to fish BSAI Pacific cod. Thus, this program did not reduce the Pacific cod sectors at issue in this amendment.

### **3.4 Expected Effects of the Alternatives**

This amendment addresses the allocations of BSAI Pacific cod to the various gear sectors and includes two primary alternatives. **Alternative 1** is the no action alternative, meaning the BSAI Pacific cod allocations for the jig, trawl, fixed gear (hook-and-line and pot), and CDQ sectors would continue as in current regulations. **Alternative 2** would modify the current BSAI Pacific cod allocations among the jig, trawl, and fixed gear (hook-and-line and pot) sectors according to a set of catch history years, or other considerations. Alternative 2 also contains options to maintain or increase the CDQ reserve of BSAI Pacific cod. Note that while there are only two primary alternatives, Alternative 2 contains a multitude of options from which various combinations could result in many different outcomes. Thus, Alternative 2 could be construed as representing several different alternatives.

**The Council's preferred alternative is a derivation of Alternative 2, as the Council selected a specific option under each component of Alternative 2. Section 3.4 evaluates the expected effects of the range of possible actions under consideration in Alternatives 1 and 2. The effects of the Council's preferred alternative are summarized in a separate section at the end of this chapter (Section 3.4.3).**

The comprehensive list of alternatives and options under consideration is provided in the following sections. A summary of the retained Pacific cod harvests (excluding cod destined for meal production), by sector, during 1995–2003, is provided in Section 3.3.4, Table 3-9. The data from this table will be used to evaluate the alternatives. Both of the primary alternatives are comprised of eight components:

#### Allocation of BSAI Pacific Cod to Sectors

- Component 1: Sectors for which allocations will be established
- Component 2: Sector allocations
- Component 3: Seasonal apportionments
- Component 4: Rollovers between gear sectors
- Component 5: CDQ allocation of Pacific cod

#### Apportionment of BSAI PSC to Sectors

- Component 6: Apportionment of trawl halibut and crab PSC to the cod fishery group
- Component 7: Apportionment of the cod trawl fishery group's halibut and crab PSC to trawl sectors
- Component 8: Apportionment of cod non-trawl halibut PSC

### 3.4.1 ALTERNATIVE 1: No Action

#### 3.4.1.1 Component 1: Sectors for which allocations are established

##### **Component 1: Sectors for which allocations are established**

BSAI Pacific cod allocations will continue to be established in Federal regulations for the following sectors:

- Trawl CPs
- Trawl CVs
- Hook-and-line CPs
- Hook-and-line CVs
- Pot CPs
- Pot CVs
- Hook-and-line and pot CVs <60'
- Jig CVs

The BSAI Pacific cod TAC has been apportioned among the overall gear sectors (trawl gear, all fixed gear, and jig gear) since 1994, and a series of amendments have modified or continued this allocation system. Section 3.3.1 outlines each of the past amendments and its primary provisions, including the basis for the allocations and the hierarchy for reallocating unused quota between and among gear sectors.

The distinct allocations to the fixed gear sectors (hook-and-line catcher processor, hook-and-line catcher vessel, pot, and hook-and-line/pot catcher vessel <60' LOA) were implemented in September 2000. The separate pot catcher processor and pot catcher vessel sector allocations were implemented in January 2004. Thus, the overall sector allocations have been in place for almost twelve years, and the further allocations within the gear sectors were established through subsequent amendments. Under Alternative 1, the sectors for which allocations are established would continue to be those identified above, in Component 1.

Under the current structure, the trawl CP sector BSAI Pacific cod allocation is shared by the AFA trawl CP sector and the non-AFA trawl CP sector. These sectors are described in Section 3.3.3. Section 208(e) of the AFA establishes vessel and processor eligibility to harvest and process the BSAI pollock directed fishing allowance designated for each sector under the AFA. Section 208(e) lists the 20 trawl catcher processors that are eligible to participate as trawl catcher processors under the AFA; these vessels comprise the 'AFA trawl CP' sector.

In addition, the trawl CV BSAI Pacific cod allocation is shared by the AFA trawl CV sector and the non-AFA trawl CV sector, as described in Section 3.3.1. Section 208(a)-(c) of the AFA establishes the eligibility criteria and list for catcher vessels eligible to harvest pollock under the AFA. The NMFS database indicates that 111 catcher vessels were issued AFA catcher vessel permits in 2005.

Although separate BSAI Pacific cod allocations are not currently established for the AFA CP and AFA CV sectors, the implementing regulations for the AFA also established sideboards on the participation by AFA-qualified vessels in the other BSAI (non-pollock) groundfish fisheries, including Pacific cod. As mentioned previously, AFA catcher vessels are exempt from the Pacific cod sideboards if their annual BSAI pollock landings averaged less than 1,700 mt from 1995 – 1997 and they made 30 or more landings of BSAI Pacific cod during that time period. In addition, AFA CVs with mothership endorsements are exempt from BSAI Pacific cod catcher vessel sideboard directed fishing closures after March 1 of each fishing year. Of the 111 AFA CVs, 9 are exempt from the cod sideboards under the 1,700 mt exemption and 19 have mothership endorsements and are therefore exempt after March 1. The remaining 83 AFA CVs are subject to BSAI Pacific cod sideboard limits.

The BSAI Pacific cod sideboard amounts and respective harvest of those sideboards by the AFA CP and AFA CV sectors are provided in Table 3-28 of Section 3.3.5.9. The data show that neither sector has harvested its full BSAI Pacific cod sideboard amount since the sideboards were implemented. The AFA CP sector has harvested an average of 38% and the AFA CV sector has harvested an average of 65% during 2000 – 2004.

Note that the cod sideboards operate as harvest limits for the AFA CP and CV sectors; they provide a cap that the AFA sectors must not exceed, but do not guarantee an allocation up to that amount. Currently, the AFA cod fishery is in part managed by the annual inter-cooperative agreement pursuant to a cod allocation agreement adopted by all AFA cooperatives in 2000. In general, this agreement clarifies the exempt AFA CVs and allocates the AFA cod sideboards among the nine cooperatives, which provides the basis for the individual cooperatives to allocate at the individual vessel level. The agreement states that an overharvest of a sideboard limit by any member of a cooperative shall subject that member to a penalty. Thus, while the AFA authority is limited to allocating pollock, the cooperative structure has provided a mechanism by which the AFA vessels can also manage Pacific cod within the AFA CP and CV sectors.

Under Alternative 1, the trawl CP BSAI Pacific cod allocation would continue to be harvested by both non-AFA and AFA catcher processors, and the current sideboards for AFA CPs would remain in place. Similarly, the trawl CV BSAI Pacific cod allocation would continue to be harvested by both non-AFA and AFA catcher vessels, and the sideboards for AFA CVs and the sideboard exemptions for specific CVs would remain in place. While the cod allocation agreement of 2000 and the annual inter-cooperative agreement for AFA cooperatives are not regulated by NMFS, it is assumed that this type of agreement would also remain in place to continue management of the BSAI Pacific cod harvests by AFA vessels.

In addition, under Alternative 1, all sector allocations would continue to be managed by the Regional Administrator through directed fishing closures in non-pollock groundfish fisheries in accordance with the procedures set out in Federal regulation.

### 3.4.1.2 Component 2: Sector allocations

#### **Component 2: Sector Allocations**

BSAI Pacific cod allocations to the jig, trawl, and fixed gear (hook-and-line and pot) sectors would continue as determined under BSAI Amendments 46 and 77:

- **51% fixed gear**  
(80% hook-and-line catcher processors)  
(0.3% hook-and-line catcher vessels)  
(3.3% pot catcher processors)  
(15.0% pot catcher vessels)  
(1.4% hook-and-line/pot vessels <60' LOA)
- **47% trawl gear**  
(50% trawl catcher vessels)  
(50% trawl catcher processors)
- **2% jig gear**

The BSAI Pacific cod TAC that is allocated to the above sectors is TAC less the CDQ Program reserve. In addition, the annual incidental catch allowance (ICA) for fixed gear is deducted from the aggregate amount of the BSAI Pacific cod TAC allocated to the fixed gear sectors combined. Pacific cod harvested incidentally in the non-Pacific cod directed BSAI fixed gear fisheries is attributed to the ICA. The ICA is determined annually by the NMFS Regional Administrator in the annual specifications process and has typically been 500 mt.

**Component 2 identifies the BSAI Pacific cod allocations that would continue to exist for each sector under Alternative 1.** Currently, Federal regulations at 50 CFR 679.20(a)(7)(i) authorize distinct BSAI Pacific cod allocations for the eight sectors identified in Component 1. There is no date in Federal regulations at which time these allocations would expire.

The allocations above are based on varying catch history years, based on the most recent data available at the time of Council action. The overall allocations to the trawl (47%), fixed (51%), and jig (2%) gear sectors are based closely on harvests in the fishery during 1995 – 1998, with the exception of the jig allocation. There has been continued interest in the jig sector allocation, and maintaining the ability to support a larger small boat jig fleet in the future. The jig sector is the only sector in which there are no eligibility requirements necessary beyond a Federal fishing permit, and it is referenced as one of the only entry level Federal fisheries available for small boat, local fishermen in the BSAI. The Council made a policy decision in the past (1993 and 1996 under Amendments 24 and 46, respectively) to retain the 2% jig allocation, with the intent that that allocation remain sufficient to allow for new growth.

The allocation of the 51% among the fixed gear sectors is based 1995 – 1998 or 1995 – 1999 retained harvests, and the split between the pot sectors is based on retained catch during 1998 – 2001. These allocations were based on retained catch by sector, excluding any quota that was reallocated from another gear sector.

Like the 2% jig allocation, the allocation (1.4%) to catcher vessels <60' LOA using fixed gear (hook-and-line and pot) was not based on actual catch history. This allocation was intended to allow for growth in the small boat fishery, and was 'funded' primarily through a reduction in the hook-and-line catcher processor allocation. **Note that while the <60' fixed gear sector receives a separate allocation of BSAI**

**Pacific cod, these vessels fish off the general hook-and-line CV and pot CV allocations, respectively by gear type, when those fisheries are open. Thus, under Alternative 1, the <60' sector is not limited to 1.4% of the overall fixed gear BSAI Pacific cod ITAC.**

Under the current allocations in Component 2, each sector has varied in its ability to harvest its entire Pacific cod allocation. Please reference Table 3-9, on page 110 for a summary of the retained Pacific cod harvests by sector during 1995–2003. Note that while the trawl CP and trawl CV allocations are not currently split between AFA and non-AFA vessels, Table 3-9 includes this breakout, in order to indicate the amount that each sector has harvested of the combined allocation over this time period.

### *Effects of Component 2*

Under Alternative 1, one would expect the current range of harvests in Table 3-9 and reallocations between sectors (see Table 3-18 and Table 3-19) to continue. In effect, it is expected that the largest share of the BSAI Pacific cod ITAC harvested by any one sector would continue to be retained by the **hook-and-line CP sector** (average share is 49%–50% during 1995–2003). This is about 8%–9% higher than the sector is currently allocated (80% of 51% = 40.8% of the BSAI Pacific cod ITAC).

It is also expected that the trawl sectors would continue to retain about 39% of the BSAI Pacific cod ITAC, notwithstanding significant changes in the TACs. This is about 8% lower than the trawl sectors are currently allocated (47% of the BSAI Pacific cod ITAC). Under Alternative 1, the AFA and non-AFA CP sectors would continue to have a combined allocation, as described above under Component 1. The BSAI Pacific cod sideboard amounts and respective harvest of those sideboards by the AFA CP and AFA CV sectors is provided in Table 3-28 of Section 3.3.5.9. The data show that neither sector has harvested its full BSAI Pacific cod sideboard amount since the sideboards were implemented. The AFA CP sector has harvested an average of 32% of its sideboard and the AFA CV sector has harvested an average of 65% of its sideboard during 2000 – 2004. Under Alternative 1, it is expected that this general level of harvest would continue.

In addition, upon future implementation of the non-AFA CP cooperatives under Amendment 80, this sector would be expected to better utilize their PSC in relation to their target fisheries, which may result in harvesting a greater share of the BSAI Pacific cod allocated to the trawl CP sector than has been harvested in the past. Currently, the trawl CP sector is allocated 23.5% of the BSAI Pacific cod ITAC. Note that Table 3-9, Table 3-10, and Table 3-11 indicate that the non-AFA CP sector has harvested about 13%–14% of the ITAC on average during 1995 – 2003, with the highest shares in the most recent years (1999 – 2003). The AFA CP sector has harvested about 2%–3% of the ITAC on average during 1995 – 2003 (depending on whether the AFA 9 are included), with the lowest shares in the most recent years (2000 – 2003). **Together the two trawl CP sectors harvested (retained catch) an average of 15%–16% of the BSAI Pacific cod ITAC, compared to the 23.5% allocated.**

Similarly, the trawl CV sector is allocated 23.5% of the BSAI Pacific cod ITAC. Table 3-9, Table 3-10, and Table 3-11 indicate that the non-AFA CV sector has harvested about 2% of the ITAC on average during 1995 – 2003, with the highest shares in the most recent years (2001 – 2003). The AFA CV sector has harvested almost 22% of the ITAC on average during 1995 – 2003, with the lowest shares in the most recent years (2001 – 2003). **Together the two trawl CV sectors on average (1995 – 2003) harvested (retained catch) about the 23.5% allocated, although in recent years (2001 – 2003) the trawl CV sectors harvested an average of 20% of the BSAI Pacific cod ITAC.** The lower share percentages realized by both the AFA CP and CV sectors after 2000 are typically attributed to the Steller sea lion

protection measures implemented in 2001 (area closures, seasonal allocations creating a 20% allocation in the second half of the year), as well as an increasing pollock TAC.<sup>67</sup>

It is also expected that the **≥60' hook-and-line CV sector** would continue to harvest about 0.13% of the BSAI Pacific cod TAC, which is about the amount this sector is currently allocated (0.15% of the BSAI Pacific cod ITAC). The **≥60' hook-and-line CV sector** typically harvests its entire allocation and often harvests a small portion of reallocated quota from other gear sectors.

The **≥60' pot CV sector** would likely continue to harvest about 8%–9%, which is only slightly more than is allocated to this sector currently (7.6% of the BSAI Pacific cod TAC). Prior to 2004, the pot CV sector shared an allocation with the pot CP sector. The increasing share of the pot allocation harvested by the pot CV sector spurred the need to establish separate allocations for these sectors. Thus, the pot CV sector increased its share, and the pot CP sector's share decreased, prior to 2004. The pot CP sector has harvested an average of about 2.1% of the BSAI Pacific cod TAC, and it is currently allocated (since 2004) 1.7%. This is due to the fact that the pot split was based on more recent harvest history (1998 – 2001); the years in which the pot CV sector harvested a larger share of the overall pot sector allocation. In 1998, the pot CV sector harvested about 73% of the overall pot allocation, increasing to 79% in 1999, 87% in 2000, 82% in 2001, 86% in 2002, and 92% in 2003. The relative increase in effort is likely due to a severe decline in the opilio guideline harvest level during these years, and thus increased availability of pot CVs during the Pacific cod A season. In the past couple years, however, note that the pot CV sector has not harvested its entire allocation, and a portion of its allocation has been reallocated to the hook-and-line CP sector.

Finally, the **<60' fixed gear sector** would also continue to harvest its entire allocation as well as additional quota reallocated from the jig sector. This sector harvested about 0.4% of the BSAI Pacific cod TAC on average during 1995 – 2003, although this average increases to almost 1% in more recent years (2001 – 2003). Increased effort in this sector, especially in 2003 – 2005, is in part due to this sector receiving a separate allocation starting in September 2000. This allows the **<60' sector** to harvest cod off of the general pot and hook-and-line sectors' allocations when the directed fisheries are open, but also allows for an exclusive **<60' fixed gear cod fishery** later in the A season when most smaller vessels start fishing. This has supported more effort in the **<60' fixed gear sector**, most noticeably by pot vessels.

Effort by the **<60' fixed gear sector** is detailed in Section 3.3.5.3. The data show that in 2003 and 2004, the majority of the **<60' fixed gear retained harvest** came off the **<60' fixed gear allocation**, with very little of the **<60' pot sector's harvest** coming off the general pot CV allocation (<1%) and more than half of the **<60' hook-and-line sector's harvest** coming off the general hook-and-line CV allocation (66% in 2004). Note, however, that in terms of actual harvest (metric tons), the pot CV allocation (7.6% of the BSAI Pacific cod ITAC) is much greater than the hook-and-line CV allocation (0.15% of the BSAI Pacific cod ITAC). Thus, while the **<60' fixed gear sectors** have not taken the majority of their harvest from either general pot or hook-and-line sector allocation, the percentages attributed to the hook-and-line sector are high due to their relatively small overall allocation.

Retained cod harvest by the **jig sector** is also expected to be maintained at current levels under Alternative 1. The jig sector typically harvests about 0.1% of the BSAI Pacific cod ITAC, or about one to two hundred metric tons per year. In the past several years, the number of participating jig vessels has remained relatively stable at about 15 – 19 vessels, and no significant new effort is anticipated at this

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<sup>67</sup>Since 1999, the BSAI pollock TAC has increased from 992,000 mt to 1.14 mt (2000), 1.4 mt (2001), and 1.49 mt (2002 - 2004).

time. This sector is the only one that is not required to have an LLP to fish in Federal waters, subject to certain gear and size restrictions.<sup>68</sup>

Based on the current level of harvest, it is also expected that ex-vessel revenues and first wholesale revenues would continue near current levels by sector, notwithstanding changes in the TAC (see Section 3.3.7). However, this projection does not take into account any other unforeseen factors that may result in market fluctuations.

Note that reallocations between sectors are also expected to continue under Alternative 1. The level of reallocations by sector since 1995 are provided in Table 3-24 and the overall average (2000 – 2004) by sector is in Table 3-25. The data show that the average amount that has been reallocated among gear sectors during the past five years (2000 – 2004) is 17,290 mt, or about 9.4% of the BSAI Pacific cod ITAC during those years. While NMFS manages the fishery such that reallocations are made in a timely manner and the overall cod TAC is generally fully harvested, the level and frequency of reallocations make it difficult for vessels to both plan the fishing year and maximize their catch per unit effort. Under Alternative 1, these inefficiencies are expected to continue.

Finally, ex-vessel and first wholesale prices and revenues are not expected to change significantly due to this action. Note that 1% of the 2006 Pacific cod ITAC of 179,450 mt equals 1,795 mt (or about 4 million pounds). **Using the 2004 ex-vessel price reported for the fixed gear CV sectors (\$0.254/round pound) from Section 3.3.7, 1% of the BSAI Pacific cod ITAC to the fixed gear CV sectors could be roughly estimated as representing \$1 million in ex-vessel revenues. A 1% change in allocation to the trawl CV sectors (using estimated 2004 ex-vessel price of 0.219/round pound) is roughly estimated as representing \$866,000 in ex-vessel revenues.**<sup>69</sup>

In the processing sectors, the 2004 first wholesale prices are estimated in the 2005 SAFE report as follows: \$1,132 per round mt of retained BSAI Pacific cod for catcher processors and \$959 per round mt of retained BSAI Pacific cod for shoreside processors (see Section 3.3.9). **Thus, 1% of the BSAI Pacific cod ITAC could be very roughly estimated as representing \$2 million in first wholesale revenue for the CP sectors, and \$1.7 million in first wholesale revenue for the shoreside processors.** Note that these estimates do not take into account price differences between gear types, as the prices ultimately come from product-value reports in the COAR data, which are not broken down by gear type (Hiatt, pers. comm., 1/11/06).

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<sup>68</sup>Vessels that do not exceed 60 feet LOA, and that are using jig gear (but no more than 5 jig machines, one line per machine, and 15 hooks per line) are exempt from the LLP requirements in the BSAI.

<sup>69</sup>Note that public testimony in February and April 2006 reported that the 2006 ex-vessel price for BSAI Pacific cod delivered by both fixed and trawl gear has been upwards of \$0.40 per round pound in the A season. Thus, at \$.40 per round pound, 1% of the BSAI Pacific cod ITAC could be roughly estimated as representing \$1.6 million in ex-vessel revenues to the catcher vessel sectors.

### 3.4.1.3 Components 3 & 4: Seasonal apportionments and rollovers between sectors

#### Component 3: Seasonal Apportionments

The seasonal apportionments of each sector's allocation would remain as shown below. Unused seasonal allowances for the trawl, pot, and hook-and-line sectors may be reapportioned to the subsequent seasonal allocation for the respective sectors. Unused seasonal allowances for the jig sector are considered for reallocation to the <60' fixed gear CV sector.

Trawl CV:	70%	(Jan. 20 – Apr. 1)
	10%	(Apr. 1 – June 10)
	20%	(June 10 – Nov. 1)
Trawl CP:	50%	(Jan. 20 – Apr. 1)
	30%	(Apr. 1 – June 10)
	20%	(June 10 – Nov. 1)
Hook-and-line ≥60':	60%	(Jan. 1 – June 10)
	40%	(June 10 – Dec. 31)
Pot ≥60':	60%	(Jan. 1 – June 10)
	40%	(Sept. 1 – Dec. 31)
Fixed gear <60':	No seasonal apportionments	
Jig gear:	40%	(Jan. 1 – Apr. 30)
	20%	(Apr. 30 – Aug. 31)
	40%	(Aug. 31 – Dec. 31)

#### Component 4: Rollovers between gear sectors

Inseason management would retain flexibility to determine how to reallocate projected unused sector allocations (rollovers), taking into consideration the hierarchy below. NMFS takes into account the intent of the rollover hierarchy and the likelihood of a sector's capability to harvest reallocated quota.

- Projected unused trawl sector allocations are considered for reallocation to the other trawl sector before being reallocated to the fixed gear sectors.
- Reallocation of TAC from the trawl sectors to fixed gear sectors will be 0.9% to pot CP, 4.1% to pot CV, and 95% to hook-and-line CP.
- Projected unused allocation in the jig sector is considered for reallocation to the <60' fixed gear CV sector on a seasonal basis.
- Projected unused pot sector allocations (CPs and CVs) are considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.
- Projected unused allocation in the <60' fixed gear CV sector, both pot sectors (CP and CV), and hook-and-line CV is reallocated to the hook-and-line CP sector.

**Under the no action alternative (Alternative 1), the seasonal apportionments and rollover hierarchy would remain as shown above.**<sup>70</sup> Table 3-37 shows the percentage of the ITAC that is represented by each of the current seasonal apportionments for the non-CDQ fishery, based on the sector's overall allocation. Note that the CDQ BSAI Pacific cod fishery using hook-and-line gear is subject to the same seasonal apportionments as the non-CDQ fishery: 60% (Jan. 1 – June 10) and 40% (June 10 – Dec. 31). Note also that the only sector allocation that is not subject to seasonal apportionment is the <60' fixed gear sector; thus, the total fixed gear allocation in Table 3-37 is 50.3%. Including the <60' fixed gear allocation of 0.7% would make the fixed gear total 51% of the BSAI Pacific cod ITAC.

**Table 3-37 Current seasonal apportionments by gear sector**

Date	TRAWL GEAR				FIXED GEAR >60'				JIG GEAR				Total trawl, fixed and jig % of ITAC
	% of ITAC	Season	Total Trawl % of allocation	Total Trawl % of ITAC	% of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC	% of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC	
	47%				50.3%					2%			99.3%
1-Jan	(no fishing allowed with trawl gear 1/1-1/20)												
20-Jan		A	60%	28.2%		A	60%	30.2%		A	40%	0.8%	69.0%
1-Apr													
1-Apr		B	20%	9.4%						B	20%	0.4%	
10-Jun													
10-Jun		C	20%	9.4%		B	40%	20.1%		C	40%	0.8%	30.3%
1-Nov	(no cod target allowed with trawl gear after 11/1)												
31-Dec													
<b>TOTAL</b>			<b>100%</b>	<b>47.0%</b>			<b>100%</b>	<b>50.3%</b>			<b>100%</b>	<b>2.0%</b>	<b>99.3%</b>

Note: The 0.7% of the BSAI Pacific cod ITAC allocated to the <60' fixed gear sector is not currently seasonally apportioned. If this allocation was included in the table, the far right-hand column would total 100%.

The current seasonal apportionments are primarily a result of the 2001 Biological Opinion. The 2001 opinion consulted on a comprehensive management regime, of which temporal dispersion of the fisheries was one part. The overall objective was to limit the amount of total cod harvest that could be taken in the first half of the year, in order to disperse the harvest of cod throughout the year in consideration of foraging sea lions. The temporal dispersion measures in the BSAI Pacific cod fishery were established to meet a seasonal target of 70% (Jan. 1 – June 10) harvest of the TAC in the first season and 30% (June 10 – December 31) in the second season.<sup>71</sup> To accomplish this objective, the fixed gear sectors ≥60' LOA are allocated 60% in the first season and 40% in the second season. For trawl gear, the first season is allocated 60%, and the second and third seasons are allocated 20% each. Within the overall trawl allocation, the trawl catcher vessel sector is allocated 70% in the first season, 10% in the second season, and 20% in the third season. The trawl catcher processor sector is allocated 50% in the first season, 30% in the second season, and 20% in the third season.

The jig gear sector was also allocated 60% in the first half of the year and 40% in the second half starting in 2002, as a result of the 2001 Biological Opinion. Under BSAI Amendment 77, the jig seasons were modified to a trimester basis (40% - 20% - 40%) in 2004, in order to provide for seasonal reallocations to the <60' fixed gear catcher vessel fleet earlier in the year.

<sup>70</sup>Note that while reallocating cod between pot sectors is addressed in bullet 4 under Component 4 above, it is not explicitly mandated in current Federal regulations. Instead, NMFS has broad authority at 50 CFR 679.20(a)(7)(ii)(C) to reallocate Pacific cod that is projected to remain unused from either the trawl or non-trawl sectors through Federal Register notice, subject to the provisions above. Thus, while unnecessary in the past, NMFS could reallocate unused pot CP (or pot CV) quota to the other pot sector before it is reallocated to the other gear sectors under this authority. This approach is consistent with the way the trawl sectors are addressed, in that cod is reallocated within the gear type before being reallocated to a different gear type.

<sup>71</sup>Table 5.4, p. 153 of the 2001 Biological Opinion, NMFS. October 2001.

Component 3 states that unused seasonal allowances for the trawl, pot, and hook-and-line sectors may be reapportioned to the subsequent *seasonal allocation* for the respective sectors, while unused seasonal allowances for the jig sector are considered for reallocation to the <60' fixed gear CV sector at the end of each season. Due to the annual projections of unused quota, a significant amount of the trawl and jig sector allocations are reallocated to the hook-and-line and pot gear sectors near the end of each year. At times, a portion of the pot quota has also been reallocated to the hook-and-line sector. These reallocations take place according to the hierarchy listed in Component 4 above. The average amount of quota reallocated from the trawl and jig sectors is provided in Table 3-38 and is detailed in Section 3.3.5.6.

**Table 3-38 Reallocations (in mt and as a % of the sector's annual allocation) of BSAI Pacific cod from the trawl sectors and jig sector, 2000–2004**

Year	Trawl CP		Trawl CV		Jig	
	mt	%	mt	%	mt	%
2000	9,000	21	0	0	3,000	84
2001	10,000	24	14,000	34	3,000	86
2002	6,500	15	2,000	5	3,400	92
2003	11,500	25	1,671	4	3,600	94
2004	5,413	12	6,127	13	3,545	89
Average	8,483	19	4,760	11	3,309	89

Source: NMFS, Sustainable Fisheries, information bulletins 2000 - 2004.

In sum, Table 3-37 outlines the seasonal apportionments by gear type for each BSAI Pacific cod fishery, and Table 3-38 shows the annual reallocations from the trawl and jig gear sectors to the fixed gear sectors since 2000. **Thus, given the annual reallocations, the actual harvest by gear type during each season is different from the seasonal apportionments of the allocations in regulation.** This is not unexpected, as these reallocations have been provided for in regulation and have occurred every year since the original gear splits were established in 1994. The 2001 Biological Opinion considered the complexities of this fishery in which quota is reallocated between seasons and between gear types under specific scenarios.

The following tables provide an example of what actually occurs in the BSAI Pacific cod trawl fisheries, given that quota is seasonally reallocated within the trawl gear sectors and then annually reallocated from the trawl to the fixed gear sectors in the second half of the year, as authorized by current regulations.

In sum, the seasonal percentage of the ITAC harvested by trawl gear decreases substantially in the B and C seasons. Under the regulations, the trawl sectors are effectively allocated 9.4% of the ITAC in the B season and 9.4% in the C season. The breakout between sectors is such that the trawl CP sector is allocated 7.1% of the ITAC in its B season and 4.7% in its C season; and the trawl CV sector is allocated 2.4% of the ITAC in its B season and 4.7% in its C season. However, on average during the last four years (2001 – 04), the trawl CP sector has harvested about 2.2% of the ITAC in its B season and 5.9% in its C season. The trawl CV sector has harvested 2.7% of the ITAC in its B season and 1.8% in its C season. Table 3-39 summarizes the data for both trawl sectors combined. Conversely, the seasonal percentage of the ITAC harvested by fixed gear increases in the second half of the year if the rollover is included (Table 3-40).

The overall temporal distribution of cod harvest between the first and second halves of the year does not exceed 70% in the first half of the year, since reallocations *within* gear sectors roll to the next subsequent season, and reallocations *between* gear sectors only shift quota within the second half of the year (June 10 – Dec. 31). **On average during 2001 – 2004, the temporal distribution of overall cod harvest has been about 62.3% of the ITAC in the first half of the year and 36.1% in the second half (see Table**

**3-39 and Table 3-40).** In years when a portion of the trawl B season quota is rolled over to the trawl C season, the overall distribution of cod harvests between the first and second half of the year shifts to less than 70% harvested in the first half of the year.

**Table 3-39 Temporal distribution of cod harvest by trawl sectors, average 2001–2004**

Date	Seasonal allocations to trawl			Seasonal harvest by trawl (ave. 2001 - 2004)		
	Season	Percent of Allocation	Percent of ITAC allocated to trawl	% of ITAC harvested by trawl CPs	% of ITAC harvested by trawl CVs	% of ITAC harvested by total trawl (CP and CV)
1-Jan	Directed trawl fishing for Pacific cod starts Jan. 20					
20-Jan	A	60%	28.2%	10.6%	15.3%	26.0%
1-Apr	B	20%	9.4%	2.2%	2.7%	4.9%
1-Apr						
10-Jun	C	20%	9.4%	5.9%	1.8%	7.7%
10-Jun						
1-Nov	No trawl fishing for Pacific cod after Nov. 1					
31-Dec	No trawl fishing for Pacific cod after Nov. 1					
<b>TOTAL</b>		<b>100%</b>	<b>47%</b>	<b>18.8%</b>	<b>19.9%</b>	<b>38.6%</b>

**Table 3-40 Temporal distribution of cod harvest by fixed and jig gear sectors, average 2001–2004**

Date	Seasonal allocations to fixed gear			Seasonal harvest by fixed gear (ave. 2001 - 2004)			Seasonal harvest by jig (ave. 2001 - 2004)		TOTAL	
	Season	% of Allocation	Percent of ITAC allocated to fixed gear	% of ITAC harvested by H&L	% of ITAC harvested by pot	% of ITAC harvested by total fixed gear	% of ITAC allocated to jig	% of ITAC harvested by jig	% of ITAC allocated to fixed + jig	% of ITAC harvested by total fixed gear + jig
1-Jan	A	60%	30.6%	24.8%	6.5%	31.3%	0.8%	0.06%	31.8%	31.4%
10-Jun										
10-Jun	B	40%	20.4%	25.8%	2.6%	28.4%	0.8%	0.03%	21.2%	28.4%
31-Dec										
<b>TOTAL</b>		<b>100%</b>	<b>51.0%</b>	<b>50.6%</b>	<b>9.1%</b>	<b>59.7%</b>	<b>2.0%</b>	<b>0.08%</b>	<b>53.0%</b>	<b>59.8%</b>

### *Effects of Components 3 and 4*

It is expected that rollovers from the trawl sectors to the fixed gear sectors will not change under Alternative 1. Reallocations would continue to occur, similar to that provided in Table 3-38. The seasonal harvest data indicate that the trawl sectors do not typically harvest their full allocations in the B (April 1 – June 10) or C seasons (June 10 – November 1). Table 3-16 and Table 3-17 in Section 3.3.5.6 show that on average during 2002 – 2004, the trawl CP sector harvested about 34% and 121% of its initial B and C season allocations, respectively. The C season harvest in excess of 100% means the sector also harvested quota that was rolled over from the previous B season. Analysts excluded 2001 in this example because the trawl sector allocations were only apportioned between two seasons in 2001. The trawl CV sector harvested 113% and 41% of its B and C season allocations, respectively, during this same time period. The B season harvest in excess of 100% means the sector also harvested quota that was rolled over from the previous A season.

Thus, while the reallocations from the trawl to the fixed gear sectors occur in the second half of the year by regulation, not all reallocated quota always comes from the trawl C season. In past years, some of the quota was originally allocated to the trawl B season, and was subsequently rolled to the trawl C season, before then being reallocated to the fixed gear sectors. Refer to Table 3-18 and Table 3-19 for the trawl CP and trawl CV seasonal harvest on average during 2001 – 2004. For example, on average during this time period, the trawl CP sector harvested almost all of its A season allocation and rolled the majority of

its B season allocation to the C season, such that 25.4% of its overall allocation was rolled on average to the C season (which was originally allocated 20%). This creates a revised C season allocation of 45.4% (25.4% + 20%). The trawl sector harvested 25.2% in the C season, leaving a remainder of 20.2% of its allocation to be reallocated to the fixed gear sector.

On average during the same time period, the trawl CV sector harvested nearly all of its A season allocation and all of its B season allocation, rolling only 3.1% of its entire allocation to the C season. Because the trawl CV sector is also allocated 20% of its allocation to the C season, this creates a revised C season of 23.1% (3.1% + 20%). The trawl sector harvested 7.6% in the C season, leaving a remainder of 15.5% of its allocation to be reallocated to the fixed gear sector. Recall that this represents total catch data, as provided by the NMFS Blend data and catch accounting database.

It is theoretically possible for the fixed gear sector to receive reallocated quota from the trawl B and C seasons, due to the fact that a sector's seasonal allocation is rolled to the next season if left unharvested. Each trawl sector receives 20% of its allocation in the second half of the year, spurring the question as to whether the seasonal allocations result in the trawl sector's reallocating more than their 20% C season allocation to the fixed gear sectors. On average during the past several years, not more than 20.2% of the trawl CP sector's original allocation has been reallocated to fixed gear in the second half of the year. Similarly, an average of 15.5% of the trawl CV sector's original allocation has been reallocated to fixed gear in the second half of the year.

The fixed gear sectors have only two seasons. Given the above, the fixed gear sectors harvest in excess of their B season (June 10 – Dec. 31) allocations upon receiving reallocated quota from the trawl and jig sectors. While allocated 20.1% of the ITAC in the B season, the fixed gear sectors combined harvested about 28.4% of the ITAC in the last half of the year during 2001 – 2004.<sup>72</sup> This reallocated quota is almost entirely harvested by the hook-and-line catcher processor sector. According to Federal regulations, the hook-and-line CP sector receives 95% of reallocated trawl quota, and the pot CP and CV sectors receive 0.9% and 4.1%, respectively. The 95% - 5% split between the hook-and-line CP and pot sectors is based on the actual harvest of reallocated quota from trawl and jig sectors harvested by each sector during 1996 – 1998. While jig quota is reallocated to the <60' fixed gear sector, any unused quota from the <60' sector continues to be reallocated to the hook-and-line CP sector under the status quo.

Note that 1% of the 2006 Pacific cod ITAC of 179,450 mt equals 1,795 mt (or about 4 million pounds). Using the 2004 ex-vessel prices for the fixed gear CV sectors (\$0.254/round pound) from Section 3.3.7, 1% of the BSAI Pacific cod ITAC to the fixed gear CV sectors could be roughly estimated as representing \$1 million in ex-vessel revenues. A 1% change in allocation to the trawl CV sectors (using estimated 2004 ex-vessel price of 0.219/round pound) is roughly estimated as representing \$866,000 in ex-vessel revenues.<sup>73</sup>

In the processing sectors, the 2004 first wholesale prices are estimated in the 2005 SAFE report as follows: \$1,132 per round mt of retained BSAI Pacific cod for catcher processors and \$959 per round mt of retained BSAI Pacific cod for shoreside processors (see Section 3.3.9). Thus, 1% of the BSAI Pacific

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<sup>72</sup>Note that the  $\geq 60'$  fixed gear sectors receive 20.1% of the ITAC in the B season. This percentage excludes the <60' fixed gear sector allocation, as it does not have seasonal apportionments, while the 28.4% of the ITAC harvested in the B season includes cod harvested by fixed gear vessels of any length. While some of this harvest could be attributed to the <60' fixed gear sector, the great majority is harvested by the  $\geq 60'$  fixed gear sectors.

<sup>73</sup>Note that public testimony in February and April 2006 reported that the 2006 ex-vessel price for BSAI Pacific cod delivered by both fixed and trawl gear has been upwards of \$0.40 per round pound in the A season. Thus, at \$.40 per round pound, 1% of the BSAI Pacific cod ITAC could be roughly estimated as representing \$1.6 million in ex-vessel revenues to the catcher vessel sectors.

cod ITAC could be very roughly estimated as representing \$2 million in first wholesale revenue for the CP sectors, and \$1.7 million in first wholesale revenue for the shoreside processors. Note that these estimates do not take into account price differences between gear types.

There are **no biological or environmental concerns** identified related to the current sector allocations and reallocation scheme among gear sectors, as described in Chapter 2. In addition, the current scenario was consulted upon in the 2001 Biological Opinion and found not to cause adverse impacts upon the western population of the Steller sea lion and its habitat.

There is some administrative cost to the agency associated with managing the current regime, although it is not easily quantified. NMFS must provide inseason management staff to monitor the harvest by sector and reallocate quota that is projected to remain unused by the end of the year. The determination as to whether quota will likely remain unused, and which sector would be able to harvest unused quota (subject to the hierarchy in regulation), is often complex and difficult. **However, this determination is expected to be necessary on an annual basis, regardless of the amount of the annual allocation to each gear sector, should the seasonal allocations remain (i.e., there is no change under Alternative 1).**

For the trawl sector, this is because of the overall difficulty in harvesting BSAI Pacific cod with trawl gear and the limitations that the sector experiences in the second half of the year. In sum, if any quota is allocated to the trawl sectors' C season, at least a portion of that quota is expected to remain unharvested and in need of reallocation. Thus, while the amount of the reallocation varies each year with the TAC and harvest by sector, **it is expected that, in general, reallocations would continue with no change under Alternative 1.**

Reallocations from the jig sector to the fixed gear sectors are also expected to be necessary in the future under Alternative 1. This is primarily because of the limited effort in the existing BSAI Pacific cod jig fishery, and the inability of the current fleet to harvest the full 2% allocation. While it is more difficult for the smaller (<60') jig vessels to prosecute the fishery in the winter months, the seasonal apportionment alone does not appear to be the primary factor resulting in unused allocation. Preliminary data indicate that in 2004, the first year that the jig allocation was apportioned among three seasons, the jig sector harvested 4% of its A season (Jan. 1 – April 30) allocation; 21% of its B season (April 30 – August 31) allocation; and <1% of its C season allocation. During 2001 – 2004, the jig sector harvested an average of 4.5% of its total allocation, with about half taken during the first half of the year on average. Note also that during this time period, an average of 17 unique jig vessels participated in the BSAI Pacific cod fishery, harvesting a little over 9 mt of cod per vessel on average. Thus, the current 2% allocation, which represents 3,608 mt in 2006, could theoretically sustain more than 380 jig vessels at the average harvest rate, notwithstanding changes in the BSAI Pacific cod TAC.

#### **3.4.1.4 Component 5: CDQ allocation of BSAI Pacific cod**

##### **Component 5: CDQ Allocation of BSAI Pacific Cod**

The CDQ Program reserve is 7.5% of the BSAI Pacific cod TAC. The reserve is removed from the TAC prior to the allocation to all other sectors.

Component 5 addresses the 7.5% BSAI Pacific cod reserve that is currently allocated to the CDQ Program at 50 CFR 679.20(b)(1)(iii)(A). The 7.5% cod reserve has been allocated to the CDQ Program since 1998. Background information on the CDQ Program and the historical CDQ Pacific cod harvest is detailed in Section 3.3.6. A summary table of Pacific cod CDQ harvests by all groups combined during 2001 – 2004 is provided in Table 3-41.

Pacific cod CDQ has been harvested to date by hook-and-line catcher processors targeting Pacific cod. As shown in the table below, an average of 94% of the Pacific cod CDQ allocation was harvested during 2001 – 2004, and the vast majority (93% on average) is in the cod target fishery. The remaining Pacific cod CDQ is caught incidentally in the CDQ target pollock trawl fishery and flatfish trawl fisheries, with very little attributed to the CDQ pot fisheries. An average of 6%, or about 900 mt, of the CDQ cod allocation was left unharvested each year.

**Table 3-41 BSAI Pacific cod CDQ reserve (mt), catch, and percent harvested, 2001–2004**

CDQ Species	2001			2002			2003			2004			Average 2001-04
	CDQ Reserve	Catch	Percent harvest	Percent harvest									
BSAI Pacific cod	14,100	12,527	89%	15,000	14,128	94%	15,563	14,465	93%	16,163	16,009	99%	94%
# Longline CPs	15			17			18			19			17

Source: NOAA Fisheries, 2005. The last row refers to the number of hook-and-line CPs participating in the CDQ fisheries. The hook-and-line CDQ fisheries are primarily CPs targeting Pacific cod.

The royalties from pollock, Pacific cod, Bristol Bay red king crab, and opilio, typically comprise over 95% of the total CDQ royalties. Pacific cod is the second most important species in terms of metric tons, and is typically second or third in importance in terms of royalties (behind pollock and all crab combined). Pacific cod royalties comprised over 6% or \$2.95 million of the total royalties for the CDQ groups combined on average during 2001–2003. During that time period, the average royalty payment to the CDQ groups was \$232 per metric ton of Pacific cod (see Table 3-42).

**Table 3-42 CDQ royalties for all groups combined, 2001–2003**

Species	2001		2002		2003		Average 2001 - 03	
	Total (\$) all groups	% of total royalties	Total (\$) all groups	% of total royalties	Total (\$) all groups	% of total royalties	Ave. (\$) all groups	Ave. % of total royalties
Pollock	36,721,924	86.28%	39,609,795	85.43%	42,779,382	80.04%	39,703,700	83.92%
Pacific Cod	2,733,315	6.42%	2,743,795	5.92%	3,365,920	6.30%	2,947,677	6.21%
Other Groundfish	311,118	0.73%	297,371	0.64%	366,734	0.69%	325,074	0.69%
Halibut	202,822	0.48%	214,872	0.46%	1,922,821	3.60%	780,172	1.51%
Crab total	2,492,197	5.86%	3,448,377	7.44%	4,612,294	8.63%	3,517,623	7.31%
Other species	97,565	0.23%	52,975	0.11%	401,112	0.75%	183,884	0.36%
<b>Total CDQ royalties</b>	<b>42,558,941</b>	<b>100.00%</b>	<b>46,367,185</b>	<b>100.00%</b>	<b>53,448,263</b>	<b>100.00%</b>	<b>47,458,130</b>	<b>100.00%</b>

Source: NOAA Fisheries, Alaska Region. Compiled from CDQ groups' audited financial statements.

Under Alternative 1, the 7.5% allocated to the CDQ Program would continue. Applying the average royalty rate from the most recent audited financial data available (2001 – 2003) of \$232 per metric ton of Pacific cod, results in \$3.52 million, \$3.37 million, \$3.19 million, and \$2.42 million in projected royalties to the CDQ groups in 2004, 2005, 2006, and 2007, respectively (Table 3-43). This assumes that the CDQ groups combined continue to harvest an average of 94% of their total BSAI Pacific cod allocation.

**Table 3-43 Projected CDQ royalties from BSAI Pacific cod under Alternative 1 (no action)**

Year	TAC (mt)	7.5% allocation (mt)	Projected harvest (94%, based on average 2001 – 04)	Ave royalty rate (2001 – 2003)	Projected royalty amt (\$ million)
2004	215,500	16,163	15,193	\$232/mt	\$3.52 m
2005	206,000	15,450	14,523	\$232/mt	\$3.37 m
2006	194,000	14,550	13,677	\$232/mt	\$3.17 m
2007	148,000	11,100	10,434	\$232/mt	\$2.42 m

Note: The 2007 TAC is projected from 2006. The final 2007 TAC will not be known until December 2006.

As stated previously, CDQ allocations of BSAI Pacific cod contributed an average of 6.21% of total royalties during 2001 – 2003. The value of the cod CDQ allocation as a percentage of total CDQ royalties will likely decrease in the near future, as the CDQ Program realized an increase in its crab allocation from 7.5% to 10% under the crab rationalization program implemented in 2005. In addition, under crab rationalization, the CDQ Program is allocated new reserves of Adak red king crab and Eastern Aleutian Islands golden king crab. The CDQ group allocations should be established for EAI golden king crab in 2006. The Adak red king crab fishery has not been opened for several years, due to low stock abundance. Note that an increase (10% or 15%) is also proposed for the target flatfish species, secondary species, and prohibited species allocations to the CDQ Program under BSAI Amendment 80. These allocations are currently established at 7.5%.

Under Alternative 1, the 7.5% CDQ Pacific cod allocation may provide royalties similar to those projected in Table 3-43. Each of the six CDQ groups have purchased equity interests in hook-and-line catcher processors, to which the Pacific cod CDQ is leased. The continued investment in the BSAI fisheries provides the groups with additional revenue to fund their CDQ projects. While each group’s development strategy is different, each group has used CDQ revenues to invest in in-region infrastructure and processing projects in their member communities and other for-profit investments. These include investments in onshore processing of various species and the infrastructure needed for such plants. The quarterly reports and executive summaries of the pending community development plans for each CDQ group (2006 – 2008) are available on the State of Alaska, Department of Commerce, Community, and Economic Development website at: <http://www.commerce.state.ak.us/bsc/CDQ/cdq.htm>.

As stated previously, the President signed the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) into law on July 11, 2006. Among other actions, this Act amends Section 305(i) of the Magnuson Stevens Act, which pertains to the CDQ Program. The MSA amendments include a change to make the CDQ Program Pacific cod allocation a directed fishing allocation of 10% upon the establishment of sector allocations (Section 305(i)(1)(B)(ii)(1)). Refer to Appendix H for NOAA GC’s legal opinion on the interpretation of this section. In sum, new sector allocations would not be established under Alternative 1, and thus the CDQ Program allocation would remain at 7.5%. There are many other significant changes to the program resulting from the MSA amendments. FMP and regulatory amendments necessary to implement the MSA amendments are the subject of ongoing analysis and legal interpretation by NOAA GC.

### 3.4.1.5 Component 6: Apportionment of trawl halibut and crab PSC to the cod fishery group

#### **Component 6: Apportionment of trawl halibut and crab PSC to the cod fishery group**

The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process and can vary annually. The trawl halibut PSC is typically 3,400 mt, which is apportioned between Pacific cod; yellowfin sole; rocksole/other flatfish/flathead sole; pollock/Atka mackerel/other. Generally, about 1,400 mt is apportioned to the cod trawl fishery group.

The crab PSC for 2005 and 2006 is 182,225 red king crab in Zone 1; 4,494,569 *C. opilio* in the *C. Opilio* Bycatch Limitation Zone (COBLZ); and 906,500 *C. bairdi* in Zone 1 and 2,747,250 *C. bairdi* in Zone 2. The cod trawl fishery group bycatch allowance (2005 – 06) is 26,563 red king crab; 139,331 *C. opilio*, 183,112 *C. bairdi* in Zone 1; and 324,176 *C. bairdi* in Zone 2.

Currently, there are prohibited species catch (PSC) limits for halibut, herring, red king crab, *C. opilio*, *C. bairdi*, Chinook salmon and other salmon (primarily chum salmon) for the trawl fisheries. NOAA Fisheries sets PSC limits under 50 CFR 679.21 through the annual TAC-setting process. Of this amount, 7.5 percent of each PSC limit specified for halibut and crab is allocated as a prohibited species quota (PSQ) reserve to the CDQ Program. The remaining PSC limits are apportioned to fishery categories, gear groups, or seasons to create more refined PSC limits. Component 6 addresses the apportionment of trawl halibut PSC and trawl crab PSC that is apportioned to the trawl cod fishery group through the annual specifications process. Salmon and herring PSC limits are not addressed in this component in either Alternative 1 or 2; this amendment does not propose to change PSC limits for those species.

The amount of PSC by trawl sector is provided in Section 3.3.5.8. Groundfish fishery PSC rates are calculated by dividing the sum of the weights or counts of PSC in a set of observer data by the sum of the weight of groundfish in the data set. For rates from observed vessels extrapolated to unobserved vessels, a minimum of three different weekly observer reports are required before an average rate is used. NMFS monitors PSC limits for the non-CDQ and CDQ groundfish fisheries using PSC rate estimates. Reaching a PSC limit results in closure of an area (for crab) or a fishery season (for halibut), even if the groundfish TAC remains unharvested.

Table 3-44 provides the PSC limits for each of these species with the exception of salmon, by gear and fishery for 2005 and 2006. PSC limits for halibut are set forth in 50 CFR 679.21(e)(1)(v). For the BSAI trawl fisheries overall, the halibut mortality limit is 3,400 mt after deducting 7.5 percent for the PSQ reserve allocated to the CDQ program. The 3,400 mt is then apportioned between the different trawl fishery categories (yellowfin sole, rock sole/other flats/flathead sole, Pacific cod, etc.), which is further apportioned by season for some fisheries. Note that the halibut bycatch allowance for the trawl Pacific cod fisheries is not seasonally apportioned. The purpose of the seasonal apportionment in the trawl flatfish fisheries is to maximize the ability of the fleet to harvest the available groundfish TAC and minimize bycatch. Component 6 only addresses the halibut and crab PSC apportioned to the trawl cod fishery group.

Groundfish fishery PSC rates are calculated by dividing the sum of the weights or counts of PSC in a set of observer data by the sum of the weight of groundfish in the data set. For rates from observed vessels extrapolated to unobserved vessels, a minimum of three different weekly observer reports are required before an average rate is used. NMFS monitors PSC limits for the non-CDQ and CDQ groundfish fisheries using PSC rate estimates. Reaching a PSC limit results in closure of an area (in the case of crab) or a fishery season (in the case of halibut), even if the groundfish TAC remains unharvested.

**Table 3-44 2005 and 2006 Prohibited Species Bycatch Allowances for the BSAI Trawl and Non-Trawl Fisheries**

Trawl Fisheries	Prohibited species and zone					
	Halibut mortality (mt) BSAI	Herring (mt) BSAI	Red King Crab (animals) Zone 1 <sup>1</sup>	<i>C. opilio</i> (animals) COBLZ <sup>1</sup>	<i>C. bairdi</i> (animals)	
					Zone 1 <sup>1</sup>	Zone 2 <sup>1</sup>
Yellowfin sole	886	183	33,843	3,101,915	340,844	1,788,459
January 20 – April 1	262	.....	.....	.....	.....	.....
April 1 – May 21	195	.....	.....	.....	.....	.....
May 21 – July 5	49	.....	.....	.....	.....	.....
July 5 – December 31	380	.....	.....	.....	.....	.....
Rock sole/other flat/flathead sole <sup>2</sup>	779	27	121,413	1,082,528	365,320	596,154
January 20 – April 1	448	.....	.....	.....	.....	.....
April 1 – July 5	164	.....	.....	.....	.....	.....
July 5 – December 31	167	.....	.....	.....	.....	.....
Turbot/arrowtooth/sablefish <sup>3</sup>	.....	12	.....	44,946	.....	.....
Rockfish	.....	.....	.....	.....	.....	.....
July 5 – December 31	69	10	.....	44,945	.....	10,988
Pacific cod	1,434	27	26,563	139,331	183,112	324,176
Midwater trawl pollock	.....	1,562	.....	.....	.....	.....
Pollock/Atka mackerel/other <sup>4</sup>	232	192	406	80,903	17,224	27,473
Red King Crab Savings Subarea <sup>6</sup>	.....	.....	.....	.....	.....	.....
(non-pelagic trawl)	.....	.....	42,495	.....	.....	.....
Total trawl PSC	3,400	2,012	182,225	4,494,569	906,500	2,747,250
<b>Non-trawl Fisheries</b>						
Pacific cod – Total	775					
January 1 – June 10	320					
June 10 – August 15	0					
August 15 – December 31	455					
Other non-trawl – Total	58					
May 1 – December 31	58					
Groundfish pot and jig	exempt					
Sablefish hook-and-line	exempt					
Total non-trawl PSC	833					
<b>PSQ reserve<sup>5</sup></b>	342	.....	14,775	364,424	73,500	222,750
PSC grand total	4,575	2,012	197,000	4,858,993	980,000	2,970,000

<sup>1</sup> Refer to § 679.2 for definitions of areas.

<sup>2</sup> “Other flatfish” for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole and arrowtooth flounder.

<sup>3</sup> Greenland turbot, arrowtooth flounder, and sablefish fishery category.

<sup>4</sup> Pollock other than pelagic trawl pollock, Atka mackerel, and “other species” fishery category.

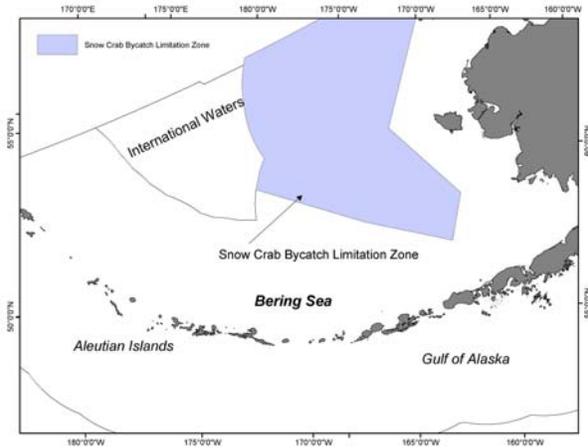
<sup>5</sup> With the exception of herring, 7.5 percent of each PSC limit is allocated to the CDQ program as PSQ reserve. The PSQ reserve is not allocated by fishery, gear or season.

<sup>6</sup> In December 2004, the Council recommended that red king crab bycatch for trawl fisheries within the RKCSS be limited to 35 percent of the total allocation to the rock sole/flathead sole/“other flatfish” fishery category (see § 679.21(e)(3)(ii)(B)).

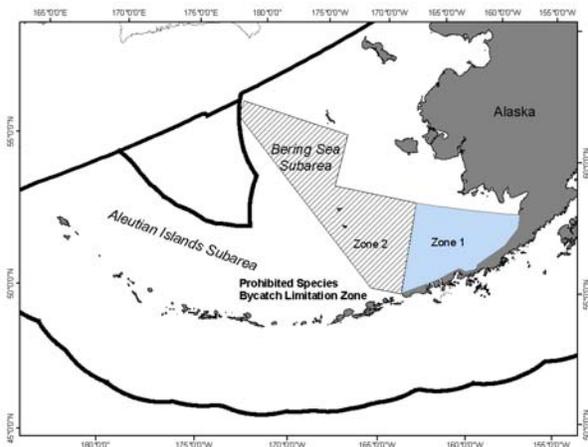
The halibut PSC limit is set in regulation and is not tied to population assessment for the halibut resource. The limits for the other PSC species (herring, red king crab, *C. bairdi* crab, *C. opilio* crab, and Chinook salmon) are set to fluctuate as the resource abundance fluctuates. Crab PSC is tied to PSC limitation zones for red king, *C. bairdi*, and *C. opilio* crab, whereas the PSC limits for the other species are for the entire BSAI.

Figure 3-15 shows the boundaries for the *C. opilio* PSC limitation zone. Figure 3-16 shows the red king crab and *C. bairdi* crab zones 1 and 2.

**Figure 3-15 *C. opilio* PSC limitation zone**



**Figure 3-16 Red king and *C. bairdi* PSC zones**



Note that crab PSC is also allocated by trawl target fishery group. The PSC limit of red king crab is dependent on the abundance of mature female red king crabs and/or the effective spawning biomass, according to criteria set out at 50 CFR 679.21(e)(1)(ii). Zone 1 is closed to directed fishing when red king crab bycatch limits are attained in the specific fisheries.

<b>When the number of mature female red king crab is</b>	<b>The zone 1 PSC limit will be</b>
(A) At or below the threshold of 8.4 million mature crab or the effective spawning biomass is less than or equal to 14.5 million lb (6,577 mt)	32,000 red king crab
(B) Above the threshold of 8.4 million mature crab and the effective spawning biomass is greater than 14.5 but less than 55 million lb (24,948 mt)	97,000 red king crab
(C) Above the threshold of 8.4 million mature crab and the effective spawning biomass is equal to or greater than 55 million lb	197,000 red king crab

PSC limits for *C. bairdi* are established in regulation (50 CFR 679.21(e)(1)(iii)) based on abundance as indicated by the NMFS bottom trawl survey. The zone 1 and zone 2 PSC limits for *C. bairdi* crab vary according to the limits shown below. The 2006 PSC limit for the trawl cod fishery for Zone 1 and Zone 2 is 183,112 crab and 324,176 crab, respectively.

<b>When the total abundance of <i>C. bairdi</i> crab is</b>	<b>The Zone 1 PSC limit will be</b>
(1) 150 million animals or less	0.5 percent of the total abundance minus 20,000
(2) Over 150 million to 270 million animals	730,000 animals
(3) Over 270 million to 400 million animals	830,000 animals
(4) Over 400 million animals	980,000 animals
<b>When the total abundance of <i>C. bairdi</i> crabs is ...</b>	<b>The Zone 2 PSC limit will be ...</b>
(1) 175 million animals or less	1.2 percent of the total abundance minus 30,000
(2) Over 175 million to 290 million animals	2,070,000 animals
(3) Over 290 million to 400 million animals	2,520,000 animals
(4) Over 400 million animals	2,970,000 animals

The PSC limit of *C. opilio* caught by trawl vessels while engaged in directed fishing for groundfish in the COBLZ is specified annually by NMFS, after consultation with the Council, based on total abundance of *C. opilio* as indicated by the NMFS annual bottom trawl survey (50 CFR 679.21(e)(1)(iv)).

The PSC limit is 0.1133 percent of the total abundance, minus 150,000 *C. opilio* crabs, unless the following apply: (1) if 0.1133 percent multiplied by the total abundance is less than 4.5 million, then the minimum PSC limit will be 4.350 million animals; or (2) if 0.1133 percent multiplied by the total abundance is greater than 13 million, then the maximum PSC limit will be 12.85 million animals. For further details on the management of BSAI PSC, see Chapter 3 of the Groundfish PSEIS (NMFS 2004a). The 2006 PSC allowance for the trawl cod fishery group for *C. opilio* is set at 139,331 crab.

For the BSAI trawl fisheries, the halibut limit is 3,675 mt of halibut mortality. Of this amount, 7.5 percent is specified for the PSQ reserve to the CDQ Program. The remaining amount (3,400 mt) is apportioned among the trawl fishery categories. While the amount can vary annually, for the past several years the BSAI trawl cod fishery has had a halibut PSC limit of 1,434 mt. The trawl cod fisheries are typically closed prior to reaching their halibut and crab PSC limits, with the exception of halibut in 2004.<sup>74</sup> Table

<sup>74</sup>In 2004, the halibut mortality in the cod trawl fisheries was about 1,519 mt (1,434 mt limit), while the halibut mortality in the yellowfin sole fisheries was lower than normal (560 mt, with a 886 mt limit). Anecdotal evidence suggests that the Pacific cod were in deeper waters than normal, which elevated halibut mortality in the cod trawl fishery group.

3-45 and Table 3-46 show the halibut and crab mortality and mortality caps in the (non-CDQ) Pacific cod trawl fishery over the past five years. While 2005 data are preliminary, the Pacific cod trawl fisheries were closed August 18 to avoid exceeding the 1,434 mt halibut mortality limit. The sector harvested about 91% of the halibut mortality cap in 2005.

**Table 3-45 Halibut mortality in the BSAI Pacific cod trawl fishery, 2000 – 2004**

Year	Halibut mortality in BSAI Pacific cod trawl fisheries (mt and % of cap)	Halibut mortality cap in BSAI Pacific cod trawl fisheries (mt)
2004	1,519 (106%)	1,434
2003	1,234 (86%)	1,434
2002	1,128 (79%)	1,434
2001	672 (50%)	1,334
2000	935 (65%)	1,434

Source: BSAI Prohibited Species Reports, 2000 – 2004, NMFS catch accounting.

**Table 3-46 Crab mortality (# animals) in the BSAI Pacific cod trawl fishery, 2000 – 2004**

Year	Red King Crab Zone 1 (# and % of cap)	Red King Crab Zone 1 limit	<i>C. Opilio</i> (COBLZ) (# and % of cap)	<i>C. Opilio</i> (COBLZ) limit
2004	665 (3%)	26,563	51,627 (41%)	124,736
2003	1,137 (9%)	13,079	59,101 (47%)	124,736
2002	12,735 (109%)	11,664	93,923 (75%)	124,736
2001	1,742 (15%)	11,664	8,330 (2%)	524,736
2000	4,379 (38%)	11,656	50,245 (41%)	123,529
Year	<i>C. Bairdi</i> Zone 1 (# and % of cap)	<i>C. Bairdi</i> Zone 1 limit	<i>C. Bairdi</i> Zone 2 (# and % of cap)	<i>C. Bairdi</i> Zone 2 limit
2004	60,429 (33%)	183,112	135,295 (42%)	324,176
2003	51,872 (28%)	183,112	101,116 (31%)	324,176
2002	144,550 (79%)	183,112	90,236 (28%)	324,176
2001	44,842 (33%)	136,400	25,417 (11%)	225,941
2000	55,379 (36%)	154,856	26,484 (10%)	275,758

Source: BSAI Prohibited Species Reports, 2000 – 2004, NMFS catch accounting.

Note again that this component only addresses halibut and crab PSC allocated to the *cod trawl fishery group*. However, the CDQ reserve of halibut and crab PSQ is 7.5% of the total halibut and crab mortality established for the non-CDQ fisheries. Thus, limited background information on the CDQ PSQ limits is provided in this section, as this amendment does not propose to change calculation of the PSC limits for the CDQ Program. Under Alternative 1, all PSC limits and calculations would remain the same as in current regulation.

The CDQ PSQ reserve for halibut in 2005 and 2006 is 342 mt. Table 3-47 shows the halibut mortality and halibut PSQ reserve in the CDQ fisheries during 2000 – 2004, as well as the amount of halibut mortality attributed to the CDQ hook-and-line catcher processor sector, which is the CDQ Pacific cod target fishery. It also shows the rate of halibut PSC harvested per metric ton of hook-and-line targeted Pacific cod. The data indicate that in the past several years, the CDQ groups' combined have not exceeded their PSQ reserve of halibut.

**Table 3-47 Halibut mortality in the CDQ fisheries, 2000 – 2004**

Year	Halibut mortality in CDQ fisheries (mt and as % of reserve)	Halibut PSQ reserve (mt)	Halibut mortality (mt) attributed to the hook-and-line CP CDQ fisheries	Halibut PSC rate per mt of CDQ Pacific cod harvested in the hook-and-line CP fisheries
2004	153 (45%)	342	47	.003159
2003	175 (51%)	342	62	.004521
2002	149 (44%)	342	70	.005264
2001	87 (25%)	342	52	.004589
2000	103 (29%)	351	64	.005094

Source: CDQ participation and catch by gear reports, 2000 – 2004, NMFS.

Note that the hook-and-line CP CDQ fishery is primarily the target Pacific cod fishery. The remaining halibut mortality is attributed to the pollock trawl and other trawl CDQ fisheries.

Also in 2005 and 2006, the CDQ crab PSQ reserves are as follows: red king crab is 14,775 animals in Zone 1; *C. opilio* in the COBLZ is 364,424 crab; and the *C. bairdi* limits are 73,500 and 222,750 crab in Zone 1 and 2, respectively. Table 3-48 shows the crab mortality and crab PSQ reserve in the CDQ fisheries during 2000 – 2004. None of the halibut mortality is attributed to the CDQ hook-and-line catcher processor sector, which is the CDQ Pacific cod target fishery. All of the halibut mortality is attributed to the CDQ trawl fisheries. The data indicate that in the past several years, the CDQ groups' combined have harvested very little of their PSQ crab reserves.

**Table 3-48 Crab mortality (# animals) in the CDQ fisheries, 2000 – 2004**

Year	Red King Crab Zone 1 (# and % of cap)	Red King Crab Zone 1 limit	<i>C. Opilio</i> (COBLZ) (# and % of cap)	<i>C. Opilio</i> (COBLZ) limit
2004	175 (1%)	14,775	29,860 (9%)	326,250
2003	1,883 (26%)	7,275	4,927 (2%)	326,250
2002	431 (6%)	7,275	25,568 (8%)	326,250
2001	0 (0%)	7,275	624 (<1%)	326,250
2000	0 (0%)	7,500	4,338 (1%)	337,500
Year	<i>C. Bairdi</i> Zone 1 (# and % of cap)	<i>C. Bairdi</i> Zone 1 limit	<i>C. Bairdi</i> Zone 2 (# and % of cap)	<i>C. Bairdi</i> Zone 2 limit
2004	1,679 (2%)	73,500	13,483 (6%)	222,750
2003	9,119 (12%)	73,500	2,736 (1%)	222,750
2002	4,074 (6%)	73,500	3,695 (2%)	222,750
2001	690 (1%)	54,750	436 (<1%)	155,250
2000	17 (0%)	63,750	1,593 (1%)	191,250

Source: CDQ participation and catch by gear reports, 2000 – 2004, NMFS.

### Effect of Component 6

Under Alternative 1, the halibut and crab PSC apportioned to the cod trawl fishery group would continue to be determined in the annual specifications process and established in Federal regulation (50 CFR 679.21(e)). Accounting for the current 7.5% CDQ PSQ reserve, the trawl halibut PSC is 3,400 mt, which is apportioned between Pacific cod; yellowfin sole; rocksole/other flatfish/flathead sole; pollock/Atka mackerel, other; etc. Generally, about 1,434 mt is apportioned to the cod trawl fishery group. The cod trawl fishery group crab bycatch allowances (2006) are: 26,563 red king crab; 139,331 *C. opilio*; 183,112 *C. bairdi* in Zone 1; and 324,176 *C. bairdi* in Zone 2. These limits will also continue to be determined in the annual specifications process, according to criteria established at 50 CFR 679.21(e).

Under current BSAI Pacific cod TACs, it generally appears that the trawl cod fishery group has not been limited in recent years by its halibut and crab bycatch allowances. Recall that in 2000 – 2003, the trawl

cod fishery did not reach its halibut cap. In 2004, the halibut mortality in the cod trawl fisheries was slightly exceeded (about 1,519 mt with a 1,434 mt limit), while the halibut mortality in the yellowfin sole fisheries was lower than normal (560 mt, with an 886 mt limit). Anecdotal evidence suggests that Pacific cod were in deeper waters than normal, which elevated halibut mortality in the cod trawl fishery group. While 2005 data are preliminary, the Pacific cod trawl fisheries were closed August 18 in 2005 to avoid exceeding the 1,434 mt halibut mortality limit. Note, however, that trawl PSC is currently managed with sufficient flexibility to shift PSC among trawl fishery groups when necessary to fully prosecute an allocation (e.g. shift halibut PSC from the cod trawl fishery group to a flatfish trawl fishery group).

In the CDQ fisheries, the data indicate that the CDQ groups' combined have not exceeded their PSQ reserve of halibut in the past several years. At most, the CDQ groups have used half of their halibut reserve. Similarly, the CDQ groups' combined have harvested very little of their PSQ crab reserves.

Changes occur annually in the fisheries, so it is unlikely one can predict the exact amount of halibut necessary to prosecute the fisheries prior to the season. This is one reason that some flexibility may need to be maintained within inseason management, in order to assess where halibut is needed in the trawl sectors and be able to move halibut between the target fisheries within the specific trawl sectors. In addition, the cod TAC has been declining slightly over the past several years, and expectations are that it may continue to decline slightly in the near future due to reduced, but stable, survey biomass estimates (NMFS, 2005a). However, the limits apportioned to each trawl fishery group can be modified in the annual specifications process, should NMFS determine that adjustments are necessary to maximize the ability of the trawl fleets to harvest the available groundfish TACs and minimize bycatch.

**Note that, regardless of the action taken in Amendment 85, the Council took action in June 2006 to select a preferred alternative under BSAI Amendment 80. This action included establishing separate halibut and crab PSC allowances to the non-AFA trawl CP sector (see box below).** Thus, while Amendment 85 does not propose to change the PSC allowances to the overall trawl cod fishery group, these amounts would change upon implementation of BSAI Amendment 80. The Council's preferred alternative under Amendment 80 (June 2006) apportions crab and halibut PSC to the non-AFA trawl CP sector, based on use in all of the sector's fisheries, including Pacific cod. Thus, while in recent years, approximately 1,434 metric tons of halibut PSC have been allocated to the Pacific cod trawl fishery group to accommodate all trawl sectors, this amount is reduced under Amendment 80, because it would only be used by the AFA trawl CP and trawl CV sectors.

For example, the Council's preferred alternative under BSAI Amendment 80 allocates 2,525 mt of halibut PSC to the non-AFA trawl CP sector and the remaining 875 mt to the remaining 'limited access' trawl sectors, to support all of their target fisheries. Some portion of this 875 mt, likely the majority, would be allocated to the trawl cod fishery group in the annual specifications process. Thus, while Amendment 85 did not provide options to modify the amount of halibut PSC allocated to the trawl cod fishery group, the public should understand that the halibut allowance will be 875 mt, or lower in the future, at such time that Amendment 80 is effective. A similar approach was selected for crab PSC under Amendment 80, to the extent that the non-AFA trawl CP sector receives its own separate crab PSC allocations under Amendment 80.

## **BSAI Amendment 80 – Council preferred alternative (6/10/06) on PSC for the trawl sectors**

### ***Halibut PSC***

BSAI trawl limited access sector: 875 mt

Non-AFA trawl CP sector: 2,525 mt initial allocation, with a 50 mt reduction in the second, third, fourth, and fifth year after program implementation. In the sixth year and subsequent years, the allocation would be 2,325 mt unless adjusted. In the third year only, the 50 mt reduction would be reallocated to the CDQ PSQ reserve.

### ***Crab PSC***

Allocation of crab PSC to the non-AFA trawl CP sector shall be based on the percentage of historic usage of crab PSC in all groundfish fisheries from 2000 – 2002 for red king crab (62.48%) and from 1995 – 2002 for opilio (61.44%) and bairdi zone 1 (52.64%) and zone 2 (29.59%). The initial allocation will be reduced by 5% per year starting in the second year until the non-AFA trawl CP sector is at 80% of their initial allocation. Trawl limited access sectors shall receive an allowance of the sum of the combined AFA CV/CP sideboards. [Note: basing usage on a percentage of annual PSC limits results in a calculation that is crab abundance-based.]

### **3.4.1.6 Component 7: Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors**

#### **Component 7: Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors**

There is no further apportionment of the cod trawl fishery group halibut and crab PSC to the trawl sectors (trawl CV sector and trawl CP sector).

Component 7 is related to Component 6 above. Component 6 addresses the halibut and crab PSC allowances as a whole to the trawl cod fishery group; Component 7 addresses a further split of the halibut and crab allowances among the various trawl sectors. **Under the no action alternative (Alternative 1), there is no further apportionment of the cod trawl fishery group halibut and crab PSC allowance to the trawl sectors.** Note that under Alternative 1, the only two trawl sectors are the trawl CV sector and the trawl CP sector; thus, these two sectors would continue to share the same halibut and crab PSC for the trawl cod fishery group. Note that while **this amendment does not propose a further split of PSC** between the trawl sectors, BSAI Amendment 80 proposes a separate apportionment of halibut and crab PSC to the non-AFA trawl CP sector, including that associated with the Pacific cod fishery. This issue is described in Component 6 above. Thus, regardless of the action taken under this amendment, Amendment 80 would establish separate halibut and crab PSC apportionments for the non-AFA trawl CP sector, if approved by the Secretary.

The current process of allocating PSC to the various gear sectors in the Pacific cod fishery is presented in the discussion of Component 6. The current annual halibut and crab PSC allowances for the BSAI Pacific cod trawl fishery are provided above in Table 3-44. Groundfish fishery PSC rates are calculated by dividing the sum of the weights or counts of PSC in a set of observer data by the sum of the weight of groundfish in the data set. For rates from observed vessels extrapolated to unobserved vessels, a minimum of three different weekly observer reports are required before an average rate is used. NMFS monitors PSC limits for the non-CDQ and CDQ groundfish fisheries using PSC rate estimates. Reaching a PSC limit results in closure of an area (in the case of crab) or a fishery season (in the case of halibut), even if the groundfish TAC remains unharvested.

### ***Halibut PSC***

PSC limits in the BSAI are not seasonally allocated among the Pacific cod trawl A, B, and C seasons because most of the harvest occurs from January through April. In most recent years, the trawl cod fishery group has ended with unutilized PSC for halibut. Typically after the end of July, NOAA Fisheries

allocates ‘left over’ halibut PSC from the trawl cod fishery group to other trawl fisheries. At that time of year, the trawl fisheries with remaining TAC are typically the yellowfin sole and flathead sole fisheries. Utilizing halibut PSC ‘leftover’ from the trawl Pacific cod fishery has allowed managers to keep the fishery for yellowfin sole and/or flathead sole open longer and achieve a higher proportion of the TAC for the respective species than would have been possible without the halibut PSC reallocations.

The history of halibut PSC mortality in the directed BSAI Pacific cod trawl fishery is shown in for the period 1995 through 2003 in Table 3-49. This past history shows the pattern of use by all of the trawl sectors in the BSAI Pacific cod fishery. During 1995–2003, the annual average halibut mortality in the trawl sectors has been: non-AFA trawl CPs – 458.7 mt; AFA trawl CPs – 20.8 mt; and trawl CVs – 736.5 mt. The annual total for the average halibut PSC harvest for these three sectors totals 1,216 mt, considerably lower than the trawl sector limit of 1,434 mt per year. While historical use of PSC is not being used for assigning PSC under the options proposed in this amendment, the historical use provides an important benchmark showing the PSC needs for the fishery.

**Table 3-49 BSAI PSC halibut mortality (mt) by trawl sector, 1995–2003**

Sector	Year	Annual/Sector Totals	Sector	Year	Annual/Sector Totals
<b>non-AFA Trawl CP</b>	1995	352.05	<b>Trawl CV All</b>	1995	962.14
	1996	280.24		1996	1,294.56
	1997	323.21		1997	917.43
	1998	350.61		1998	792.99
	1999	730.53		1999	605.45
	2000	420.77		2000	499.75
	2001	404.63		2001	261.92
	2002	598.27		2002	511.88
	2003	668.33		2003	782.51
	Totals '95-'03	4128.64		Totals '95-'03	6,628.63
	<b>Sector average/year</b>	<b>458.74</b>		<b>Sector average/year</b>	<b>736.51</b>
<b>AFA Trawl CP</b>	1995	39.32			
	1996	29.19			
	1997	15.03			
	1998	19.59			
	1999	28.08			
	2000	14.82			
	2001	*			
	2002	*			
	2003	*			
	Totals '95-'03	187.29			
	<b>Sector average/year</b>	<b>20.81</b>			

Source: NPFMC PSC data files, August 2005.

\*Individual data cannot be released due to confidentiality concerns.

Due to data limitations, it is not possible to break out the AFA and non-AFA components for the trawl CV sector. Instead, both are reported in the sector category of ‘Trawl CV All’. The disaggregated data are only currently available for 2003. For that year, the combined halibut mortality for all trawl CVs was 783 mt. Of that total, the non-AFA trawl CV sector share was 140 mt and the AFA trawl CV share was 643 mt. One year does not provide a long-term benchmark for the respective use of PSC halibut between these two sectors, but the 2003 data provide at least one point of reference.

## Crab PSC

Table 3-50 shows the PSC mortality for red king crab by the various Pacific cod fishery trawl sectors from 1995–2003. As noted above, the current BSAI PSC limit for red king crab is 26,563, a limit that has not been reached in most years. However, the 2002 trawl CP fishery A season was closed due to PSC catch of red king crab, so it can be a potential issue in the fishery.

During 1995–2002, the annual average PSC harvest of red king crab has been: non-AFA trawl CPs – 4,730 crab; AFA trawl CPs – 166 crab; and trawl CVs – 1,114 crab. The annual total for the average red king crab PSC for these three sectors totals 6,010 crab, considerably below the PSC limit red king crab of 26,563. In 2002, both the trawl CP sector and the trawl CV Pacific cod A seasons were closed by red king crab PSC harvest.

**Table 3-50 BSAI PSC red king crab mortality (in # crab) by trawl sector, 1995-2002**

Sector	Year	Annual/Sector Totals	Sector	Year	Annual/Sector Totals
Non-AFA Trawl CPs	1995	2,303	AFA Trawl CPs	1995	84
	1996	2,772		1996	68
	1997	1,539		1997	0
	1998	1,853		1998	20
	1999	7,200		1999	139
	2000	4,328		2000	59
	2001	2,241		2001	4
	2002	15,600		2002	955
	Totals '95-'02 Sector average/year	37,838 4,730		Totals '95-'02 Sector average/year	1,328 166
Trawl CVs All	1995	1,047	AFA 9	1995	198
	1996	539		1996	33
	1997	672		1997	0
	1998	1,539		1998	234
	1999	602			
	2000	621			
	2001	197			
	2002	3,699			
	Totals '95-'02 Sector average/year	8,916 1,114		Totals '95-'98 Sector average/year	465 116

Source: NPFMC, PSC data files, August 2005.

Table 3-51 shows the BSAI Zone 1 and Zone 2 PSC harvests by sector for the years 1995 through 2002. During 1995–2002, the annual average PSC harvest of *C. bairdi* Tanner crab in Zone 1 has been non-AFA trawl CPs – 72,391 crab; AFA trawl CPs – 469 crab; and trawl CVs – 59,810 crab. The annual total for the average Zone 1 *C. bairdi* PSC harvest for these three sectors has totaled 132,670 crab, considerably below the current Zone 1 *C. bairdi* PSC limit of 183,112. From 1995–2002, the Pacific cod fishery was closed by zone 1 *C. bairdi* PSC only in 1997.

**Table 3-51 BSAI C. Bairdi zone 1 and zone 2 C. Bairdi mortality, 1995–2002**

Sector	BSAI PSC Bairdi Zone 1 Mortality by Trawl Sector (number of crab)		BS BSAI PSC Bairdi Zone 2 Mortality by Trawl Sector (number of crab)	
	Year	Annual/Sector Totals	Year	Annual/Sector Totals
<b>non-AFA Trawl CPs</b>	1995	93,196	1995	13,536
	1996	66,531	1996	6,729
	1997	109,199	1997	52,729
	1998	55,192	1998	13,513
	1999	66,546	1999	24,296
	2000	45,710	2000	16,254
	2001	38,019	2001	19,339
	2002	104,741	2002	57,972
	Totals '95-'02	579,132	Totals '95-'02	204,366
	Sector average/year	72,391	Sector average/year	25,546
<b>AFA Trawl CPs</b>	1995	1,779	1995	3,229
	1996	1,194	1996	299
	1997	0	1997	4,245
	1998	64	1998	1,022
	1999	93	1999	34
	2000	142	2000	1,480
	2001	0	2001	68
	2002	481	2002	3,103
	Totals '95-'02	3,753	Totals '95-'02	13,480
	Sector average/year	469	Sector average/year	1,685
<b>Trawl CVs All</b>	1995	59,810	1995	23,497
	1996	58,697	1996	29,732
	1997	28,222	1997	23,324
	1998	9,950	1998	24,072
	1999	12,510	1999	10,459
	2000	9,527	2000	8,751
	2001	6,823	2001	6,011
	2002	39,328	2002	29,161
	Totals '95-'02	224,868	Totals '95-'02	155,007
	Sector average/year	59,810	Sector average/year	19,376
<b>AFA 9</b>	1995	19,975	1995	2,753
	1996	1,942	1996	1,675
	1997	49	1997	6,101
	1998	0	1998	26
	Totals '95-'98	21,967	Totals '95-'98	10,555
	Sector average/year	5,492	Sector average/year	2,639

Source: NPFMC, PSC data files, August 2005.

During 1995–2002, the annual average PSC harvest of *C.bairdi* crab in Zone 2 has been non-AFA trawl CPs – 25,546 crab; AFA trawl CPs – 1,685 crab; and trawl CVs – 19,376 crab. The annual total for the average Zone 2 *C.bairdi* PSC harvest for these three sectors has totaled 46,607 crab, well below the current Zone 2 *C.bairdi* PSC limit of 324,176.

In most years, the trawl Pacific cod fishery does not reach the *C.bairdi* PSC limits. However, as discussed in Alternative 2, sector allocations of PSC for *C.bairdi* will divide the Zone 1 and Zone 2 limits

into smaller amounts. If future resource shifts or future changes in fisheries conditions result in higher bycatch amounts, the *C. bairdi* limit could become more important than it has been in the past.

Table 3-52 shows the BSAI mortality for *C. opilio* by trawl sector for the years 1995–2002. The current PSC limit for *C. opilio* is 139,331 crab within COBLZ, comprised of management areas 513, 524, 531, 533, and 534 (shown in Figure 3-15). The annual average PSC harvest of *C. opilio* crab within the COBLZ zone during the 1995–2002 period has been: non-AFA trawl CPs – 34,645 crab; AFA trawl CPs – 189 crab; and trawl CVs – 6,768 crab. The annual total for the average PSC harvest for these three sectors has totaled 41,602 crab, well below the current COBLZ PSC limit of 139,331.

**Table 3-52 BSAI PSC *C. Opilio* mortality (# of crab) by trawl sector, 1995–2002**

Sector	Year	Annual/Sector Totals			
<b>non-AFA Trawl CPs</b>	1995	1,599	<b>AFA Trawl CPs</b>	1995	707
	1996	29,501		1996	46
	1997	66,019		1997	360
	1998	16,194		1998	249
	1999	36,507		1999	0
	2000	53,193		2000	63
	2001	7,804		2001	89
	2002	66,339		2002	0
	Totals '95-'02	277,156		Totals '95-'02	1,514
	Sector average/year	34,645		Sector average/year	189
<b>Trawl CVs All</b>	1995	3,832	<b>AFA 9</b>	1995	6,928
	1996	12,171		1996	410
	1997	2,681		1997	1,216
	1998	27,622		1998	0
	1999	1,810		Totals '95-'98	8,553
	2000	3,668		Sector average/year	2,138
	2001	1,857			
	2002	499			
	Totals '95-'02	54,141			
	Sector average/year	6,768			

Source: NPFMC, PSC data files, August 2005.

### *Effect of Component 7*

Under Alternative 1, the halibut and crab PSC apportioned to the cod trawl fishery group would continue to be determined in the annual specifications process and established in Federal regulation (50 CFR 679.21(e)). These PSC allowances would not be further divided among the four trawl sectors.

Under current BSAI Pacific cod TAC and halibut and crab PSC allowances, it appears that the trawl cod fishery group is not typically constrained by its halibut and crab bycatch limits. (Note also that reaching a crab bycatch allowance closes the specified location to fishing, but it does not close directed fishing altogether.) Over the past several years, both the trawl CV and CP sector's directed Pacific cod fishery has closed most often due to either reaching the seasonal TAC, because the regulatory season has ended,

or in order to avoid exceeding the halibut mortality limit.<sup>75</sup> Closures due to reaching the halibut mortality limit are not as clear, however, due to the fact that PSC has been managed in the past with sufficient flexibility to shift PSC among trawl fishery groups when necessary to fully prosecute an allocation (e.g. shift of halibut PSC from the cod trawl fishery group to a flatfish trawl fishery group).

During 1995–2003, the annual total for the average halibut PSC harvest for the trawl sectors totaled 1,194 mt, considerably lower than the trawl sector limit of 1,434 mt per year. It appears that under Alternative 1, the trawl sectors would continue to have sufficient halibut PSC to prosecute their BSAI Pacific cod fisheries.

Also during 1995–2002, the annual average PSC harvest of red king crab by the trawl sectors has been 6,010 crab, considerably below the PSC limit red king crab of 26,563. Similarly, the annual total for the average Zone 1 *C.bairdi* PSC harvest for the trawl sectors totaled 132,670 crab, well below the current Zone 1 *C.bairdi* PSC limit of 183,112 crab. The annual total for the average Zone 2 *C.bairdi* PSC harvest for the trawl sectors totaled 46,607 crab, well below the current Zone 2 *C.bairdi* PSC limit of 324,176 crab. The annual total for the average *C. Opilio* PSC harvest for the trawl sectors totaled 41,602 crab, well below the current COBLZ PSC limit of 139,331. In most years, the trawl Pacific cod fishery does not reach the *C. Opilio* PSC limits.

Under Alternative 1, in which all trawl sectors continue to share PSC allowances, there is the possibility that one sector will realize higher PSC mortality in a given year, resulting in all trawl sectors closing directed Pacific cod fishing. The data indicate that the cod trawl sectors overall have not been in jeopardy of reaching their crab or halibut mortality caps, but halibut is likely to continue to be the prohibited species at issue for the trawl fisheries in general. As mentioned previously, if the non-AFA trawl CP sector receives the 2,525 mt of halibut PSC associated with all of its fisheries under the preferred alternative recommended in Amendment 80, the halibut PSC allowance remaining for the other three trawl sectors (875 mt) may serve to constrain the trawl cod fishery more so than in the past.

While it is not possible to provide a quantitative estimate of the economic and operational effects, if the amount of halibut PSC constrains the AFA trawl CP and trawl CV sectors' directed Pacific cod fisheries, this would certainly result in direct costs to these sectors in the form of foregone revenues from cod. Potential costs are likely higher for the trawl CV fishery, as its historical catch of Pacific cod in the directed cod fishery, and thus, the halibut needed to prosecute cod, is much greater than the AFA trawl CP sector. A further implication of such a PSC constraint on cod trawling would be reflected in additional amounts of Pacific cod TAC being made available to other gear types, once the trawl halibut PSC allowance was attained. This would, of course, have economic implications that could extend beyond the harvesting sectors. For example, trawl operations and fixed gear operations do not hale from the same port communities in equal numbers. Therefore, a shift in harvest share from one gear sector to another will result in advantaging some fishery dependent communities (e.g., those with a greater reliance on fixed gear sectors), while disproportionately disadvantaging other communities. Because there are product mix and quality differences asserted to exist between trawl-caught and fixed gear caught cod, it is conceivable that consumers may experience some (albeit, likely small) impacts from this aspect of the action. Likewise, if the primary markets for output differ across gear types (e.g., trawl H&G cod is primarily exported, while a greater share of fixed gear output is directed to domestic consumers),

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<sup>75</sup>While 2005 data are preliminary, the Pacific cod trawl fishery was closed August 18 to avoid exceeding its halibut mortality limit. In 2004, the cod trawl fisheries slightly exceeded their halibut bycatch allowance, although other trawl fisheries groups were well below their typical halibut mortality. In 2003, the directed Pacific cod trawl fisheries were closed in late September, in order to prevent exceeding the halibut bycatch allowance. In 2002, the directed Pacific cod trawl fisheries were closed October 29 for the same reason; note, however, that the last regulatory season ends November 1. Also in 2002, NMFS closed directed fishing for Pacific cod by trawl vessels in Bycatch Limitation Zone 1 on July 1, in order to prevent exceeding the bycatch allowance of red king crab specified for the trawl Pacific cod fishery in Zone 1.

reapportioning unused TAC from trawl to fixed gear sectors may be reflected in import/export changes. Although unlikely to represent significant departures from the prevailing economic patterns in any of these fishery-related segments of the economy, the precise size and distribution of any such impacts, should they result from the proposed action, must await empirical experience. In sum, regardless of the action taken under this amendment, Amendment 80, if approved by the Secretary, would establish separate halibut and crab PSC apportionments for the non-AFA trawl CP sector and remaining trawl sectors. This issue is described in detail in the context of the Council's preferred alternative in Section 3.4.3.5.

### 3.4.1.7 Component 8: Apportionment of cod non-trawl halibut PSC

#### **Component 8: Apportionment of cod non-trawl halibut PSC**

The total amount of non-trawl halibut PSC for the non-CDQ fisheries is determined in the annual specifications process and can vary annually. The non-trawl halibut PSC allowance is typically 833 mt, which is apportioned between the Pacific cod and 'other non-trawl' fisheries. Generally, about 775 mt is apportioned to the cod non-trawl fishery group. No further apportionment of the halibut bycatch allowance is made between the hook-and-line CP sector and the hook-and-line CV sector.

Currently, Federal regulations (50 CFR 679.21(e)(2)(i)) establish the halibut PSC limit in the non-trawl groundfish fisheries at 900 mt of halibut mortality. Of this amount, 7.5 percent (67 mt) is allocated as a prohibited species quota reserve to the CDQ Program. During the annual TAC specifications process, NOAA may apportion the remaining halibut PSC limit (833 mt) for non-trawl gear into bycatch allowances for non-trawl fishery categories based on each category's proportional share of the anticipated bycatch mortality of halibut during a fishing year and the need to optimize the amount of total groundfish harvested under the non-trawl halibut PSC limit. The sum of all bycatch allowances made to each non-trawl fishery equal the PSC limit (50 CFR 679.21(e)(4)(i)). The 2005 and 2006 bycatch allowances for the non-trawl fisheries are provided in Table 3-53. Unlike the trawl fisheries, the non-trawl fisheries do not have herring or crab bycatch allowances.

**Table 3-53 2005 and 2006 Prohibited species bycatch allowances for the BSAI non-trawl fisheries**

<b>Non-trawl fisheries</b>	<b>Halibut mortality (mt) BSAI</b>
Pacific cod – Total	775
January 1 – June 10	320
June 10 – August 15	0
August 15 – December 31	455
Other non-trawl – Total	58
May 1 – December 31	58
Groundfish pot and jig	exempt
Sablefish hook-and-line	exempt
<b>Total non-trawl PSC</b>	<b>833</b>

The BSAI groundfish pot and jig fisheries are exempt from halibut PSC limits, so the only non-trawl cod fishery that is subject to a halibut PSC limit is hook-and-line. For the past five years, the halibut PSC limit for the non-trawl cod fishery has been 775 mt (see Table 3-54). In the past four years (2002 – 2005), the halibut PSC limit for the non-trawl cod fisheries has not been reached, averaging about 66% taken. In 1999–2001, the BSAI non-trawl cod fisheries used about 84%, 106%, and 100% of the halibut bycatch limit, respectively. Note that while the limit in 2000 was slightly exceeded, this was due to a mid-season reapportionment of a portion of the halibut bycatch allowance specified for the BSAI Pacific cod hook-

and-line fishery to the other BSAI non-trawl fishery category. The reapportionment was intended to allow further harvest of other non-trawl fisheries, specifically Greenland turbot, which were constrained by the halibut allowance, without constraining the Pacific cod hook-and-line fishery. A similar mid-season reapportionment occurred in 1999 (from 748 mt to 598 mt for the BSAI non-trawl cod fishery group).

**Table 3-54 Halibut mortality in the BSAI Pacific cod hook-and-line fishery, 2000 – 2005**

Year	Halibut mortality in BSAI P. cod hook-and-line fisheries (mt and % of cap)	Halibut mortality cap in BSAI P. cod hook-and-line fisheries (mt)
2005	539 (70%)	775
2004	438 (56%)	775
2003	490 (63%)	775
2002	585 (75%)	775
2001	776 (100%)	775
2000	711 (106%)	673
1999	500 (84%)	598

Source: BSAI Prohibited Species Reports, 1999 – 2005, NMFS catch accounting.

Note: The halibut mortality cap in 1999 and 2000 was initially 748 mt. In both years, reallocations were made mid-season to reapportion some of the halibut bycatch mortality allowance specified for the Pacific cod hook-and-line fishery category to the other non-trawl fishery category in BSAI. This action was intended to allow the harvest of species constrained by the other non-trawl halibut bycatch mortality allowance, specifically Greenland turbot, without further restricting the hook-and-line Pacific cod fishery.

Component 8 addresses the apportionment of halibut PSC to the non-trawl cod fishery group through the annual specifications process. Currently, the halibut PSC limit (775 mt) applies to both the hook-and-line catcher processors and catcher vessels in the BSAI Pacific cod fishery. In effect, if a seasonal apportionment of halibut PSC is reached, both hook-and-line sectors would be closed for the remainder of that season. In addition, because there is no halibut PSC apportioned between June 10 and August 15, the BSAI hook-and-line cod fishery essentially cannot operate during the summer. Anecdotal evidence and public testimony indicate that the hook-and-line catcher processor sector generally supports this system, given that halibut bycatch rates increase substantially in the summer months for this sector and may risk closing the directed Pacific cod fishery prior to the Pacific cod allocation being fully harvested.

However, the hook-and-line catcher vessel sector, which is also constrained by the lack of halibut PSC apportioned to the summer season, is comprised of smaller vessels with slower catch rates and a relatively small Pacific cod allocation.<sup>76</sup> Given that the sector is comprised of many vessels <60', the hook-and-line catcher vessel sector may benefit from the ability to fish Pacific cod in the summer months, and thus may benefit from a halibut PSC limit separate from the hook-and-line catcher processor sector. Under Alternative 1, the halibut PSC limit would remain combined for both sectors.

The amount of PSC attributed to the Pacific cod hook-and-line catcher processor and catcher vessel sectors is provided in Section 3.3.5.8. A summary of those data indicate that the average halibut mortality rate for the hook-and-line CP and CV sectors during 1999 – 2003 was .0077 mt and .0129 mt per metric ton of retained Pacific cod, respectively.

<sup>76</sup>The general hook-and-line CV sector receives an allocation of 0.15% of the BSAI Pacific cod ITAC. The <60' hook-and-line CV sector also receives an allocation equal to 0.7% of the total BSAI Pacific cod ITAC (this allocation is shared with the <60' pot CV sector). By comparison, the hook-and-line CP sector's current allocation is 40.8% of the BSAI Pacific cod ITAC.

### 3.4.1.8 Inseason management system

This section provides a brief overview of the NMFS management system that would continue to be used to manage BSAI Pacific cod sector allocations under Alternative 1. Currently, NMFS credits both directed harvest of Pacific cod and the incidental harvest of Pacific cod against the Pacific cod TAC to ensure that Pacific cod are not overharvested.

In the non-CDQ sectors, when cod is open for directed fishing, all cod must be retained. Directed fishing for Pacific cod is closed when the amount of cod available for harvest in the directed fishery is caught, reserving the remainder of the TAC for incidental catch in other groundfish fisheries. NMFS then allows vessels to retain incidental catches of Pacific cod (if the TAC has not been reached) taken in other directed fisheries that are open, up to the maximum retainable amount (MRA). A proportion of target species determines the MRA. If the fishery is closed to directed fishing and the TAC is reached, NMFS issues a prohibition of retention of cod and all cod caught must be discarded. If the fishery is closed to directed fishing, the ABC has been taken, and the harvest of cod approaches the overfishing level, then NMFS could close target fisheries that harvest cod incidentally. The overfishing level is the critical harvest point when determining whether directed fisheries for other target species will be closed due to incidentally caught fish. Thus, the OFL currently functions as a hard cap, and leading up to the OFL closures are two soft caps: directed fishing closures and prohibiting retention.

In the existing management system, an annual ICA for the (non-CDQ) fixed gear Pacific cod sectors is deducted off the top of the aggregate amount of the BSAI Pacific cod TAC allocated to all of the fixed gear sectors combined (51%). Since 2000, an ICA of 500 mt<sup>77</sup> has been deducted from the fixed gear sector's overall allocation (51%) before the allocation is apportioned to the separate fixed gear sectors. While the trawl sectors do not have an ICA established at the beginning of the year, NMFS currently has the ability to establish a directed fishing allowance (DFA) for the cod target trawl fisheries and an ICA for cod caught incidentally in the non-cod target trawl fisheries during the fishing year, should NMFS determine that any allocation or apportionment of Pacific cod has been or will be reached during the season.<sup>78</sup> This system allows NMFS to close the directed fishery for cod as described above, and allow other directed trawl fisheries to continue fishing (using the ICA). The current management system is commonly referred to as a 'soft cap' system because incidental catch of cod would not shut down other non-cod target fisheries unless the overall catch of cod approached the overfishing level.

Under Alternative 1, the (non-CDQ) **fixed gear** cod sectors will continue to be managed using an ICA established at the beginning of the year during the annual specifications process. The fixed gear fisheries (primarily the hook-and-line CP sector) fish almost entirely Pacific cod, and thus they finish their season in the directed cod fishery. In addition, their other target species (Greenland turbot, IFQ halibut/sablefish) have relatively low incidental catches of Pacific cod, and this sector has been fairly predictable over the years. Because there are not subsequent fixed gear target fisheries that need cod for incidental catch later in the year, the hook-and-line CP sector has typically harvested its directed fishing allowance into December and the fixed gear sector does not harvest its entire ICA (M. Furuness, 3/9/05). The non-trawl component has been managed for several years with a directed fishing allowance for the several fisheries and a single, small ICA that covers incidental catch in the few alternate fisheries in which they participate. With a few exceptions, the non-trawl directed fisheries are managed by NMFS without seasonal apportionments being exceeded significantly (A. Smoker, 5/18/05). (Note that this system is not proposed to be changed under Alternative 2.)

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<sup>77</sup>The 500 mt ICA was initially derived from estimates of incidental catch of Pacific cod in other groundfish fisheries from 1996 – 1999. NMFS determines the ICA on an annual basis in rulemaking (679.20(a)(7)(i)(C)(1).

<sup>78</sup>See 50 CFR 679.20(d)(1)(i).

NMFS has not typically put (non-CDQ) **trawl** Pacific cod on bycatch status in the recent past, due to both the seasonal apportionments and the fact that the trawl sectors are not currently constrained by their Pacific cod allocations.<sup>79</sup> Other than the amount of TAC that is apportioned to the trawl gear sectors, those fisheries are confined by both the Steller sea lion restrictions and PSC caps. The way the fishery is currently allocated essentially results in a large portion of the overall Pacific cod TAC from the trawl CP sector and some from the trawl CV sector acting as a ‘slush fund’ that is not taken until the end of the year when it is reallocated primarily to the hook-and-line CP sector.<sup>80</sup> The seasonal allocations to the trawl sectors have ensured that a sufficient amount of Pacific cod is left for incidental catch in the other non-cod target trawl fisheries later in the year, specifically, a few thousand tons for the AFA trawl catcher vessel sector participating in the B season pollock fishery, and several thousand tons for the trawl catcher processor sector participating in the flatfish, rockfish, and B season Atka mackerel fisheries (A. Smoker, 2/24/05). A significant portion of the trawl allocations is typically left unharvested, and requires reallocation to the non-trawl sectors towards the end of the year in order to fully harvest the TAC. This same trend is expected to continue under Alternative 1. **In effect, exceeding ABC and incurring an OFL closure have not been a past concern and are not expected to be a concern under Alternative 1.**

The management system for the **CDQ** BSAI Pacific cod allocation also would not change under Alternative 1 (status quo). The allocation of Pacific cod to the CDQ Program is currently 7.5 % of the TAC. Each year, the amount of Pacific cod allocated to the CDQ Program is further allocated among the six CDQ groups based on percentage allocations originally approved by NMFS and more recently established under section 305(i)(1)(C) of the MSA. The Pacific cod percentage allocations are: Aleutian Pribilof Island Community Development Association (APICDA) 15%; Bristol Bay Economic Development Corporation (BBEDC) 21%; Central Bering Sea Fishermen’s Association (CBSFA) 9%; Coastal Villages Region Fund (CVRF) 18%; Norton Sound Economic Development Corporation (NSEDC) 18%; and Yukon Delta Fisheries Development Association (YDFDA) 19%.

Each CDQ group is allocated an amount of Pacific cod at the beginning of each year that equals its proportional share of the amount of Pacific cod allocated to the CDQ Program. The CDQ groups choose which vessels harvest Pacific cod on their behalf, and how and where that Pacific cod is processed. As stated previously, almost all of the catch of Pacific cod by the CDQ groups is harvested by hook-and-line catcher processors. The CDQ groups are required to submit a CDQ catch report which, for catcher processors, must report the total catch of all CDQ species and prohibited species in the haul or set based on observer data for that haul or set. Information submitted on the CDQ catch report is used by NMFS to subtract catch from the CDQ groups’ quota accounts. Observer data submitted directly to NMFS by the observer is also used to verify that all CDQ hauls, sets, and deliveries are being reported on the CDQ catch report.

All catch of Pacific cod by any vessel fishing on behalf of the CDQ group<sup>81</sup> accrues against the CDQ group’s allocation of Pacific cod, regardless of whether the vessel operator intended to target cod. The CDQ groups are prohibited by 50 CFR 679.7(d)(5) from exceeding their CDQ allocations. Therefore, catch of cod by vessels fishing on behalf of a CDQ group that exceeds the amount allocated to the CDQ group represents a quota overage, and information about the potential violation of NMFS regulations is provided to NMFS Enforcement. The CDQ group would increase its overage and the nature of its

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<sup>79</sup> Establishing an ICA inseason for the trawl sectors has not usually been necessary; however, NMFS did close the BSAI Pacific cod trawl CP fishery on 3/14/04, and set aside 500 mt for an ICA until 3/28 (the next seasonal apportionment started 4/1).

<sup>80</sup> A large portion of the 2% jig allocation (and in some years a portion of the pot allocation) is also typically reallocated.

<sup>81</sup> Except vessels less than 60 feet length overall that are halibut CDQ fishing and vessels fishing for crab CDQ.

violation if it continued to fish for other species and caught more Pacific cod. Therefore, under the current management system, reaching one CDQ allocation constrains the ability of the CDQ group to continue to fish for other CDQ groundfish species. Thus, the CDQ allocation currently functions as a hard cap, and reaching the allocation results in closing other (non-Pacific cod) CDQ directed fisheries in which cod may be caught incidentally. Hard caps (whether TAC or PSC amounts, in this context) serve the purpose and intent of allocating scarce resources among competing users.

### **3.4.2 ALTERNATIVE 2: Modify BSAI Pacific Cod Allocations**

#### **3.4.2.1 Component 1: Sectors for which allocations will be established**

##### **Component 1: Sectors for which allocations will be established**

Catch history will be calculated for the following sectors. The Council may choose to establish allocations for combined sectors; however each sector's catch history will be calculated separately.

- AFA Trawl CPs (AFA 20)<sup>1</sup>
  - Suboption a: Include catch history of the nine trawl CPs whose claims to catch history have been extinguished by Section 209 of the AFA
  - Suboption b: Exclude catch history of the nine trawl CPs whose claims to catch history have been extinguished by Section 209 of the AFA
- Non-AFA Trawl CPs
- AFA Trawl CVs
- Non-AFA Trawl CVs
- Hook-and-line CPs
- Hook-and-line CVs  $\geq 60'$
- Pot CPs
- Pot CVs  $\geq 60'$
- Hook-and-line and pot CVs  $< 60'$
- Jig CVs

Eligibility criteria for non-AFA trawl catcher vessels to be included in the AFA CV sector for purposes of the Pacific cod allocations:

- Option 1.1      The holder of a license that arose from a vessel/history that made a minimum of 100 mt of Pacific cod landings during each of the years 1995 – 1997.

<sup>1</sup>Refers to the 20 trawl catcher processors listed in Section 208(e) of the American Fisheries Act (AFA).

Component 1 identifies the non-CDQ sectors for which BSAI Pacific cod allocations will be established. Under Alternative 2, therefore, ten separate sectors could be established for the purposes of the BSAI Pacific cod allocations. Component 1 thus represents a decision point to determine which sectors will receive separate BSAI Pacific cod allocations, and the component explicitly states that the Council is not prohibited from establishing allocations for combined sectors. (Note that Component 2 includes explicit options to establish a combined allocation for the jig CV sector and the  $< 60'$  fixed gear CV sector.)

Six of the ten sectors identified in Component 1 are the same sectors that currently receive a BSAI Pacific cod allocation; the only newly established sectors would be the four trawl sectors. As noted previously, the overall trawl sector has had a separate allocation from the non-trawl sectors since 1994, and the trawl CP and trawl CV sectors have had separate allocations since 1997. Alternative 2 would allow a split of

the current trawl sectors into the following sectors: AFA trawl CP; non-AFA trawl CP; AFA trawl CV; and non-AFA trawl CV.

### *AFA Sideboards*

As stated under Alternative 1, although separate allocations are not currently established for the AFA CP and AFA CV sectors, the implementing regulations for the AFA established sideboards on participation by AFA-qualified vessels in the BSAI Pacific cod fishery. The 20 listed AFA CPs are subject to an annual BSAI Pacific cod sideboard limit (10,554 mt in 2006).<sup>82</sup> AFA catcher vessels are also subject to an annual sideboard limit (35,216 mt in 2006) for BSAI Pacific cod.<sup>83</sup> The Council elected to exempt AFA catcher vessels from the Pacific cod sideboards if their annual BSAI pollock landings averaged less than 1,700 mt from 1995 – 1997 and they made 30 or more landings of BSAI Pacific cod during that time period. The rationale for these exemptions was that many of the AFA catcher vessels with relatively low catch histories of BSAI pollock have traditionally targeted Pacific cod rather than pollock during the January through March BSAI Pacific cod fishery. The Council noted that restricting such vessels in the Pacific cod fishery would be inequitable given their disproportionate history of participation in the Pacific cod fishery and because their historic dedication to Pacific cod fishing in the winter months accounts for their lower catch histories of BSAI pollock during the AFA qualifying years.

In addition, AFA CVs with mothership endorsements are exempt from BSAI Pacific cod catcher vessel sideboard directed fishing closures after March 1 of each fishing year. The Council made this recommendation for several reasons. It was noted at the time that in most years, the BSAI Pacific cod fishery was largely concluded by March 1 and fishing is often less productive in terms of catch per unit effort after that date. At the time, only two non-AFA catcher vessels had recent history in BSAI Pacific cod, and the Council believed that some additional vessels might be needed after this date to completely harvest the TAC so that processors would not be faced with a slow trickle of Pacific cod deliveries that were not economically viable to process. The Council thus recommended that AFA catcher vessels with mothership endorsements be allowed to re-enter the BSAI Pacific cod fishery after March 1 because the mothership sector received a relatively smaller pollock quota under the AFA (10% of the BSAI pollock directed fishing allowance) and mothership catcher vessels are more likely to be finished with their pollock operations by that date (65 FR 4529; Jan. 28, 2000).

Of the 111 AFA CVs, 9 are exempt from the cod sideboards under the 1,700 mt exemption and 19 have mothership endorsements and are therefore exempt after March 1. The remaining 83 AFA CVs are subject to BSAI Pacific cod sideboard limits at all times.

Note that the cod sideboards operate as harvest limits for the AFA CP and CV sectors; they provide a cap that the AFA sectors must not exceed, but do not guarantee an allocation up to that amount. Currently, the AFA CPs and the AFA CVs that deliver to CPs operate under an inter-cooperative agreement (“*Cooperative Agreement Between Offshore Pollock Catchers Cooperative and Pollock Conservation Cooperative*”) to facilitate management and accounting between the two cooperatives. Similarly, the AFA CV fishery is in part managed by the annual inter-cooperative agreement pursuant to a cod allocation agreement adopted by all AFA CV cooperatives in 2000. In general, this agreement clarifies the exempt

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<sup>82</sup>The Pacific cod sideboard (harvest limit) for AFA trawl CPs is equal to the 1997 aggregate retained catch of Pacific cod by AFA CPs listed in paragraphs 208(e)(1) through (20) and 209 of the AFA in non-pollock target fisheries divided by the amount of Pacific cod caught by trawl CPs in 1997 multiplied by the Pacific cod TAC available for harvest by trawl CPs in the year in which the harvest limit will be in effect (50 CFR 679.64 (a)(1)(ii)). This equates to 25.8% of the trawl CP allocation.

<sup>83</sup>The AFA CV sideboard (harvest limit) for BSAI Pacific cod is equal to the retained catch of BSAI Pacific cod in 1997 by AFA CVs not exempted under paragraph (b)(2)(i)(A) of 50 CFR 679.64 divided by the BSAI Pacific cod TAC available to catcher vessels in 1997; multiplied by the BSAI Pacific cod TAC available to catcher vessels in the year or season in which the harvest limit will be in effect. This equates to 86.1% of the trawl CV allocation.

AFA CVs and allocates the AFA cod sideboards among the nine cooperatives, which provides the basis for the individual cooperatives to allocate at the individual vessel level. The agreement states that an overharvest of a sideboard limit by any member of a cooperative shall subject that member to a penalty. Thus, while the AFA authority is limited to pollock, the cooperative structure has provided a mechanism by which the AFA vessels can also manage Pacific cod within the AFA CP and CV sectors.

**Under Alternative 2, if the AFA trawl CP and AFA trawl CV sectors each received distinct BSAI Pacific cod allocations, the current BSAI Pacific cod sideboards would be replaced by the direct allocations to each sector.** While the cod allocation agreement of 2000, and the annual inter-cooperative agreement for AFA CV cooperatives, are not Federally regulated, it is assumed that these agreements would need to be revisited by the industry in order to continue management of the BSAI Pacific cod harvests by AFA catcher vessels in light of this proposed change. Currently, because the BSAI Pacific cod harvests of exempt vessels (and the non-AFA catcher vessels) are not constrained by the cod sideboard, the allocations made under the cod allocation agreement are net of the amounts reserved for such vessels (Cod Allocation Agreement, 2000). In addition, the term of the cod allocation agreement is stated as taking effect January 1, 2001, and terminating on the earlier of:

- i. expiration or modification of the AFA pollock allocations among the inshore, mothership, and catcher processor sectors; or
- ii. termination of either of the mothership catcher vessel or “1700 mt” cod sideboard exemptions; or
- iii. rationalization of the BS Pacific cod trawl catcher vessel fishery, whether through legislation or NMFS regulations.

**Given the above, should a direct allocation of BSAI Pacific cod be established for the AFA trawl CV sector and replace the current sideboard, the current cod allocation agreement would terminate.** Thus, should a direct allocation be established for the AFA CV sector under Alternative 2, one important component of any future cod agreement would likely be how the AFA CV sector cod allocation would be managed between AFA CVs that were previously subject to the cod sideboards and AFA CVs that were previously exempt. As stated previously, 9 AFA CVs are exempt from the cod sideboards under the 1,700 mt exemption and 19 have mothership endorsements and are therefore exempt after March 1. The remaining 83 AFA CVs are currently subject to BSAI Pacific cod sideboard limits. This issue does not exist for the AFA CP sector, as all AFA CPs are subject to the AFA CP BSAI Pacific cod sideboard.

Concern has been expressed by members of the AFA CV sector that replacing the cod sideboard with a direct cod allocation to the AFA CV sector would significantly disrupt the current internal cooperative management system. There are several potential actions that could be taken in light of the proposed action, one of which is to continue a combined trawl CV allocation to the AFA CV and non-AFA CV sectors and maintain the current sideboard for the AFA CV sector, which mirrors the status quo for these particular sectors. In effect, while the amount of the allocation to the trawl CV sector could change under this amendment, the structure of the combined allocation and the sideboards could remain the same.

The option to continue a Pacific cod allocation to the trawl CV sector overall and maintain the current sideboards to the AFA CV sector is currently provided under Alternative 2, Component 1. The primary disadvantage of this potential action is that the AFA CV sector would not have a direct allocation, and thus the potential would continue for the entire trawl CV allocation to be reached prior to the AFA (non-exempt) CV sector reaching its Pacific cod sideboard limit. Note that the non-exempt AFA CVs have not harvested their entire cod sideboard since the AFA was implemented, thus, it is possible that neither sector would be substantially affected by maintaining the combined allocation to the trawl CV sector.

Table 3-55 describes the amount of Pacific cod harvested by the AFA CP fleet and the AFA CV fleet compared to their annual sideboard amounts (also see Section 3.3.5.9). Generally, vessels fishing with trawl gear prefer participating in the cod fishery in the winter and early spring, as opposed to the second half of the year. This is primarily because catch rates decline and bycatch of non-target species and PSC increases in the second half of the year. Thus, transfers of BSAI Pacific cod sideboard amounts are common between cooperatives during the late winter and spring fishery, in order to allow participating member vessels to harvest cod during the January – April (A season) timeframe and allow other vessels to finish pollock.

The primary advantage of keeping a combined trawl CV allocation is that it does not disrupt the current AFA CV sector cooperative agreements, nor does it compromise the non-AFA trawl CV or trawl CV sector’s harvest share of BSAI Pacific cod relative to one another. This may be the least disruptive option under Alternative 2, Component 1, due to the complicated nature of the AFA contracts and the varying designations of AFA CVs as exempt or non-exempt from the current BSAI Pacific cod sideboards.

Finally, note that under Option 1.1 of Component 1, three non-AFA trawl catcher vessels with significant Pacific cod history would qualify to be included in the AFA CV sector for purposes of the Pacific cod allocations. Because the intent of the AFA CV sideboards is to protect the harvest share of BSAI Pacific cod in the non-AFA sector from being eroded by increased Pacific cod catch in the AFA sector due to the cooperative pollock structure under the AFA, it may be necessary or warranted to maintain the current AFA CV sideboards for BSAI Pacific cod if the three non-AFA trawl CVs are included in the AFA sector under Option 1.1.

**Table 3-55 Harvest of BSAI Pacific cod sideboards (mt) in the AFA sectors, 2000–2004**

Year	AFA CP			AFA CV		
	Sideboard (mt)	Amt harvested (total mt)	Percent harvested	Sideboard (mt)	Amt harvested (mt)	Percent harvested
2000	11,034	3,313	30%	30,588	25,964	85%
2001	10,748	3,999	37%	31,480	11,477	36%
2002	11,434	3,586	31%	37,429	23,046	62%
2003	10,870	3,831	35%	38,831	29,625	76%
2004	12,080	3,309	27%	40,328	26,863	67%
Avg. 2000–2004	11,233	3,608	32%	35,731	23,395	65%

Source: 2000 – 2002 data are from shoreside electronic logbook, which contains no estimates of at-sea discards. 2003 – 2004 data are from NMFS catch accounting system (includes estimates of at-sea discards). For the AFA CV sector, this includes the total BSAI Pacific cod harvest by non-exempt AFA CVs and harvest by AFA CVs delivering to motherships before March 1. For the AFA CP sector, this includes the total BSAI Pacific cod harvest by the 20 CPs listed in Section 208(e) of the AFA.

**Suboption A and B**

Component 1 provides two suboptions to include or exclude catch history from the ‘AFA 9’, the nine catcher processors listed in Section 209 of the AFA who were made permanently ineligible for fishery endorsements. Section 209 also extinguishes all claims associated with such vessels that could qualify the owners of the vessels for any limited access system permit:

**SEC. 209. LIST OF INELIGIBLE VESSELS.**

*Effective December 31, 1998, the following vessels shall be permanently ineligible for fishery endorsements, and any claims (including relating to catch history) associated with such vessels that could qualify any owners of such vessels for any present or future limited access system permit in any fishery within the exclusive economic zone of the United States (including a vessel*

*moratorium permit or license limitation program permit in fisheries under the authority of the North Pacific Council) are hereby extinguished:*

- (1) AMERICAN EMPRESS (United States official number 942347);
- (2) PACIFIC SCOUT (United States official number 934772);
- (3) PACIFIC EXPLORER (United States official number 942592);
- (4) PACIFIC NAVIGATOR (United States official number 592204);
- (5) VICTORIA ANN (United States official number 592207);
- (6) ELIZABETH ANN (United States official number 534721);
- (7) CHRISTINA ANN (United States official number 653045);
- (8) REBECCA ANN (United States official number 592205); and
- (9) BROWNS POINT (United States official number 587440).

NOAA GC guidance was requested in February 2004, regarding whether the 20 catcher processors listed in Section 208(e) of the AFA could claim the non-pollock fishing history of the nine catcher processors removed from the fishery. This issue was originally raised relative to BSAI Amendment 80. **NOAA GC’s response (dated June 4, 2004) clarified that in making sector allocations, the Council may consider the combined non-pollock fishing history of the twenty vessels listed in Section 208(e) and the nine vessels listed in Section 209, but the allocations based upon the AFA 9 history may not be made to the owners of those vessels and any allocation must comply with the overall caps set forth under Section 211(b) (sideboards in non-pollock fisheries).** NOAA GC confirmed this opinion in February 2005.<sup>84</sup>

Therefore, while the Council is not *required* to consider the non-pollock catch history of the AFA 9, the Council has the latitude to consider that catch history, as long as it does not convey an allocation to the owners of those nine vessels. The decision on whether to include or exclude the BSAI Pacific cod history of the AFA 9 in the allocations is an option under Component 1. This means that under Component 2, all allocation options are provided both including and excluding retained BSAI Pacific cod catch history from the AFA 9.

The ‘AFA 9’ vessels harvested about 16,600 mt, or 1% of the total retained BSAI Pacific cod harvest during the years on which the allocations could be based under this amendment (1995–2003). Recall that those 9 vessels were removed from the fishery in 1999, thus only harvest from 1995–1998 exists (see Table 3-56).

**Table 3-56 AFA 9 retained catch (mt) in the BSAI Pacific cod fishery, 1995–1998**

Year	Harvest (mt)	# unique vessels
1995	4,546	6
1996	4,067	6
1997	4,015	7
1998	3,966	7
<b>Total</b>	<b>16,594</b>	<b>8</b>

Source: WPR reports, 1995–1998.

If the 16,600 mt from these nine vessels is *included* as part of the AFA catcher processor sector’s history, this sector’s average share of the total harvest during this time period is 2.7% (Table 3-57). If the 16,600

<sup>84</sup>Letter from Lisa Lindeman, Alaska Regional Counsel, NMFS to Chris Oliver, North Pacific Fishery Management Council. February 9, 2005.

mt from these nine vessels is *excluded* from the total harvest history altogether, each sector's annual harvest share would change as shown in Table 3-58. In particular, the AFA CP sector's average share of the total harvest during this time period decreases to 1.7%.

**Table 3-57 BSAI Pacific cod annual harvest share by sector (including AFA 9 catch history), 1995–2003**

SECTOR	1995	1996	1997	1998	1999	2000	2001	2002	2003	average
<60 HAL/Pot CVs	0.5%	0.1%	0.0%	0.0%	0.1%	0.2%	0.7%	0.9%	1.0%	0.4%
AFA Trawl CPs	5.0%	3.8%	4.0%	5.1%	2.6%	1.1%	0.9%	0.8%	0.8%	2.7%
AFA Trawl CVs	22.5%	26.5%	25.0%	22.8%	22.9%	22.4%	12.3%	20.3%	18.5%	21.5%
Jig CVs	0.3%	0.1%	0.1%	0.1%	0.1%	0.0%	0.1%	0.1%	0.1%	0.1%
Longline CPs	49.6%	42.8%	50.9%	50.8%	47.4%	46.6%	56.7%	47.7%	49.5%	49.1%
Longline CVs >60'	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.9%	0.1%	0.1%	0.1%
Non-AFA Trawl CPs	9.1%	9.2%	9.2%	13.3%	15.3%	16.0%	15.5%	17.9%	15.6%	13.5%
Non-AFA Trawl CVs	1.8%	1.7%	1.5%	0.9%	1.2%	1.7%	2.0%	3.5%	4.2%	2.1%
Pot CPs	2.5%	4.3%	2.3%	1.9%	2.2%	1.5%	2.0%	1.2%	0.8%	2.1%
Pot CVs >60'	8.6%	11.5%	7.1%	5.1%	8.1%	10.3%	9.1%	7.5%	9.5%	8.5%
Total	1	1	1	1	1	1	1	1	1	100.0%

Source: Harvest data are retained catch (excluding meal) from WPR reports and ADF&G fishtickets, 1995 - 2003. Each sector's annual harvest share was calculated for the individual year as a percentage of the total retained legal catch by all sectors.

**Table 3-58 BSAI Pacific cod annual harvest share by sector (excluding AFA 9 catch history), 1995–2003**

SECTOR	1995	1996	1997	1998	1999	2000	2001	2002	2003	average
<60 HAL/Pot CVs	0.5%	0.1%	0.0%	0.0%	0.1%	0.2%	0.7%	0.9%	1.0%	0.4%
AFA Trawl CPs	2.5%	1.7%	2.2%	2.7%	2.6%	1.1%	0.9%	0.8%	0.8%	1.7%
AFA Trawl CVs	23.1%	27.1%	25.4%	23.4%	22.9%	22.4%	12.3%	20.3%	18.5%	21.7%
Jig CVs	0.3%	0.1%	0.1%	0.1%	0.1%	0.0%	0.1%	0.1%	0.1%	0.1%
Longline CPs	50.9%	43.7%	51.9%	52.1%	47.4%	46.6%	56.7%	47.7%	49.5%	49.6%
Longline CVs >60'	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.9%	0.1%	0.1%	0.1%
Non-AFA Trawl CPs	9.3%	9.4%	9.4%	13.6%	15.3%	16.0%	15.5%	17.9%	15.6%	13.6%
Non-AFA Trawl CVs	1.8%	1.8%	1.5%	1.0%	1.2%	1.7%	2.0%	3.5%	4.2%	2.1%
Pot CPs	2.6%	4.4%	2.3%	1.9%	2.2%	1.5%	2.0%	1.2%	0.8%	2.1%
Pot CVs >60'	8.8%	11.8%	7.2%	5.2%	8.1%	10.3%	9.1%	7.5%	9.5%	8.6%
Total	1	1	1	1	1	1	1	1	1	100.0%

Source: Harvest data are retained catch (excluding meal) from WPR reports and ADF&G fishtickets, 1995 - 2003. Each sector's annual harvest share was calculated for the individual year as a percentage of the total retained legal catch by all sectors.

Note that the current AFA CP BSAI sideboard caps, including that for Pacific cod, were calculated using the harvest history from both the 20 eligible AFA CPs listed in Section 208(e) and the 9 vessels that were retired under Section 209 of the AFA. Section 211 of the AFA addresses the non-pollock fishing history of these vessels and provides the limits to the AFA catcher processors, as follows:

*(b) Catcher/Processor Restrictions.—*

*(2) Bering Sea Fishing. The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from, in the aggregate—*

*(A) exceeding the percentage of the harvest available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total harvest by such catcher/processors and the catcher/processors listed in Section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997;*

Thus, the amount of BSAI Pacific cod that the AFA CP sector is currently allowed to harvest includes the Pacific cod catch history of the AFA 9. While this provision does not mandate that a direct allocation to

the AFA CP sector include the harvest history of the AFA 9, it provides the current upper bound for the sector to date. Note that the legislative history associated with Section 209 is such that the purpose of Section 209 was to transfer a portion of the offshore pollock sector's harvest allocation to the onshore pollock sector, via the "purchase of nine pollock catcher processor vessels and their pollock fishing history."<sup>85</sup> In brief, in exchange for retiring the 9 vessels, and transferring the pollock catch history associated with them to the inshore sector, the owners of these vessels were paid \$90 million. The transaction did not include the purchase of the non-pollock catch history of the 9 vessels.

Representatives of the AFA CP sector have also stated that it was understood at the time that the AFA negotiations took place that the 20 AFA CPs would continue to be able to harvest non-pollock groundfish based on the non-pollock catch history of the 20 AFA CPs and the AFA 9. The AFA transferred 15% of the BSAI pollock TAC from the offshore sector to the inshore sector. As mentioned above, vessels representing 10% of the pollock TAC (the AFA 9) were bought out of the fishery through payment to the owners of those vessels. The owners of the remaining eligible AFA CPs received no buyout funds and no compensation for the remaining 5% of the pollock TAC that was transferred to the inshore sector. The concession made to the 20 AFA CPs in exchange for relinquishing that 5% of the pollock TAC was the right to form a harvesting cooperative and the right to continue harvesting non-pollock groundfish in the BSAI up to the catch history of the 20 vessels, plus the 9 vessels as per Section 211(b) of the AFA.<sup>86</sup>

**In sum, it is a policy choice as to whether to include the BSAI Pacific cod catch history from the nine vessels who were retired from the fishery.** The effect of including this catch history in the AFA CP sector's catch history is that the AFA CP sector's share of the retained harvest history during 1995 – 2003 is increased from 1.7% to 2.7%. By comparison, the <60' fixed gear CV, jig CV, hook-and-line CV, non-AFA trawl CV, and pot CP sectors are unaffected. The remaining sectors are affected by 0.1%–0.5%. The effect on each sector's allocation of including the AFA 9 cod catch history is detailed under each of the options for establishing allocations in Component 2. Thus, the primary effect of this policy choice is likely distributional in nature, but is not expected to have significant effects on overall production. There may be inframarginal implications for product mix and marketshare, and sector efficiency considerations. However, none would be expected to represent empirically quantifiable impacts.

Lastly, note that the AFA trawl CP sector as defined under Alternative 2, Component 1 does not include the one catcher processor that harvests BSAI pollock under Section 208(e)(21), but is not listed in the AFA. This vessel is included in the non-AFA CP sector, as defined by the Consolidated Appropriations Act of 2005, and as determined by NOAA GC.<sup>87</sup>

### *Option 1.1*

Eligibility criteria for non-AFA trawl catcher vessels to be included in the AFA CV sector for purposes of the Pacific cod allocations:

Option 1.1	The holder of a license that arose from a vessel/history that made a minimum of 100 mt of Pacific cod landings during each of the years 1995 – 1997.
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This option would establish a threshold by which a non-AFA trawl CV could qualify to be in the AFA trawl CV sector for purposes of the BSAI Pacific cod allocations. This means that the history of a

<sup>85</sup>144 Cong. Record S12802 (daily edition 10/21/98). Statements by Senator Gordon.

<sup>86</sup>Letter from Paul MacGregor, Mundt MacGregor L.L.P., to Lisa Lindeman, Alaska Regional Counsel, NMFS. April 23, 2004.

<sup>87</sup>Letter from Lisa Lindeman, Alaska Regional Counsel, NMFS to Chris Oliver, NPFMC. September 8, 2005.

qualifying non-AFA trawl CV would be attributed to the AFA trawl CV sector's history for the purpose of determining the AFA trawl CV sector's allocation, and the qualifying non-AFA vessels would fish off that allocation. **Option 1.1 is a relevant decision point only if the trawl CV Pacific cod allocation is split into separate allocations to the non-AFA trawl CV sector and AFA trawl CV sector.**

Three vessels appear to qualify under the criteria in Option 1.1. Table 3-59 provides estimates of the total number of vessels participating in the non-AFA CV sector and that sector's aggregate harvest during 1995 – 2003. It also shows the amount of annual cod harvest that can be attributed to the three non-AFA catcher vessels that meet the criteria under Option 1.1, as well as the percentage of the sector's total harvest that is represented by those vessels each year. While Federal confidentiality rules prohibit the public use of data aggregated for fewer than four vessels, the three vessels that qualify under this option have approved release of harvest data for use in this analysis. Confidentiality waivers are on file with the Council and NOAA Fisheries, Alaska Region.

**The three qualifying non-AFA CVs harvested an average of 54.7% of the entire non-AFA CV sector harvest of BSAI Pacific cod during 1995 – 2003.** Two of these vessels fished every year over the nine year period, and one vessel fished in eight of the nine years. In 1995 – 1999 in particular, these three vessels represented about 70% of the sector's harvest on average. The LLPs associated with all three of these vessels have a BS area endorsement only.

Table 3-59 shows the potential impact on the non-AFA trawl CV sector and the AFA trawl CV sector in terms of the cod allocations established under this amendment. If Option 1.1 is selected, a substantial amount of the non-AFA trawl CV sector's harvest could be attributed to the AFA CV sector for purposes of the BSAI Pacific cod sector allocations. The resulting difference in the trawl CV sectors' allocations depends on the years selected to determine allocations under Component 2. The following section provides tables showing the potential allocations resulting from Option 1.1 in combination with the options in Component 2. Note that this option only affects the proposed non-AFA trawl CV sector and the AFA trawl CV sector allocations.

**Table 3-59 Retained harvest (mt) of non-AFA trawl catcher vessels that qualify under Option 1.1, 1995–2003**

<b>Non-AFA CV sector</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>
# Non AFA CVs total	12	17	9	12	11
Non AFA CV sector harvest (total mt)	3,190	3,317	3,177	1,541	1,669
Number of qualifying vessels that fished	3	3	3	2	3
Vessel 1 harvest (mt)	976.5	973.8	798.7	567.6	594.1
Vessel 2 harvest (mt)	1,016.0	702.2	958.5	0.0	490.0
Vessel 3 harvest (mt)	664.2	605.9	490.8	76.8	308.3
Qualifying vessels total harvest	2,656.8	2,281.9	2,248.1	644.4	1392.3
% of total non AFA CV sector harvest	83.3%	68.8%	70.8%	41.8%	83.4%
<b>Non-AFA CV sector</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>total 1995 - 2003</b>
# Non AFA CVs total	11	13	18	22	51
Non AFA CV sector harvest (total mt)	2,802	3,007	5,797	7,542	32,042
Number of qualifying vessels that fished	3	3	3	3	3
Vessel 1 harvest (mt)	661.5	968.9	1126.2	1417.0	8084.4
Vessel 2 harvest (mt)	574.9	538.8	435.4	720.7	5436.6
Vessel 3 harvest (mt)	438.7	259.0	485.6	592.7	3922.0
Qualifying vessels total harvest	1675.1	1766.8	2047.3	2730.4	17443.0
% of total non AFA CV sector harvest	59.8%	58.8%	35.3%	36.2%	54.4%

Note: Federal confidentiality rules prohibit the public use of data for <4 vessels. However, the three qualifying vessels listed above approved release of confidential harvest data for use in this analysis. Confidentiality waivers are on file with NOAA Fisheries.

Source: ADF&G fishtickets, 1995 - 2003.

Option 1.1 was proposed for analysis in public testimony by a representative of the three vessels that would qualify. These three vessels range in length from 75' to 88', and have been participating in the BSAI Pacific cod fishery since the 1970s, 1980s, and 1991, respectively. The vessels' representative has asserted several times in public testimony to the Council that the BSAI Pacific cod sideboards established by the Council are not sufficient to mitigate the adverse effects caused by the increased number of AFA vessels fishing in the opening weeks of the Pacific cod fishery in the eastern Bering Sea. While the sideboards limit the AFA CV sector to their traditional harvest levels (based on 1997), these vessel owners have testified that their traditional fishing grounds are being pre-empted by the addition of larger AFA CVs that have been freed up to fish Pacific cod earlier in the year due to the AFA cooperative system.<sup>88</sup> Vessels that were fishing pollock at the start of the season (Jan. 20) until the end of February or early March, are now available to fish Pacific cod in the first several weeks of the season.

The vessels' representative has testified that if the trawl CV allocation is split into separate non-AFA trawl CV and AFA trawl CV allocations, these three vessels, with significant history in the BSAI Pacific cod fishery, would rather be part of the AFA trawl CV sector for purposes of the cod allocations. This is due in large part to the relative certainty associated with the number of vessels eligible to participate in the Pacific cod fishery in the AFA trawl CV sector, compared to the uncertainty associated with the number of vessels that could participate in any one year in the non-AFA trawl CV sector. Recall that while only 14 non-AFA trawl catcher vessels have retained Pacific cod harvests on average during 1995 – 2003, 50 LLPs have the appropriate endorsements for the holder to participate in the BSAI Pacific cod fishery with a (non-AFA) trawl catcher vessel. Only two of these LLPs are interim status.

Note that Option 1.1 states that the holder of the LLP that arose from a vessel/history that met the minimum cod landings requirement would qualify under this criteria, as opposed to the vessel. This

<sup>88</sup>Letter from Russell Pritchett to Jim Balsiger, Alaska Regional Administrator, NMFS, January 19, 2005.

qualifies the holder of that LLP regardless of whether that LLP was earned on the vessel on which it is currently being used, or whether it was purchased by the current license holder.

Note also, that while the overall economic effect of the State AI Pacific cod fishery is uncertain at present, the intent is to allow additional harvests by specific sectors in State waters, west of 170° W longitude (see Section 3.3.2). The overall effect will be a redistribution of cod harvests and associated revenues from vessels of all gear types that fish in Federal waters in the AI or in the Bering Sea (within Federal or State waters) and from ports east of 170° W. Thus, there will likely be a disproportionate negative effect on those sectors that do not desire (or do not have the capability) to fish in State waters in the Aleutian Islands, compared to those sectors that have harvested and want to continue to harvest Pacific cod in the Aleutians within State waters. In general, the fixed gear and jig gear sectors have reduced the AI share of their total BSAI Pacific cod harvest in recent years, while the trawl sectors have generally increased the AI share of their total BSAI Pacific cod harvest (see Appendix F for details on AI harvest by sector). It is expected that trawl catcher vessels, primarily the non-AFA trawl CV sector, will harvest the majority of the State AI Pacific cod fishery, at least at the start of the fishery. In the first season of the 2006 fishery, the majority of the GHL was harvested by trawl catcher vessels <125' LOA.

### 3.4.2.2 Component 2: Sector allocations

For each of the years under consideration, each sector's annual harvest share will be calculated for that individual year as a percentage of the total retained legal catch by all sectors. For each of the sets of catch history years analyzed, each sector's harvest percentage will be calculated as the sector's average of the annual harvest share. For purposes of determining catch history, a sector's 'catch' means all retained legal catch (including rollovers) from both the Federal fishery and parallel fishery in the BSAI (less CDQ). This includes retained legal catch from both LLP and non-LLP vessels.

One set of years will be selected for all sectors. There is a suboption under each set of years to drop one year. Each sector would drop its worst year (smallest annual harvest share percentage for that sector). This results in an aggregate percentage greater than 100% for a set of years for all sectors combined; thus, the result would be scaled back to 100%.

In all options and suboptions, the <60' fixed gear CV sector will only fish from the direct allocation to that sector.

The BSAI Pacific cod TAC that is allocated to the sectors is TAC less the CDQ Program reserve. In addition, the annual incidental catch allowance (ICA) for fixed gear is deducted off the top from the aggregate amount of the BSAI Pacific cod TAC allocated to the fixed gear sectors combined. Pacific cod harvested incidentally in the non-Pacific cod directed BSAI fixed gear fisheries is attributed to the ICA. The ICA is determined annually by the NMFS Regional Administrator in the annual specifications process and has typically been 500 mt.

Option 2.1: 1995 – 2002

Option 2.2: 1997 – 2000

Option 2.3: 1997 – 2003

Option 2.4: 1998 – 2002

Option 2.5: 1999 – 2003

Option 2.6: 2000 – 2003

Suboption 1 (applies to Options 1 – 6): Drop one year.

Option 2.7: The Council can select percentages for cod allocated to each sector that fall within the range of percentages analyzed.

Option 2.8: Allocations (whether combined or separate) to the <60' fixed gear CV sector and jig sector shall collectively not exceed:

Suboption 1: Actual catch history percentage for jig and <60' fixed gear CVs combined (from set of years selected for all sectors under Op. 2.1 – 2.7)

Suboption 2: 2.71% (represents 2% jig allocation plus 0.71% <60' fixed gear CV allocation of non-CDQ BSAI Pacific cod TAC)

Suboption 3: 3% (represents 2% jig allocation plus 1% <60' fixed gear CV allocation of non-CDQ BSAI Pacific cod TAC)

Suboption 4: 4% (represents 2% jig allocation plus 2% <60' fixed gear CV allocation of non-CDQ BSAI Pacific cod TAC)

This section provides calculations of the non-CDQ sector allocations resulting from the options and suboptions in Component 2 and Option 1.1 in Component 1. Note that Component 2 includes twelve specific options (including the drop year provision) for determining the sector allocations to the various gear sectors identified under Component 1. In addition, Option 2.7 explicitly states that the Council can select any combination of cod allocations, as long as the allocations are within the range analyzed.

There are also two suboptions (Suboptions a and b) provided in Component 1 under the AFA trawl CP sector that would allow the Council to choose whether or not to include the catch history of the nine trawl catcher processors (AFA 9) whose claims to catch history were extinguished by Section 209 of the AFA.<sup>89</sup> Because the AFA 9 vessels left the fishery in 1999, Suboptions a and b are only relevant to the options that include catch history prior to 1999 (Options 2.1 – 2.4). Note that, as directed under Component 2, the allocations are based on retained legal catch from both LLP and non-LLP vessels. All retained catch (excluding meal), as well as catch resulting from reallocated quota, is included. Each sector's harvest percentage was calculated as the sector's average of the annual harvest share, as shown in Table 3-60 and Table 3-61. These percentages were used to determine each sector's allocation under the series of years in Options 2.1 – 2.6. The retained catch data used to determine these percentages is provided and described in Section 3.3.5.1.

**Table 3-60 BSAI Pacific cod annual harvest share by sector (excluding AFA 9 catch history), 1995–2003**

SECTOR	1995	1996	1997	1998	1999	2000	2001	2002	2003	average
<60 HAL/Pot CVs	0.5%	0.1%	0.0%	0.0%	0.1%	0.2%	0.7%	0.9%	1.0%	0.4%
AFA Trawl CPs	2.5%	1.7%	2.2%	2.7%	2.6%	1.1%	0.9%	0.8%	0.8%	1.7%
AFA Trawl CVs	23.1%	27.1%	25.4%	23.4%	22.9%	22.4%	12.3%	20.3%	18.5%	21.7%
Jig CVs	0.3%	0.1%	0.1%	0.1%	0.1%	0.0%	0.1%	0.1%	0.1%	0.1%
Longline CPs	50.9%	43.7%	51.9%	52.1%	47.4%	46.6%	56.7%	47.7%	49.5%	49.6%
Longline CVs >60'	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.9%	0.1%	0.1%	0.1%
Non-AFA Trawl CPs	9.3%	9.4%	9.4%	13.6%	15.3%	16.0%	15.5%	17.9%	15.6%	13.6%
Non-AFA Trawl CVs	1.8%	1.8%	1.5%	1.0%	1.2%	1.7%	2.0%	3.5%	4.2%	2.1%
Pot CPs	2.6%	4.4%	2.3%	1.9%	2.2%	1.5%	2.0%	1.2%	0.8%	2.1%
Pot CVs >60'	8.8%	11.8%	7.2%	5.2%	8.1%	10.3%	9.1%	7.5%	9.5%	8.6%
Total	1	1	1	1	1	1	1	1	1	100.0%

Source: Harvest data are retained catch (excluding meal) from WPR reports and ADF&G fishtickets, 1995 - 2003. Each sector's annual harvest share was calculated for the individual year as a percentage of the total retained legal catch by all sectors.

**Table 3-61 BSAI Pacific cod annual harvest share by sector (including AFA 9 catch history), 1995–2003**

SECTOR	1995	1996	1997	1998	1999	2000	2001	2002	2003	average
<60 HAL/Pot CVs	0.5%	0.1%	0.0%	0.0%	0.1%	0.2%	0.7%	0.9%	1.0%	0.4%
AFA Trawl CPs	5.0%	3.8%	4.0%	5.1%	2.6%	1.1%	0.9%	0.8%	0.8%	2.7%
AFA Trawl CVs	22.5%	26.5%	25.0%	22.8%	22.9%	22.4%	12.3%	20.3%	18.5%	21.5%
Jig CVs	0.3%	0.1%	0.1%	0.1%	0.1%	0.0%	0.1%	0.1%	0.1%	0.1%
Longline CPs	49.6%	42.8%	50.9%	50.8%	47.4%	46.6%	56.7%	47.7%	49.5%	49.1%
Longline CVs >60'	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.9%	0.1%	0.1%	0.1%
Non-AFA Trawl CPs	9.1%	9.2%	9.2%	13.3%	15.3%	16.0%	15.5%	17.9%	15.6%	13.5%
Non-AFA Trawl CVs	1.8%	1.7%	1.5%	0.9%	1.2%	1.7%	2.0%	3.5%	4.2%	2.1%
Pot CPs	2.5%	4.3%	2.3%	1.9%	2.2%	1.5%	2.0%	1.2%	0.8%	2.1%
Pot CVs >60'	8.6%	11.5%	7.1%	5.1%	8.1%	10.3%	9.1%	7.5%	9.5%	8.5%
Total	1	1	1	1	1	1	1	1	1	100.0%

Source: Harvest data are retained catch (excluding meal) from WPR reports and ADF&G fishtickets, 1995 - 2003. Each sector's annual harvest share was calculated for the individual year as a percentage of the total retained legal catch by all sectors.

Table 3-62 shows the twenty allocation options resulting from Options 2.1 – 2.6 under Component 2 and Suboptions a and b from Component 1. Note that this table also reflects the allocations under Component

<sup>89</sup>NOAA GC provided a legal opinion (June 4, 2004) that states that the Council may consider the combined non-pollock fishing history of the 20 catcher processor vessels listed in section 208(e) of the AFA and the 9 vessels listed in Section 209 in determining non-pollock groundfish sector allocations, except that the allocations based upon the non-pollock history of the Section 209 vessels may not be made to the owners of those 9 vessels and any allocations must comply with the overall caps set forth under Section 211(b) (sideboards in non-pollock fisheries). NOAA GC reaffirmed this opinion in a subsequent letter to the Council (February 9, 2005).

2, Option 2.8, Suboption 1, as it reflects allocations based on actual catch history for the <60' fixed gear and jig CV sectors. The 2006 BSAI Pacific cod TAC (less CDQ) is 179,450 mt; thus, 1% of the BSAI Pacific cod TAC equates to 1,795 mt in 2006. (Note that when the State water Aleutian Islands Pacific cod fishery was established in March 2006, the 2006 Federal (non-CDQ) TAC was reduced to 174,066 mt.)

**Table 3-62 BSAI Pacific cod sector allocations under Component 2, Options 2.1 – 2.6, and Suboption 1 (drop year)**

OPTION	2.1 excluding AFA 9	2.1 including AFA 9	2.1 drop year excluding AFA 9	2.1 drop year including AFA 9	2.2 excluding AFA 9	2.2 including AFA 9	2.2 drop year excluding AFA 9	2.2 drop year including AFA 9	2.3 excluding AFA 9	2.3 including AFA 9
Years	1995 - 02	1995 - 02	1995 - 02	1995 - 02	1997 - 00	1997 - 00	1997 - 00	1997 - 00	1997 - 03	1997 - 03
<60 HAL/Pot CVs	0.3%	0.3%	0.3%	0.3%	0.1%	0.1%	0.1%	0.1%	0.4%	0.4%
AFA Trawl CPs	1.8%	2.9%	1.9%	3.1%	2.1%	3.2%	2.4%	3.7%	1.6%	2.2%
AFA Trawl CVs	22.1%	21.8%	22.7%	22.3%	23.5%	23.3%	22.9%	22.6%	20.7%	20.6%
Jig CVs	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%
Longline CPs	49.6%	49.1%	48.6%	48.0%	49.5%	48.9%	48.4%	47.6%	50.3%	49.9%
Longline CVs >60'	0.2%	0.2%	0.2%	0.2%	0.1%	0.1%	0.1%	0.1%	0.2%	0.2%
Non-AFA Trawl CPs	13.3%	13.2%	13.4%	13.2%	13.6%	13.5%	14.4%	14.3%	14.8%	14.7%
Non-AFA Trawl CVs	1.8%	1.8%	1.9%	1.8%	1.3%	1.3%	1.4%	1.4%	2.1%	2.1%
Pot CPs	2.3%	2.2%	2.3%	2.3%	2.0%	2.0%	2.1%	2.0%	1.7%	1.7%
Pot CVs >60'	8.5%	8.4%	8.6%	8.5%	7.7%	7.6%	8.2%	8.1%	8.1%	8.1%
TOTAL	100%	100%	100%	100%	100.0%	100.0%	100.0%	100%	100%	100%
OPTION	2.3 drop year excluding AFA 9	2.3 drop year including AFA 9	2.4 excluding AFA 9	2.4 including AFA 9	2.4 drop year excluding AFA 9	2.4 drop year including AFA 9	2.5	2.5 drop year	2.6	2.6 drop year
Years	1997 - 03	1997 - 03	1998 - 02	1998 - 02	1998 - 02	1998 - 02	1999 - 03	1999 - 03	2000 - 03	2000 - 03
<60 HAL/Pot CVs	0.5%	0.5%	0.4%	0.4%	0.4%	0.4%	0.6%	0.7%	0.7%	0.8%
AFA Trawl CPs	1.6%	2.3%	1.6%	2.1%	1.7%	2.3%	1.2%	1.3%	0.9%	0.9%
AFA Trawl CVs	21.3%	21.1%	20.2%	20.1%	21.2%	21.1%	19.3%	20.3%	18.4%	19.5%
Jig CVs	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%
Longline CPs	48.9%	48.5%	50.1%	49.8%	48.6%	48.3%	49.6%	48.5%	50.1%	48.9%
Longline CVs >60'	0.2%	0.2%	0.2%	0.2%	0.3%	0.3%	0.2%	0.3%	0.3%	0.4%
Non-AFA Trawl CPs	15.1%	15.0%	15.7%	15.6%	15.4%	15.4%	16.1%	15.6%	16.2%	15.7%
Non-AFA Trawl CVs	2.3%	2.2%	1.9%	1.9%	2.0%	2.0%	2.5%	2.7%	2.8%	3.1%
Pot CPs	1.8%	1.8%	1.8%	1.8%	1.8%	1.8%	1.6%	1.7%	1.4%	1.5%
Pot CVs >60'	8.3%	8.3%	8.0%	8.0%	8.4%	8.3%	8.9%	8.9%	9.1%	9.2%
TOTAL	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Source: Harvest data are from WPR reports and ADF&G fishtickets, 1995 - 2003. Percentage allocations were derived from each sector's average annual harvest share (retained legal catch, excluding meal) over the series of years identified under each option. The 'drop year' percentages are adjusted equally to result in an annual sum of 100%.

Note: In every year, some percentage of the harvest cannot be assigned to a given catcher vessel sector due to missing fishtickets from mothership deliveries. This harvest was not attributed to any sector in this table and is excluded from the annual total. The percent of harvest that cannot be assigned varies by year and ranges from 0.03% - 2.0%. Pacific cod harvested with hand troll gear and harvest from the 3 surimi-fillet non-AFA CPs is not included.

Note: The AFA-9 only have catch history through 1998, thus whether to include their catch history to determine the AFA trawl CP sector allocation is only a decision point under Options 2.1 - 2.4.

The allocations provided in the table above only reflect the allocation options based on actual retained legal catch (excluding meal) by sector. Note also that all of the allocation options under Alternative 2 create allocations for each sector that are percentages of the BSAI Pacific cod ITAC. Each sector thus has a range of potential allocations under Options 2. 1- 2.6, 2.8, and Suboption 1 (drop year provision). **The range for each sector using catch history is provided in Table 3-63 below.**

**Table 3-63 Range of potential BSAI Pacific cod allocations by sector using catch history (Component 2, Options 2.1–2.6, and Suboption 1)**

Sectors	Range of potential BSAI Pacific cod sector allocations under 2.1 - 2.6 and Suboption 1	Current allocation <sup>1</sup> (% of BSAI Pacific cod ITAC)
<60 HAL/Pot CVs	.1% - .8%	0.7%
AFA Trawl CPs	0.9% - 3.7%	23.5% (trawl CP)
Non-AFA Trawl CPs	13.2% - 16.2%	
Jig CVs	0.1%	2.0%
Longline CPs	47.6% - 50.3%	40.8%
Longline CVs >60'	0.1% - 0.4%	0.2%
AFA Trawl CVs	18.4% - 23.5%	23.5% (trawl CV)
Non-AFA Trawl CVs	1.3% - 3.1%	
Pot CPs	1.4% - 2.3%	1.7%
Pot CVs >60'	7.6% - 9.2%	7.7%

Note: The <60' hook-and-line and pot CV sector currently has a direct allocation of 0.714% of the BSAI Pacific cod TAC. However, this sector can currently fish off the general hook-and-line CV and pot CV allocations when those directed fisheries are open, respectively by gear type.

<sup>1</sup>The percentage indicates the initial allocation the sector receives at the beginning of the year. It does not reflect any quota that is reallocated inseason among gear sectors.

In sum, the <60' fixed gear sector is currently allocated 1.4% of the 51% of the BSAI Pacific cod ITAC that is allocated overall to fixed gear, which represents 0.71% of the overall BSAI Pacific cod ITAC. Based upon the options in Table 3-62, the <60' fixed gear sector could receive an allocation in the range of 0.1%–0.8%. Note, however, that the <60' fixed gear sector harvest is currently attributed to the general hook-and-line and pot CV sector allocations, respectively by gear type, when those directed fisheries are open. None of the options under Alternative 2 would allow that scenario, instead, the <60' fixed gear sector would only fish off its distinct allocation, as would all other sectors.

Section 3.3.5.3 details the catch of the <60' fixed gear sector in the past few years, specifically 2003 and 2004. While much of the data are confidential, it is clear that the majority of the <60' fixed gear sector's retained Pacific cod harvest is attributed to this sector's own allocation, and not that of the general pot CV or hook-and-line CV allocations. In 2003 and 2004, for example, the percentages of the <60' fixed gear sector's cod harvest that came off the general CV allocations were 19% and 10%, respectively. Note that 2004 was the first year in which unused jig quota was reallocated to the <60' fixed gear sector on a seasonal basis, thus providing this sector with additional quota (at a level about equal to its initial allocation) earlier in the year. As this continues, it is expected that the amount of quota attributed to the general CV allocations would remain relatively limited, as the <60' fixed gear sector can start fishing later in the A season upon its own sector allocation, with the expectation of jig rollovers early in the spring. Thus, under almost all of the options that reflect actual catch history, the <60' fixed gear sector would be initially allocated less than it is currently allowed to harvest under the status quo. However, it is reasonable to assume that jig reallocations would continue; thus, the <60' fixed gear sector is not likely to be limited to its initial allocation. Given the harvest data and comparing the timing of the general pot CV and hook-and-line CV fisheries with the seasonal jig allocations, the jig reallocations are much more beneficial to the <60' fixed gear sector than is the ability to fish off the general fixed gear allocations when those fisheries are open. The benefit of fishing off the general fixed gear allocations to the <60' fixed gear sector will continue to lessen, should the A season Pacific cod fishery get increasingly shorter.

Likewise, the benefit of seasonal reallocations from the jig fishery will decline, if and as the jig sector catch increases.

The **trawl CP sectors** combined could receive a range of 15.1%–18.0% under the various options, based on catch history in Table 3-62. This is about 5.5%–8.4% less than the sectors' current combined allocation of 23.5% of the BSAI Pacific cod ITAC. Note that the Council could choose to create separate allocations to each trawl CP sector, or maintain a combined allocation. In general, the options that employ more recent years of participation result in an increase in the non-AFA trawl CP sector's allocation. In most cases, the drop year provision increases the allocation to both trawl CP sectors, with the exception of Option 2.5 and 2.6 for the non-AFA trawl CP sector. This is because a drop year provision generally benefits those sectors that had less consistent harvest over the series of years, and disadvantages the sectors that had consistent harvest across all years. Note that the most significant factor among all of the options for the AFA trawl CP sector is whether or not the harvest history of the AFA 9 is included. This only affects Options 2.1 – 2.4.

The effects of separate AFA trawl CP and non-AFA trawl CP sector BSAI Pacific cod allocations are outlined in the previous component in Section 3.4.2.1. This section also addresses the effects of establishing separate AFA trawl CV and non-AFA trawl CV BSAI Pacific cod allocations.

The **trawl CV sectors** combined could receive a range of 21.2%–24.8% under the various options, based on catch history in Table 3-62. This ranges from about 2.3% less, to 1.3% more, than the sectors' current combined allocation of 23.5% of the BSAI Pacific cod ITAC. Note that the Council could choose to create separate allocations to each trawl CV sector, or maintain a combined allocation. In general, the options that employ more recent years of participation result in an increase in the non-AFA trawl CV sector's allocation, and the options that employ earlier years benefit the AFA trawl CV sector.

In most, but not all cases, the drop year provision increases the allocation to both trawl CV sectors. This is most noticeable in the options that include harvest from 2001 for the AFA trawl CV sector, as it is the lowest harvest year under consideration for this sector (refer to Table 3-10). The drop year provision has the greatest effect on the non-AFA trawl CV sector in the options that include harvest from 1998. Note that whether the AFA 9 are included is not a considerable factor in the options for the non-AFA trawl CV sector, and is slightly more important in the options for the AFA trawl CV sector.

Likely the most important effect of the options on the trawl CV allocations is the size of the resulting allocation to the non-AFA trawl CV sector. This issue is emphasized in 3.4.2.9 in the discussion of inseason management. The non-AFA trawl CV sector is the only trawl sector whose eligibility is not fixed in a manner that lends itself to cooperative management, thus, it is assumed that NMFS will need to continue to manage this fishery through Federal Register notice. It is assumed that the other three trawl sectors will manage their own Pacific cod allocations as they manage their other target fisheries (pollock and flatfish) under a cooperative system.

The concern with the non-AFA trawl CV sector allocation is that it be sufficiently large for NMFS to open a directed fishery and manage the allocation effectively. This sector's cod fishery would likely continue to be managed as it is currently, such that NMFS would establish a DFA and ICA if necessary. NMFS would close the directed fishery once the DFA is caught, reserving the remainder of the allocation for incidental catch in other groundfish fisheries. In practice, however, it is not likely that an ICA would need to be created for this sector, since this sector does not have any other BSAI target fishery at this time. If it became a concern at some point in the future and an ICA was necessary in order to ensure the allocation was not exceeded, the fishery would have to be managed relatively conservatively. Table 3-62 indicates that the non-AFA trawl CV sector would receive an allocation in the range of 1.3%–3.1% of the BSAI Pacific cod TAC under the options using catch history in Alternative 2. This is likely a large

enough allocation for NMFS to manage inseason, but it is largely dependent on the number of vessels participating in a given year and whether they can work effectively with inseason management to ensure the limit is not exceeded.

The **hook-and-line CP sector** could receive an allocation in the range of 47.6%–50.3% of the BSAI Pacific cod ITAC under the various options in Table 3-62. This ranges from 6.8%–9.5% more than the sectors' current allocation of 40.8% of the BSAI Pacific cod ITAC. The increase to this sector's allocation compared to the status quo is due to the reallocated quota that this sector typically harvests near the end of the year. Recall from previous discussion and Table 3-25 that reallocated quota on average during the past five years (2000 – 2004) has been about 9.4% of the BSAI Pacific cod ITAC.

In general, the hook-and-line CP sector's share of the retained BSAI Pacific cod catch has been relatively consistent; thus, the drop year provision has the greatest negative effect on this sector's allocation under the proposed options. In addition, including the AFA 9 harvest generally reduces the allocation to this sector by about 0.5%, thus, the options that both include the AFA 9 and apply the drop year provision result in the lower allocations to the hook-and-line CP sector.

The **≥60' hook-and-line CV sector** could receive an allocation in the range of 0.1%–0.4% of the BSAI Pacific cod ITAC under the various options in Table 3-62. This ranges from 0.2% less, to 0.1% more than the sectors' current allocation of 0.3% of the BSAI Pacific cod ITAC. In general, this sector's share of the retained BSAI Pacific cod catch has been relatively small and consistent, thus, the drop year provision only affects (increases) this sector's allocation under Options 2.4–2.6. Whether the AFA 9 are included does not affect this sector's allocation, due to the relatively small share.

The **pot CP sector** could receive an allocation in the range of 1.4%–2.3% of the BSAI Pacific cod ITAC under the various options in Table 3-62. This ranges from 0.3% less, to 0.6% more than the sectors' current allocation of 1.7% of the BSAI Pacific cod ITAC. In general, this sector's share of the retained BSAI Pacific cod catch has decreased in recent years compared to 1995 – 1997 (see the discussion under Alternative 1, Component 2). Recall that the pot CP sector's portion of the pot allocation is based on catch history from 1998 – 2001, thus, options that include harvest during 1995 – 1997 generally increase this sector's allocation relative to the status quo. Whether the AFA 9 are included minimally affects this sector's allocation, due to the relatively small share. The drop year provision either has no effect or slightly increases (by 0.1%) the pot CP sector allocation.

The **≥60' pot CV sector** could receive an allocation in the range of 7.6%–9.2% of the BSAI Pacific cod ITAC under the various options in Table 3-62. This ranges from no change, to about 1.5% more than the sectors' current allocation of 7.6% of the BSAI Pacific cod ITAC. This sector's share of the retained BSAI Pacific cod catch has been less consistent than the other fixed gear sectors, ranging from a low of 5.2% in 1998, to a high of 10.3% in 2000. Recall that the pot CV sector's portion of the pot allocation is based on catch history from 1998 – 2001, even though the combined pot allocation of 18.3% is based on 1995 – 1998 or 1999. Whether the AFA 9 are included minimally affects this sector's allocation, reducing the allocation by a maximum of 0.1% under all options. The drop year provision either has no effect or slightly increases (a maximum of 0.5%) the pot CV sector allocation.

Finally, the **jig sector** would receive an allocation of 0.1% under all of the options based on catch history in Table 3-62. This is 1.9% lower than this sector's current allocation of 2.0% of the BSAI Pacific cod ITAC. Note that Option 2.8 proposes several suboptions which maintain the current 2.0% jig allocation. The effects of Option 2.8 are discussed further in this section.

## Option 1.1

In addition, recall that Option 1.1 under Component 1 would qualify three non-AFA catcher vessels for inclusion in the AFA CV sector, only for purposes of the BSAI Pacific cod allocations. The harvest of these three vessels by year is provided in the previous section in Table 3-59. Over the period 1995 – 2003, these three vessels accounted for 54.4% of the retained Pacific cod harvest of the non-AFA CV sector.

Incorporating Option 1.1 changes the annual harvest share percentage for the AFA trawl CV and non-AFA trawl CV sectors, as shown in Table 3-64. **In sum, the average share of the retained catch by all sectors attributed to the AFA trawl CV sector during 1995 – 2003 increases by 1.1% under Option 1.1.** The AFA trawl CV sector's average share during 1995–2003 increases from 21.7% (excluding AFA 9) or 21.5% (including AFA 9), to 22.8% or 22.6%, respectively. **Likewise, the average share of the retained catch by all sectors attributed to the non-AFA trawl CV sector during 1995 – 2003 decreases by 1.1% under Option 1.1.** The non-AFA trawl CV sector's average share during 1995 – 2003 decreases from 2.1% to 0.9% (these percentages do not change whether the AFA 9 are excluded or included.). Using the 2006 (non-CDQ) Pacific cod TAC, 1.1% represents about 1,974 mt.

**Table 3-64 BSAI Pacific cod annual harvest share by AFA trawl CV and non-AFA trawl CV sector under Component 1, Option 1.1, 1995 – 2003**

SECTOR	1995	1996	1997	1998	1999	2000	2001	2002	2003	average
<b>Excluding AFA 9 history</b>										
AFA Trawl CVs	24.7%	28.3%	26.5%	23.8%	23.8%	23.4%	13.4%	21.5%	20.1%	22.8%
Non-AFA Trawl CVs	0.3%	0.5%	0.4%	0.6%	0.2%	0.7%	0.8%	2.3%	2.7%	0.9%
<b>Including AFA 9 history</b>										
AFA Trawl CVs	24.0%	27.7%	26.0%	23.2%	23.8%	23.4%	13.4%	21.5%	20.1%	22.6%
Non-AFA Trawl CVs	0.3%	0.5%	0.4%	0.5%	0.2%	0.7%	0.8%	2.3%	2.7%	0.9%

Source: Harvest data are retained catch from ADF&G fishtickets, 1995 - 2003. Each sector's annual harvest share was calculated for the individual year as a percentage of the total retained legal catch by all sectors.

Incorporating Option 1.1 thus results in an additional twenty potential options for the AFA trawl CV sector and non-AFA trawl CV sector allocations; these options are provided in Table 3-65. Note that resulting allocations to the other sectors have not changed.

As stated previously, it is important to recognize that the State AI Pacific cod fishery, established by the Alaska Board of Fisheries, reserves 3% of the BSAI Pacific cod TAC for 2006 and 2007. Legal fishing gear for this fishery is currently pot, jig, hand troll, non-pelagic trawl, and longline (hook-and-line). Non-pelagic trawl and longline gear may not be used during May 1 – September 15, unless deployed by vessels operating in the <60' vessel size limitation areas near Adak Island. The objective of the State's action to establish this fishery was reportedly to provide for additional fishing opportunity in State waters, including support for a small boat fleet that operates or could operate out of Adak. While almost all gear types are allowable, many expect that the majority of the State water AI cod fishery will be harvested by smaller, non-AFA trawl catcher vessels.

Thus, while the overall economic effect of this fishery on the Pacific cod sectors operating in the Federal fisheries is uncertain at present, it is anticipated that the general effect will be a redistribution of cod harvests and associated revenues from vessels of all gear types that fish in Federal waters in the Aleutian Islands and, in addition, cod vessels operating in the Bering Sea (within Federal or State waters), as well as from ports east of 170° W. Thus, there will likely be a disproportionate negative effect on those sectors that do not desire to fish (or are not capable of fishing) in State waters in the Aleutian Islands, compared to those sectors that have harvested and want to continue to harvest Pacific cod in the Aleutians within State waters. NMFS reported that, in 2005, only a trace amount of Pacific cod was landed with pot gear in this area and very small relative amounts were landed with hook-and-line or jig gear. NMFS also reported

that acceptable catch rates of Pacific cod in the AI trawl fishery occur in relatively narrow windows of time and typically later than that experienced in the BS subarea fishery in the spring.<sup>90</sup> In general, the fixed gear and jig gear sectors have reduced the AI share of their total BSAI Pacific cod harvest in recent years; while the trawl sectors have generally increased the AI share of their total BSAI Pacific cod harvest (see Appendix F for details on AI harvest by sector).

In the first season of the State AI fishery, the majority of the GHL was harvested by trawl catcher vessels <125' LOA. Of the 26 total vessels that participated, the average fishing vessel size was 115' LOA. At this point, with a single year concluded, it is difficult to speculate as to which sectors will benefit from the redistribution of 3% of the Federal BSAI Pacific cod TAC to the State water AI Pacific cod fishery in the future. To date however, very few vessels <60' LOA participated and the majority of the vessels used trawl gear. Recall that non-pelagic trawl and longline gear may not be used in the AI State waters cod fishery during May 1 – September 15, unless fished by vessels operating in the <60' vessel size limitation areas near Adak Island. Note also that the Alaska Board of Fisheries will review a proposal in October 2006 to extend the State water Pacific cod AI fishery beyond 2007.

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<sup>90</sup>Letter from Robert Mecum, Acting Regional Administrator, NMFS, to Art Nelson, Chair, Alaska Board of Fisheries, January 17, 2006, p. 2.

**Table 3-65 BSAI Pacific cod sector allocations under Component 2, Options 2.1–2.6, Suboption 1 and Component 1, Option 1.1**

OPTION	2.1 excluding AFA 9	2.1 including AFA 9	2.1 drop year excluding AFA 9	2.1 drop year including AFA 9	2.2 excluding AFA 9	2.2 including AFA 9	2.2 drop year excluding AFA 9	2.2 drop year including AFA 9	2.3 excluding AFA 9	2.3 including AFA 9
Years	1995 - 02	1995 - 02	1995 - 02	1995 - 02	1997 - 00	1997 - 00	1997 - 00	1997 - 00	1997 - 03	1997 - 03
<60 HAL/Pot CVs	0.3%	0.3%	0.3%	0.3%	0.1%	0.1%	0.1%	0.1%	0.4%	0.4%
AFA Trawl CPs	1.8%	2.9%	1.9%	3.1%	2.1%	3.2%	2.4%	3.7%	1.6%	2.2%
AFA Trawl CVs	22.1%	21.8%	22.7%	22.3%	23.5%	23.3%	22.9%	22.6%	20.7%	20.6%
Jig CVs	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%
Longline CPs	49.6%	49.1%	48.6%	48.0%	49.5%	48.9%	48.4%	47.6%	50.3%	49.9%
Longline CVs >60'	0.2%	0.2%	0.2%	0.2%	0.1%	0.1%	0.1%	0.1%	0.2%	0.2%
Non-AFA Trawl CPs	13.3%	13.2%	13.4%	13.2%	13.6%	13.5%	14.4%	14.3%	14.8%	14.7%
Non-AFA Trawl CVs	1.8%	1.8%	1.9%	1.8%	1.3%	1.3%	1.4%	1.4%	2.1%	2.1%
Pot CPs	2.3%	2.2%	2.3%	2.3%	2.0%	2.0%	2.1%	2.0%	1.7%	1.7%
Pot CVs >60'	8.5%	8.4%	8.6%	8.5%	7.7%	7.6%	8.2%	8.1%	8.1%	8.1%
TOTAL	100%	100%	100%	100%	100.0%	100.0%	100.0%	100%	100%	100%
OPTION	2.3 drop year excluding AFA 9	2.3 drop year including AFA 9	2.4 excluding AFA 9	2.4 including AFA 9	2.4 drop year excluding AFA 9	2.4 drop year including AFA 9	2.5	2.5 drop year	2.6	2.6 drop year
Years	1997 - 03	1997 - 03	1998 - 02	1998 - 02	1998 - 02	1998 - 02	1999 - 03	1999 - 03	2000 - 03	2000 - 03
<60 HAL/Pot CVs	0.5%	0.5%	0.4%	0.4%	0.4%	0.4%	0.6%	0.7%	0.7%	0.8%
AFA Trawl CPs	1.6%	2.3%	1.6%	2.1%	1.7%	2.3%	1.2%	1.3%	0.9%	0.9%
AFA Trawl CVs	21.3%	21.1%	20.2%	20.1%	21.2%	21.1%	19.3%	20.3%	18.4%	19.5%
Jig CVs	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%
Longline CPs	48.9%	48.5%	50.1%	49.8%	48.6%	48.3%	49.6%	48.5%	50.1%	48.9%
Longline CVs >60'	0.2%	0.2%	0.2%	0.2%	0.3%	0.3%	0.2%	0.3%	0.3%	0.4%
Non-AFA Trawl CPs	15.1%	15.0%	15.7%	15.6%	15.4%	15.4%	16.1%	15.6%	16.2%	15.7%
Non-AFA Trawl CVs	2.3%	2.2%	1.9%	1.9%	2.0%	2.0%	2.5%	2.7%	2.8%	3.1%
Pot CPs	1.8%	1.8%	1.8%	1.8%	1.8%	1.8%	1.6%	1.7%	1.4%	1.5%
Pot CVs >60'	8.3%	8.3%	8.0%	8.0%	8.4%	8.3%	8.9%	8.9%	9.1%	9.2%
TOTAL	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Source: Harvest data are from WPR reports and ADF&G fishtickets, 1995 - 2003. Percentage allocations were derived from each sector's average annual harvest share (retained legal catch, excluding meal) over the series of years identified under each option. The 'drop year' percentages are adjusted equally to result in an annual sum of 100%.

Note: In every year, some percentage of the harvest cannot be assigned to a given catcher vessel sector due to missing fishtickets from mothership deliveries. This harvest was not attributed to any sector in this table and is excluded from the annual total. The percent of harvest that cannot be assigned varies by year and ranges from 0.03% - 2.0%. Pacific cod harvested with hand troll gear and harvest from the 3 surimi-fillet non-AFA CPs is not included.

Note: The AFA-9 only have catch history through 1998, thus whether to include their catch history to determine the AFA trawl CP sector allocation is only a decision point under Options 2.1 - 2.4.

Finally, note that all of the tables thus far in this section are based on each sector's harvest history as specified under Component 2, Options 2.1 – 2.6, and Suboption 1. The table above also shows the effect of Component 1, Option 1.1. However, Option 2.8 is also proposed under Component 2, to establish (combined or separate) allocations to the <60' fixed gear and jig gear sectors that substantially exceed their respective catch history. Option 2.8 is not mutually exclusive of Options 2.1 – 2.7.

Option 2.8, Suboption 1, which would provide an allocation based on actual catch history, is already encompassed in Options 2.1 – 2.6 and is not discussed further. Suboptions 2, 3, and 4 would establish allocations to the <60' fixed gear and jig sectors of 2.71%, 3%, or 4%, respectively. Note that the Council could select either separate allocations for the <60' fixed gear sector and jig gear sector, or combined allocations.

Table 3-66, Table 3-67, and Table 3-68 show the twenty allocation options resulting from each of Suboptions 2 – 4. These amounts were taken off the top of the overall non-CDQ allocation, as each

sector allocation under Alternative 2 is a percentage of the overall BSAI Pacific cod ITAC. Thus, these allocations were determined by eliminating the harvest shares calculated for the <60' fixed gear and jig gear allocations in the previous tables and setting their allocations as described under each suboption. Then the harvest shares for all other sectors were summed and scaled up to 100%. Those share percentages were then applied to 97.3%, 97%, and 96% of the non-CDQ TAC. For example, under Option 2.1 (excluding AFA 9), the hook-and-line CP sector share is 49.8% (adjusted). The allocation under Option 2.8, Suboption 2 is thus 49.8% x 97.3% ITAC = 48.5% of the BSAI Pacific cod ITAC.

**Table 3-66 Effect of 2.71% small boat allocation on the BSAI Pacific cod sector allocations (Component 2, Options 2.1–2.6, Suboption 1, and Component 2, Option 2.8, Suboption 2)**

OPTION	2.1 excluding AFA 9	2.1 including AFA 9	2.1 drop year excluding AFA 9	2.1 drop year including AFA 9	2.2 excluding AFA 9	2.2 including AFA 9	2.2 drop year excluding AFA 9	2.2 drop year including AFA 9	2.3 excluding AFA 9	2.3 including AFA 9
Years	1995 - 02	1995 - 02	1995 - 02	1995 - 02	1997 - 00	1997 - 00	1997 - 00	1997 - 00	1997 - 03	1997 - 03
<60 HAL/Pot CVs	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%
AFA Trawl CPs	1.8%	2.8%	1.8%	3.0%	2.1%	3.1%	2.3%	3.6%	1.5%	2.1%
AFA Trawl CVs	21.6%	21.3%	22.2%	21.8%	22.9%	22.7%	22.3%	22.0%	20.3%	20.1%
Jig CVs	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%
Longline CPs	48.5%	47.9%	47.5%	47.0%	48.2%	47.7%	47.2%	46.4%	49.1%	48.8%
Longline CVs >60'	0.1%	0.1%	0.2%	0.2%	0.1%	0.1%	0.1%	0.1%	0.2%	0.2%
Non-AFA Trawl CPs	13.0%	12.9%	13.1%	13.0%	13.2%	13.1%	14.0%	13.9%	14.4%	14.4%
Non-AFA Trawl CVs	1.8%	1.7%	1.8%	1.8%	1.3%	1.3%	1.4%	1.4%	2.1%	2.1%
Pot CPs	2.2%	2.2%	2.3%	2.2%	2.0%	1.9%	2.0%	2.0%	1.7%	1.7%
Pot CVs >60'	8.3%	8.2%	8.5%	8.4%	7.5%	7.4%	8.0%	7.9%	7.9%	7.9%
TOTAL	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
OPTION	2.3 drop year excluding AFA 9	2.3 drop year including AFA 9	2.4 excluding AFA 9	2.4 including AFA 9	2.4 drop year excluding AFA 9	2.4 drop year including AFA 9	2.5	2.5 drop year	2.6	2.6 drop year
Years	1997 - 03	1997 - 03	1998 - 02	1998 - 02	1998 - 02	1998 - 02	1999 - 03	1999 - 03	2000 - 03	2000 - 03
<60 HAL/Pot CVs	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%	0.7%
AFA Trawl CPs	1.6%	2.3%	1.6%	2.0%	1.7%	2.2%	1.2%	1.3%	0.9%	0.9%
AFA Trawl CVs	20.8%	20.7%	19.8%	19.7%	20.8%	20.6%	18.9%	19.9%	18.0%	19.1%
Jig CVs	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%
Longline CPs	47.8%	47.5%	49.0%	48.7%	47.5%	47.2%	48.5%	47.5%	49.1%	48.0%
Longline CVs >60'	0.2%	0.2%	0.2%	0.2%	0.3%	0.3%	0.2%	0.3%	0.3%	0.3%
Non-AFA Trawl CPs	14.7%	14.7%	15.3%	15.3%	15.1%	15.1%	15.7%	15.3%	15.9%	15.4%
Non-AFA Trawl CVs	2.2%	2.2%	1.8%	1.8%	1.9%	1.9%	2.5%	2.7%	2.8%	3.0%
Pot CPs	1.8%	1.7%	1.7%	1.7%	1.8%	1.8%	1.5%	1.6%	1.4%	1.5%
Pot CVs >60'	8.1%	8.1%	7.9%	7.8%	8.2%	8.2%	8.7%	8.7%	8.9%	9.0%
TOTAL	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Harvest data (retained legal catch, excluding meal) are from WPR reports and ADF&G fishtickets, 1995 - 2003. Allocations to the <60' fixed gear and jig CV sectors were set at 0.7% and 2%, respectively, according to Component 2, Option 2.8, Suboption 3. Percentage allocations for every other sector were derived from each sector's average annual harvest share over the series of years identified under each option, adjusted to 100% of the harvest. Those percentages were then multiplied by 97.29% (total TAC remaining less the <60' fixed gear and jig CV sector allocations) to determine the allocation percentages shown.

Note: In every year, some percentage of the harvest cannot be assigned to a given catcher vessel sector due to missing fishtickets from mothership deliveries. This harvest was not attributed to any sector in this table and is excluded from the annual total. The percent of harvest that cannot be assigned varies by year and ranges from 0.03% - 2.0%. Pacific cod harvested with hand troll gear and harvest from the 3 surimi-fillet non-AFA CPs was not included.

Note: The AFA-9 only have catch history through 1998, thus whether to include their catch history to determine the AFA trawl CP sector allocation is only a decision point under Options 2.1 - 2.4.

**Table 3-67 Effect of 3% small boat allocation on the BSAI Pacific cod sector allocations (Component 2, Options 2.1–2.6, Suboption 1, and Component 2, Option 2.8, Suboption 3)**

OPTION	2.1 excluding AFA 9	2.1 including AFA 9	2.1 drop year excluding AFA 9	2.1 drop year including AFA 9	2.2 excluding AFA 9	2.2 including AFA 9	2.2 drop year excluding AFA 9	2.2 drop year including AFA 9	2.3 excluding AFA 9	2.3 including AFA 9
Years	1995 - 02	1995 - 02	1995 - 02	1995 - 02	1997 - 00	1997 - 00	1997 - 00	1997 - 00	1997 - 03	1997 - 03
<60 HAL/Pot CVs	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%
AFA Trawl CPs	1.8%	2.8%	1.8%	3.0%	2.1%	3.1%	2.3%	3.6%	1.5%	2.1%
AFA Trawl CVs	21.5%	21.3%	22.1%	21.7%	22.9%	22.6%	22.3%	21.9%	20.2%	20.1%
Jig CVs	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%
Longline CPs	48.3%	47.8%	47.4%	46.8%	48.1%	47.5%	47.0%	46.3%	49.0%	48.7%
Longline CVs >60'	0.1%	0.1%	0.2%	0.2%	0.1%	0.1%	0.1%	0.1%	0.2%	0.2%
Non-AFA Trawl CPs	13.0%	12.8%	13.0%	12.9%	13.2%	13.1%	14.0%	13.9%	14.4%	14.3%
Non-AFA Trawl CVs	1.8%	1.7%	1.8%	1.8%	1.3%	1.3%	1.4%	1.4%	2.1%	2.1%
Pot CPs	2.2%	2.2%	2.3%	2.2%	2.0%	1.9%	2.0%	2.0%	1.7%	1.7%
Pot CVs >60'	8.3%	8.2%	8.4%	8.3%	7.5%	7.4%	8.0%	7.9%	7.9%	7.9%
<b>TOTAL</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>
OPTION	2.3 drop year excluding AFA 9	2.3 drop year including AFA 9	2.4 excluding AFA 9	2.4 including AFA 9	2.4 drop year excluding AFA 9	2.4 drop year including AFA 9	2.5	2.5 drop year	2.6	2.6 drop year
Years	1997 - 03	1997 - 03	1998 - 02	1998 - 02	1998 - 02	1998 - 02	1999 - 03	1999 - 03	2000 - 03	2000 - 03
<60 HAL/Pot CVs	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%
AFA Trawl CPs	1.6%	2.3%	1.6%	2.0%	1.7%	2.2%	1.2%	1.3%	0.9%	0.9%
AFA Trawl CVs	20.8%	20.6%	19.7%	19.6%	20.7%	20.5%	18.8%	19.8%	18.0%	19.1%
Jig CVs	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%
Longline CPs	47.7%	47.3%	48.8%	48.6%	47.4%	47.1%	48.4%	47.4%	49.0%	47.9%
Longline CVs >60'	0.2%	0.2%	0.2%	0.2%	0.3%	0.3%	0.2%	0.3%	0.3%	0.3%
Non-AFA Trawl CPs	14.7%	14.6%	15.3%	15.2%	15.1%	15.0%	15.7%	15.3%	15.9%	15.4%
Non-AFA Trawl CVs	2.2%	2.2%	1.8%	1.8%	1.9%	1.9%	2.4%	2.7%	2.8%	3.0%
Pot CPs	1.8%	1.7%	1.7%	1.7%	1.8%	1.8%	1.5%	1.6%	1.4%	1.5%
Pot CVs >60'	8.1%	8.1%	7.8%	7.8%	8.1%	8.1%	8.7%	8.7%	8.9%	9.0%
<b>TOTAL</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>							

Source: Harvest data (retained legal catch, excluding meal) are from WPR reports and ADF&G fishtickets, 1995 - 2003. Allocations to the <60' fixed gear and jig CV sectors were set at 1% and 2%, respectively, according to Component 2, Option 2.8, Suboption 3. Percentage allocations for every other sector were derived from each sector's average annual harvest share over the series of years identified under each option, adjusted to 100% of the harvest. Those percentages were then multiplied by 97% (total TAC remaining less the <60' fixed gear and jig CV sector allocations) to determine the allocation percentages shown.

Note: In every year, some percentage of the harvest cannot be assigned to a given catcher vessel sector due to missing fishtickets from mothership deliveries. This harvest was not attributed to any sector in this table and is excluded from the annual total. The percent of harvest that cannot be assigned varies by year and ranges from 0.03% - 2.0%. Pacific cod harvested with hand troll gear and harvest from the 3 surimi-fillet non-AFA CPs was not included.

Note: The AFA-9 only have catch history through 1998, thus whether to include their catch history to determine the AFA trawl CP sector allocation is only a decision point under Options 2.1 - 2.4.

**Table 3-68 Effect of 4% small boat allocation on the BSAI Pacific cod sector allocations (effect of Component 2, Options 2.1–2.6, Suboption 1, and Component 2, Option 2.8, Suboption 4)**

OPTION	2.1 excluding AFA 9	2.1 including AFA 9	2.1 drop year excluding AFA 9	2.1 drop year including AFA 9	2.2 excluding AFA 9	2.2 including AFA 9	2.2 drop year excluding AFA 9	2.2 drop year including AFA 9	2.3 excluding AFA 9	2.3 including AFA 9
Years	1995 - 02	1995 - 02	1995 - 02	1995 - 02	1997 - 00	1997 - 00	1997 - 00	1997 - 00	1997 - 03	1997 - 03
<60 HAL/Pot CVs	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%
AFA Trawl CPs	1.7%	2.8%	1.8%	3.0%	2.0%	3.1%	2.3%	3.6%	1.5%	2.1%
AFA Trawl CVs	21.3%	21.0%	21.9%	21.5%	22.6%	22.4%	22.1%	21.7%	20.0%	19.9%
Jig CVs	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%
Longline CPs	47.8%	47.3%	46.9%	46.3%	47.6%	47.1%	46.5%	45.8%	48.5%	48.2%
Longline CVs >60'	0.1%	0.1%	0.2%	0.2%	0.1%	0.1%	0.1%	0.1%	0.2%	0.2%
Non-AFA Trawl CPs	12.8%	12.7%	12.9%	12.8%	13.1%	12.9%	13.8%	13.7%	14.2%	14.2%
Non-AFA Trawl CVs	1.7%	1.7%	1.8%	1.8%	1.3%	1.3%	1.4%	1.3%	2.1%	2.1%
Pot CPs	2.2%	2.2%	2.2%	2.2%	1.9%	1.9%	2.0%	2.0%	1.7%	1.7%
Pot CVs >60'	8.2%	8.1%	8.3%	8.2%	7.4%	7.3%	7.9%	7.8%	7.8%	7.8%
TOTAL	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
OPTION	2.3 drop year excluding AFA 9	2.3 drop year including AFA 9	2.4 excluding AFA 9	2.4 including AFA 9	2.4 drop year excluding AFA 9	2.4 drop year including AFA 9	2.5	2.5 drop year	2.6	2.6 drop year
Years	1997 - 03	1997 - 03	1998 - 02	1998 - 02	1998 - 02	1998 - 02	1999 - 03	1999 - 03	2000 - 03	2000 - 03
<60 HAL/Pot CVs	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%
AFA Trawl CPs	1.6%	2.2%	1.6%	2.0%	1.7%	2.2%	1.2%	1.2%	0.9%	0.9%
AFA Trawl CVs	20.6%	20.4%	19.5%	19.4%	20.5%	20.3%	18.6%	19.6%	17.8%	18.9%
Jig CVs	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%
Longline CPs	47.2%	46.8%	48.3%	48.1%	46.9%	46.6%	47.9%	46.9%	48.5%	47.4%
Longline CVs >60'	0.2%	0.2%	0.2%	0.2%	0.3%	0.3%	0.2%	0.3%	0.3%	0.3%
Non-AFA Trawl CPs	14.5%	14.5%	15.1%	15.1%	14.9%	14.9%	15.5%	15.1%	15.7%	15.2%
Non-AFA Trawl CVs	2.2%	2.2%	1.8%	1.8%	1.9%	1.9%	2.4%	2.6%	2.7%	3.0%
Pot CPs	1.7%	1.7%	1.7%	1.7%	1.8%	1.7%	1.5%	1.6%	1.4%	1.5%
Pot CVs >60'	8.0%	8.0%	7.8%	7.7%	8.1%	8.1%	8.6%	8.6%	8.8%	8.9%
TOTAL	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Harvest data (retained legal catch, excluding meal) are from WPR reports and ADF&G fishtickets, 1995 - 2003. Allocations to the <60' fixed gear and jig CV sectors were set at 2% each, according to Component 2, Option 2.8, Suboption 4. Percentage allocations for every other sector were derived from each sector's average annual harvest share over the series of years identified under each option, adjusted to 100% of the harvest. Those percentages were then multiplied by 96% (total TAC remaining less the <60' fixed gear and jig CV sector allocations) to determine the allocation percentages shown.

Note: In every year, some percentage of the harvest cannot be assigned to a given catcher vessel sector due to missing fishtickets from mothership deliveries. This harvest was not attributed to any sector in this table and is excluded from the annual total. The percent of harvest that cannot be assigned varies by year and ranges from 0.03% - 2.0%. Pacific cod harvested with hand troll gear and harvest from the 3 surimi-fillet non-AFA CPs was not included.

Note: The AFA-9 only have catch history through 1998, thus whether to include their catch history to determine the AFA trawl CP sector allocation is only a decision point under Options 2.1 - 2.4.

Table 3-66, Table 3-67, and Table 3-68 show that the suboptions under Option 2.8 result in an allocation to the <60' hook-and-line/pot CV sector and jig sector that is substantially larger than those sectors' actual catch history. Note that the resulting reductions in the allocations to the other sectors are proportional to their shares under each option. For example, Table 3-62 indicates that the <60' fixed gear CV sector and jig sector would receive a 0.4% allocation using catch history under Option 2.1 (excluding AFA 9). Thus, if the <60' fixed gear CV sector and jig sector allocation is set at 4.0% under Option 2.1 and Option 2.8 (see Table 3-68), each of the other sectors will incur a reduction in their allocation proportional to their share of the ITAC, or  $4.0\% - 0.4\% = 3.6\%$ . In effect,  $3.6\% \times [\% \text{ ITAC of each sector}] = [\% \text{ allocation reduction by sector}]$ .

Note also that Option 1.1 from Component 1 is not applied in Table 3-66, Table 3-67, and Table 3-68. Applying Option 1.1 affects the allocations to the AFA CV sector and the non-AFA CV sector. If Option

1.1 was selected and applied in combination with the suboptions under Option 2.8, the effect would be a reduction in the non-AFA trawl CV sector's allocation in the range of 42%–62% of its allocation (if Option 1.1 was not applied), and an increase in the AFA trawl CV sector's allocation of 3%–6% of its allocation (if Option 1.1 was not applied). This is the same range of potential changes in comparing Table 3-62 and Table 3-64.

Table 3-69 summarizes the range of potential BSAI Pacific cod sector allocations identified in all of the tables under Component 2, as well as the current allocations to each sector. This table provides the low-end and high-end allocation percentages that are possible for each sector under all of the options in Component 2. Note that the Council has the ability to select a specific option shown in the above tables, or it can choose percentage allocations that fall within the range provided.

**Table 3-69 Range of proposed BSAI Pacific cod allocations (as % of BSAI Pacific cod ITAC) by sector under Alternative 2, compared to historical catch and status quo allocations**

Sectors	Range of potential sector allocations resulting from Alternative 2	Current allocation (Alternative 1)	Difference between proposed and status quo allocations	Annual share of retained cod harvests, average 1995–2003 <sup>1</sup>
<60' hook-and-line/pot CV	0.1% – 2%	0.7%	-0.6% to 1.3%	0.4%
AFA trawl CP	0.9% – 3.7%	23.5% (AFA CP sector is subject to sideboard of 6.1%)	-2.4% to -5.2%	1.7%
Non-AFA trawl CP	12.7% – 16.2%		n/a	13.6%
Jig CV	0.1% – 2%	2%	-1.9% to 0%	0.1%
Hook-and-line CP	45.8% – 50.3%	40.8%	5% to 9.5%	49.6%
Hook-and-line CV ≥60'	0.1% – 0.4%	0.2%	0% to 0.3%	0.1%
AFA trawl CV	17.8% – 24.4%	23.5% (non-exempt AFA CV sector is subject to sideboard of 20.2%)	-2.4% to 4.2%	21.7%
Non-AFA trawl CV	0.5% – 3.1%		n/a	2.1%
Pot CP	1.4% – 2.3%	1.7%	-0.3% to 0.6%	2.1%
Pot CV ≥60'	7.3% – 9.2%	7.6%	-0.4% to 1.5%	8.6%

<sup>1</sup>Source: Weekly production reports and ADF&G fishtickets, 1995 – 2003. Retained harvest data exclude cod destined for meal production and harvest by the AFA 9. Each sector's harvest percentage is calculated as the sector's average of the annual harvest share. Average retained catch by sector, including cod designated for meal production, is provided in Appendix G. Including meal in the above table (1995 – 2003) increases the AFA trawl CP sector share to 2.2% and the AFA trawl CV sector share to 21.9%; the non-AFA trawl CP share is reduced to 13.4% and the hook-and-line CP sector to 49.1%. All other sectors remain the same.

Note: The <60' fixed gear sector is currently allocated 0.7% of the BSAI Pacific cod ITAC. However, this sector can currently fish off the general hook-and-line CV and pot CV Pacific cod allocations when those directed fisheries are open, respectively, by gear type. Am. 85 allows the <60' fixed gear sector to only fish off its direct allocation.

Note that the AFA trawl CP and non-AFA trawl CP sectors do not currently have separate allocations. Instead, the AFA trawl CP sector has a limit (sideboard) equal to 25.8% of the Pacific cod ITAC available to the trawl CP sectors. This sideboard equates to  $25.8\% \times 23.5\% = 6.1\%$  of the BSAI Pacific cod ITAC. The non-exempt AFA trawl CV sector has a limit (sideboard) equal to 86.1% of the Pacific cod ITAC available to the trawl CV sectors. This equates to  $86.1\% \times 23.5\% = 20.2\%$  of the BSAI Pacific cod ITAC. While not an allocation to either of the AFA trawl sectors, the sideboards are provided in Table 3-69 for comparison purposes. The non-AFA trawl sectors are currently allowed to harvest up to the 23.5% of the BSAI Pacific cod TAC allocated to the respective trawl (CP and CV) sectors.

**In sum**, the allocations to the hook-and-line sectors would increase under Alternative 2 compared to status quo (Alternative 1). The allocations to the trawl sectors would generally decrease under Alternative 2 compared to the status quo, with the exception of the AFA trawl CV sector when Component 1, Option 1.1 is applied. The allocations to the pot sectors could increase or decrease under the proposed options. The allocations to the <60' fixed gear and jig gear sectors would decrease under any of the options based on catch history in Alternative 2 compared to the status quo. However, Alternative 2, Option 2.8 would make no changes to the jig sector allocation and would either maintain or increase the distinct allocation to the <60' fixed gear sector compared to Alternative 1.

NMFS's ability to manage the resulting allocations in Component 2 is discussed in Section 3.5. The following sections outline the impacts of Component 3 (seasonal apportionments) and Component 4 (rollovers) when combined with the allocations proposed under Component 2.

### 3.4.2.3 Component 3: Seasonal Apportionments

Unused seasonal allowances for the trawl, pot, and hook-and-line sectors may be reapportioned to the subsequent seasonal allocation for the respective sectors. Unused seasonal allowances for the jig sector are considered for reallocation to the <60' fixed gear CV sector. Options 3.1, 3.2, and 3.3 are mutually exclusive.

**Option 3.1** Status quo. Allocations determined under this amendment would be apportioned seasonally among the gear sectors as in current regulation (see Alternative 1).

**Option 3.2** Upon determination of the new overall allocations to the trawl and fixed gear sectors, maintain the current percentage of the ITAC allocated to the A and B seasons for trawl gear and the A season for fixed gear. Provide that any reduction in the overall trawl allocation resulting from the options would be applied only in the C season for trawl gear. Provide that any increase in the overall fixed gear allocation resulting from the options would be applied only in the B season for fixed gear.

**Option 3.3** Upon determination of the new overall allocations to the trawl and fixed gear sectors, maintain the current percentage of the ITAC allocated to the A season for trawl gear. Provide that any reduction in the overall trawl allocation resulting from the options would be applied only in the B and C seasons for trawl gear:

Suboption 1: Reduction applied proportionately to B and C seasons

Suboption 2: Reduction applied equally to B and C seasons

Suboption 3: Provide that any reduction in the overall trawl allocation resulting from the options would first be applied in the C season and then in the B season. Any increase in the allocation to fixed gear would be applied in the A season. Any reduction in the trawl allocation in the B or C seasons will be made proportionately between the AFA CP, non-AFA CP, and AFA CV, non-AFA CV sectors based on their new allocation percentages. In the event that this revision in allocations and apportionments exceeds the 70/30 Steller sea lion seasonal apportionment, the hook-and-line CP sector's A season allocation will be adjusted as necessary by shifting A season allocation to the B season.

**Option 3.4** Apportion the BSAI Pacific cod jig allocation on a trimester basis as follows:

60% (Jan. 1 – April 30)

20% (April 30 – August 31)

20% (August 31 – December 31)

<sup>91</sup>Table 5.4, p. 153 of the 2001 Biological Opinion, NMFS. October 2001.

**Table 3-70 Current seasonal apportionments for trawl CP and trawl CV sectors**

Date	TRAWL CP				TRAWL CV			TOTAL TRAWL	
	% of ITAC	Season	Trawl CP Seasonal % of Allocation	Trawl CP Seasonal % of ITAC	% of ITAC	Trawl CV Seasonal % of Allocation	Trawl CV Seasonal % of ITAC	Total Trawl % of allocation	Total Trawl % of ITAC
	<b>23.5%</b>				<b>23.5%</b>				<b>47%</b>
1-Jan	(no fishing allowed with trawl gear 1/1-1/20)								
20-Jan		A	50%	11.8%		70%	16.5%	60%	28.2%
1-Apr									
1-Apr		B	30%	7.1%		10%	2.4%	20%	9.4%
10-Jun									
10-Jun		C	20%	4.7%		20%	4.7%	20%	9.4%
1-Nov									
31-Dec	(no cod target allowed with trawl gear after 11/1)								
<b>TOTAL</b>			<b>100%</b>	<b>23.5%</b>		<b>100%</b>	<b>23.5%</b>	<b>100%</b>	<b>47.0%</b>

**Table 3-71 Current seasonal apportionments for ≥60' fixed gear and jig gear sectors, and total for all sectors**

Date	>60' FIXED				JIG				Total Fixed & Jig % of ITAC	Total trawl, fixed and jig % of ITAC <sup>1</sup>
	Percent of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC	Percent of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC		
	<b>50.3%</b>				<b>2%</b>				<b>52%</b>	<b>99.3%</b>
1-Jan						A	40%	0.8%	31.4%	69.0%
20-Jan		A	60%	30.2%						
1-Apr						B	20%	0.4%		
1-Apr										
10-Jun										
10-Jun		B	40%	20.1%		C	40%	0.8%	20.9%	30.3%
1-Nov										
31-Dec										
<b>TOTAL</b>			<b>100%</b>	<b>50%</b>			<b>100%</b>	<b>2.0%</b>	<b>52%</b>	<b>99.3%</b>

<sup>1</sup>The total sums to 99.3% because the <60' fixed gear sector allocation of 0.7% of the BSAI Pacific cod ITAC is not seasonally apportioned.

Under any of the options in Alternative 2, Component 2, the trawl sector's overall allocation would be reduced, as the quota that is currently reallocated near the end of the fishing year will instead be part of the fixed gear sector's overall initial allocation. This action is thus expected to reduce the amount of quota that is projected to remain unused by the trawl sector and reallocated on an annual basis. This is in part the purpose of this amendment, in order to reflect actual use by sector.

**Under Alternative 1, the trawl sectors overall receive an allocation of 47% of the BSAI Pacific cod ITAC. Under Alternative 2, the trawl sectors overall could receive an allocation in the range of 37%–42%. Table 3-72 provides an example below, should the overall trawl allocation be reduced (by the maximum of 10%) to 37%<sup>92</sup> under Option 2.6 and Option 2.8, Suboption 4. Note that under this option, the trawl CP sectors have a combined allocation of 16.6% and the trawl CV sectors have a combined allocation of 20.5%. Note also that while this is the lowest possible allocation to all trawl sectors combined, it is also the lowest possible allocation proposed for the trawl CV sectors combined. However,**

<sup>92</sup>The minimum allocation the overall trawl sectors could receive is 37.1% under Option 2.6 and Option 2.8, Suboption 4. The maximum allocation the fixed gear sectors could receive is 61.6% under Option 2.6.

the lowest possible allocation proposed for the combined trawl CP sectors is 14.5%. Under this same option, the fixed gear allocation would be increased (by 10%) to 61% and the jig gear allocation would remain at 2%. **This example provides the maximum change possible to each overall gear type under the options in Component 2.**

**Note again that the allocations at issue in this section represent shares of the ITAC.** The TAC has already been reduced by 3% (in 2006 and 2007) for the State water AI cod fishery, and the resulting amount (97% of the TAC) is reduced by 10% (plus some additional percentage for incidental catch, estimated at 0.5% - 1.0% of the TAC in the first years of implementation) for the CDQ Program under the new Coast Guard Act. Thus, if the current State water AI fishery is extended beyond 2007, the ITAC would represent about 86.0% - 86.5% of the BSAI Pacific cod TAC, depending upon the amount specified for the incidental catch allowance in the CDQ Program.<sup>93</sup>

**In addition, note that the State AI cod fishery is seasonally apportioned such that it is consistent with the temporal dispersion measures in place to protect Steller sea lions in the overall Federal BSAI cod fishery discussed on the previous page: a maximum of 70% of the GHL may be harvested prior to June 10.** Any unharvested GHL during the first season can be rolled into the second season such that not more than 70% of the total annual GHL can be harvested in the first season. The State AI cod fishery is currently established for only 2006 and 2007, and it equals 3% of the BSAI Pacific cod ABC/TAC. Thus, if both the overall Federal BSAI Pacific cod fishery and the State AI cod fishery stay within the current allowable 70% – 30% seasonal split, these Steller sea lion mitigation measures will not be compromised.

Under **Option 3.1**, the result is that any possible reduction in the trawl allocation would be distributed proportionally among each of its three seasons. Likewise, any potential increase to the fixed gear allocation would be distributed proportionally between its A and B seasons. The intent is for the seasonal allocations between the trawl CP and trawl CV sectors to continue (which combined, represent a 60% - 20% - 20% split).

**Table 3-72 Example of maximum effect of Component 2 and Component 3, Option 3.1, moving 10% of ITAC from trawl to fixed gear**

Date	TRAWL CP			TRAWL CV			TOTAL TRAWL		
	% of ITAC	Trawl CP Seasonal % of Allocation	Trawl CP Seasonal % of ITAC	% of ITAC	Trawl CV Seasonal % of Allocation	Trawl CV Seasonal % of ITAC	Total Trawl % of allocation	Total Trawl % of ITAC	
	<b>16.6%</b>			<b>20.5%</b>				<b>37%</b>	
1-Jan	(no fishing allowed with trawl gear 1/1-1/20)								
20-Jan		A	50%	8.3%		70%	14.4%	60%	22.7%
1-Apr		B	30%	5.0%		10%	2.1%	20%	7.0%
10-Jun		C	20%	3.3%		20%	4.1%	20%	7.4%
10-Jun	(no cod target allowed with trawl gear after 11/1)								
1-Nov									
31-Dec									
<b>TOTAL</b>			<b>100%</b>	<b>16.6%</b>		<b>100%</b>	<b>20.5%</b>	<b>100%</b>	<b>37%</b>

<sup>93</sup>This also assumes that the BSAI Pacific cod TAC = ABC, as the State water AI cod fishery is currently specified as 3% of the BSAI Pacific cod ABC. For the past several years, the Pacific cod TAC has been set equal to ABC.

**Table 3-72 continued**

Date	FIXED				JIG				Total Fixed & Jig % of ITAC	Total trawl, fixed and jig % of ITAC <sup>1</sup>
	Percent of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC	Percent of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC		
	<b>60.3%</b>				<b>2%</b>				<b>62.3%</b>	<b>99.4%</b>
1-Jan 20-Jan 1-Apr 1-Apr 10-Jun		A	60%	36.2%		A	40%	0.8%	37.4%	67.1%
						B	20%	0.4%		
10-Jun 1-Nov 31-Dec		B	40%	24.1%		C	40%	0.8%	24.9%	32.3%
<b>TOTAL</b>			<b>100%</b>	<b>60%</b>			<b>100%</b>	<b>2.0%</b>	<b>62%</b>	<b>99.4%</b>

<sup>1</sup>The 60.3% example allocation to the overall fixed gear sector does not include a 0.7% allocation to the <60' fixed gear sector, as the <60' fixed gear sector allocation is not seasonally apportioned. Accounting for an example allocation of 0.7% to the <60' fixed gear sector would bring the total to 100%. Note that if the entire 0.7% allocation was harvested in the first half of the year, the total BSAI Pacific cod ITAC harvested in the first half of the year could be a maximum of 67.8%.

Table 3-72 shows how the seasonal allocations would be established under current regulations, such that the current 60/20/20 split would be applied to the new allocation to the trawl sector and the current 60/40 split would be applied to the new allocation to the fixed gear sector. *For example, 60% of the 10% allocation increase to the fixed gear sector is apportioned to the A season, and 40% of the 10% increase is apportioned to the B season. While the seasonal percentage of the gear allocations do not change, the seasonal percentage of the ITAC taken by each sector necessarily changes, as does the overall percent of the ITAC harvested in the first and second halves of the year.* The overall percent of the ITAC harvested in the first half of the year is reduced to about 67.1% and the second half of the year is increased to 32.3%. Compare this to the status quo in Table 3-71.

### Option 3.2

**At the April 2005 Council meeting, some public testimony noted that the purpose of the proposed amendment is to revise the allocations such that they reflect actual historical use, and that the quota that comprises the adjustment in allocations is quota that is harvested only in the second half of the year.** In addition, it is not likely that the reasons the trawl sector does not currently harvest its entire C season allocation will change substantially in the near future, which increases the likelihood of continued reallocations, albeit of a lower amount. These discussions spurred consideration of the following concept represented in Options 3.2 and 3.3.

**Option 3.2** would calculate the seasonal apportionments to the trawl and hook-and-line sectors differently from Option 3.1. Given that the reallocations from the trawl sector have historically occurred only in the trawl sector's C season (after June 10), Option 3.2 was included to revise the allocations such that they would maintain the overall seasonal catch distribution between the trawl and fixed gear sectors that is currently occurring. The purpose is to consider an option to revise the allocations that would mirror historical use, given that the quota that comprises the adjustment in allocations is quota that is 'rolled over' from the trawl to the fixed gear sector in the second half of the year.

In effect, in combination with Component 2, Option 3.2 would:

- revise the current overall allocation to the trawl sector (from 47% of the BSAI Pacific cod ITAC to X) and fixed gear sector (from 51% of the BSAI Pacific cod ITAC to Y) (*10% is maximum change in overall allocations under Component 2*)
- maintain the current allocations in the A/B seasons for trawl gear (47%) and the A season for fixed gear (51%)
- provide that any reduction in the overall trawl allocation resulting from the proposed amendment would be applied only in the C season for trawl gear (June 10 – November 1)
- provide that any increase in the fixed gear allocation resulting from the proposed amendment would be applied only in the B season for fixed gear (June 10 – December 31)

**Option 3.2 necessarily changes the seasonal apportionments by gear type that are currently in regulation for the trawl and fixed gear sectors, but would maintain the overall seasonal apportionment for all gear types of about 70% in the A season and 30% in the B season. It also mirrors what is currently occurring in the fisheries given the annual reallocations, in effect, it maintains the percent of the ITAC that each sector harvests in the first half of the year.**

Refer back to Table 3-22 and Table 3-23 to see what has actually occurred in the BSAI Pacific cod fishery on average during 2001 – 2004, given that quota is annually reallocated from the trawl to fixed gear sectors in the second half of the year, as authorized by current regulations. In sum, the seasonal percentage of the ITAC actually harvested by trawl gear decreases substantially in the B and C seasons, compared to the percentage of the ITAC that the trawl sector is allocated during those seasons. Likewise, the seasonal percentage of the ITAC actually harvested by fixed gear increases substantially in its B season, compared to the percentage of the ITAC that the fixed gear sector is allocated during that season. This is not unexpected, as these reallocations have been provided for in regulation and have occurred every year since the original gear splits were established in 1994.

Table 3-22 and Table 3-23 show that the overall temporal distribution of cod harvest between the first and second halves of the year does not exceed 70% in the first half of the year, since reallocations *within* gear sectors roll to the next subsequent season, and reallocations *between* gear sectors only shift quota within the second half of the year (June 10 – Dec. 31). **On average during 2001 – 2004, the temporal distribution of overall cod harvest has actually been about 62.3% in the first half of the year and 36.1% in the second half.** (Note that this includes the <60' fixed gear sector, the allocation to which is not seasonally apportioned.) In years when a portion of the trawl B season quota is rolled over to the trawl C season, the overall distribution of cod harvests between the first and second half of the year shifts to less than 70% harvested in the first half of the year.

**Table 3-73 shows the effect of Component 3, Option 3.2, using the maximum change in allocation between the trawl and fixed gear sectors possible under Component 2 (10%).** Because the trawl CV and CP sectors currently have different seasonal apportionments and will receive different potential allocations under Component 2, the effect on each sector varies and is shown separately.

**Table 3-73 Example of maximum effect of Component 2 and Component 3, Option 3.2, moving 10% of ITAC from trawl to fixed gear**

Date	TRAWL CP				TRAWL CV			TOTAL
	% of ITAC	Season	Trawl CP Seasonal % of Allocation	Trawl CP Seasonal % of ITAC	% of ITAC	Trawl CV Seasonal % of Allocation	Trawl CV Seasonal % of ITAC	Total Trawl % of ITAC
	<b>16.6%</b>				<b>20.5%</b>			<b>37%</b>
1-Jan	(no fishing allowed with trawl gear 1/1-1/20)							
20-Jan		A	70.8%	11.8%		80.2%	16.5%	28.2%
1-Apr		B	42.5%	7.1%		11.5%	2.4%	9.4%
10-Jun		C	-13.3%	-2.2%		8.3%	1.7%	-0.5%
10-Jun	(no cod target allowed with trawl gear after 11/1)							
1-Nov								
31-Dec	(no cod target allowed with trawl gear after 11/1)							
<b>TOTAL</b>			<b>100%</b>	<b>16.6%</b>		<b>100%</b>	<b>20.5%</b>	<b>37%</b>

Date	>60' FIXED				JIG				Total Fixed & Jig % of ITAC	Total trawl, fixed and jig % of ITAC <sup>1</sup>
	Percent of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC	Percent of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC		
	<b>60.3%</b>				<b>2%</b>				<b>62.3%</b>	<b>99.4%</b>
1-Jan						A	40%	0.8%	31.4%	69.0%
20-Jan		A	50%	30.2%		B	20%	0.4%		
1-Apr						C	40%	0.8%	30.9%	30.4%
10-Jun		B	50%	30.1%						
1-Nov										
31-Dec										
<b>TOTAL</b>			<b>100%</b>	<b>60%</b>			<b>100%</b>	<b>2.0%</b>	<b>62%</b>	<b>99.4%</b>

<sup>1</sup>The 60.3% example allocation to the overall fixed gear sector does not include a 0.7% allocation to the <60' fixed gear sector, as the <60' fixed gear sector allocation is not seasonally apportioned. Accounting for an example allocation of 0.7% to the <60' fixed gear sector would bring the total to 100%. Note that if the entire 0.7% allocation was harvested in the first half of the year, the total BSAI Pacific cod ITAC harvested in the first half of the year could be a maximum of 69.7%.

Note again that the allocations at issue in this section represent shares of the ITAC. The TAC has already been reduced by 3% (in 2006 and 2007) for the State water AI cod fishery, and the resulting amount (97% of the TAC) will be reduced by 10% (plus some additional percentage for incidental catch, estimated at 0.5% - 1.0% of the TAC in the first years of implementation) for the CDQ Program upon implementation of the new Coast Guard Act under this amendment package. Thus, if the current State water AI fishery is extended beyond 2007, the ITAC would represent about 86.0% - 86.5% of the BSAI Pacific cod TAC, depending upon the amount specified for the incidental catch allowance in the CDQ Program.<sup>94</sup> Currently, with the 3% State water fishery and the 7.5% CDQ allocation, the ITAC represents 89.7% of the BSAI Pacific cod TAC.

<sup>94</sup>This also assumes that the BSAI Pacific cod TAC = ABC, as the State water AI cod fishery is currently specified as 3% of the BSAI Pacific cod ABC. For the past several years, the Pacific cod TAC has been set equal to ABC.

Note that under the maximum allocation change considered between the trawl and fixed gear sectors (10%), Option 3.2 would increase the amount of the BSAI Pacific cod ITAC harvested in the first half of the year compared to Option 3.1 (from 67.1% to 69.0%), but would not exceed the 70% seasonal target that was established under the 2001 Steller sea lion mitigation measures. Instead, Option 3.2 mirrors what is allowed under current regulations in terms of harvest in the first and second halves of the year. The great majority of the trawl sectors' harvest would necessarily be allocated to and harvested in the A and B seasons. By contrast, the fixed gear sectors would harvest half of their allocation in the A season and half in the B season.

Note also that under the maximum change between the overall trawl and fixed gear allocations (10%), applying Option 3.2 results in a negative allocation to the trawl CP sectors in the C season. The potential for this effect depends upon the preferred allocations to the trawl sectors determined under Component 2. **Under Component 3, Option 3.2, the combined trawl CP allocation would need to be at least 18.8% in order to avoid establishing a negative allocation in the C season.** With an allocation of 18.8% to the trawl CP sector, the trawl CP sector would be apportioned 11.8% of the ITAC in the A season, 7.1% in the B season, and 0% in the C season. Note, however, that there are not any allocation options that would meet this threshold. **Under the current options proposed in Component 2, the highest (combined) allocation to the trawl CP sectors is 18.0%.<sup>95</sup>**

**In sum, Option 3.2:**

- *would* change the seasonal apportionment of the trawl sector's overall allocation from the current 60% - 20% - 20% in regulation, and *would* change the seasonal apportionment of the fixed gear sector's overall allocation from the current 60% - 40% in regulation.
- *would not* change the percentage (or mt) of the ITAC harvested by *each gear sector* in the first half of the year.
- *would* change the percentage of the ITAC (or mt) harvested by *each gear sector* in the second half of the year.
- *would not* change the distribution of harvest of the TAC overall by both gear types between the first half of the year and the second half of the year such that the 70% allocation to the first half of the year would be exceeded.
- *would* create a negative C season apportionment for the trawl CP sectors (combined) under the proposed range of allocations

*Option 3.3, Suboption 1*

**Option 3.3 modifies the concept proposed under Option 3.2 to maintain only the A season harvest for the trawl sector (Jan. 20 – April 1).** Any reduction in the overall trawl allocation resulting from the options in Component 2 would be applied only in the B and C seasons for trawl gear. Any increase in the overall fixed gear allocation resulting from Component 2 would be applied in both the A and B seasons for fixed gear. There are also three suboptions proposed regarding how the reduction to the trawl sectors would be applied. These are addressed in the following sections.

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<sup>95</sup>This is under Component 2, Option 2.2, including the AFA 9 and the drop year provision.

In effect, in combination with Component 2, Option 3.3 would:

- revise the current overall allocation to the trawl sector (from 47% of the BSAI Pacific cod ITAC to X) and fixed gear sector (from 51% of the BSAI Pacific cod ITAC to Y) (10% is maximum change in overall allocations under Component 2)
- maintain the current allocations in the A season for trawl gear (47%)
- provide that any reduction in the overall trawl allocation resulting from the proposed amendment would be applied only in the B and C seasons for trawl gear (April 1 – November 1)

The following tables show the effect of Component 3, Option 3.3, again using the maximum change in allocation between the trawl and fixed gear sectors possible under Component 2 (10%). **Table 3-74 represents Suboption 1, in which the reduction to the trawl sector’s allocation is applied proportionately to the B and C trawl seasons.** The trawl CP sector allocation is currently seasonally apportioned 50% - 30% - 20% in the A, B, and C seasons respectively. Thus, the trawl CP sector is currently allocated 60% of its total B and C season allocation in the B season and 40% in the C season. Suboption 1 apports the revised allocation to the B and C season by the same percentages.

Likewise, the trawl CV sector allocation is currently apportioned 70% - 10% - 20% in the A, B, and C seasons, respectively. Thus, the trawl CV sector is currently allocated 33% of its total B and C season allocation in the B season and 67% in the C season. Thus, Option 3.3, Suboption 1 apports the revised allocation to the B and C season by the same percentages.

**Table 3-74 Example of maximum effect of Component 2 and Component 3, Option 3.3, Suboption 1 moving 10% of ITAC from trawl to fixed gear**

Date	TRAWL CP			TRAWL CV			TOTAL	
	% of ITAC	Season	Trawl CP Seasonal % of Allocation	% of ITAC	Trawl CV Seasonal % of Allocation	Trawl CV Seasonal % of ITAC	Total Trawl % of ITAC	
	<b>16.6%</b>			<b>20.5%</b>			<b>37%</b>	
1-Jan	(no fishing allowed with trawl gear 1/1-1/20)							
20-Jan		A	70.8%	11.8%		80.2%	16.5%	28.2%
1-Apr		B	17.5%	2.9%		6.6%	1.4%	4.3%
10-Jun		C	11.7%	1.9%		13.2%	2.7%	4.6%
1-Nov	(no cod target allowed with trawl gear after 11/1)							
31-Dec								
<b>TOTAL</b>			<b>100%</b>	<b>16.6%</b>		<b>100%</b>	<b>20.5%</b>	<b>37%</b>

**Table 3-74 continued**

Date	>60' FIXED			JIG				Total Fixed & Jig % of ITAC	Total trawl, fixed and jig % of ITAC <sup>1</sup>
	Percent of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC	Percent of ITAC	Season	Seasonal % of Allocation		
	<b>60.3%</b>					<b>2%</b>		<b>62.3%</b>	<b>99.4%</b>
1-Jan									
20-Jan					A	40%	0.8%	37.4%	69.8%
1-Apr		A	60%	36.2%					
1-Apr									
10-Jun					B	20%	0.4%		
10-Jun									
1-Nov		B	40%	24.1%				24.9%	29.6%
31-Dec					C	40%	0.8%		
<b>TOTAL</b>			<b>100%</b>	<b>60.3%</b>		<b>100%</b>	<b>2.0%</b>	<b>62.3%</b>	<b>99.4%</b>

<sup>1</sup>The 60.3% example allocation to the overall fixed gear sector does not include a 0.7% allocation to the <60' fixed gear sector, as the <60' fixed gear sector allocation is not seasonally apportioned. Accounting for an example allocation of 0.7% to the <60' fixed gear sector would bring the total to 100%. Note that if the entire 0.7% allocation was harvested in the first half of the year, the total BSAI Pacific cod ITAC harvested in the first half of the year could be a maximum of 70.5%.

Note that under the **maximum** allocation change considered between the trawl and fixed gear sectors (10%), Option 3.3, Suboption 1 would increase the amount of the allowable harvest of the BSAI Pacific cod ITAC in the first half of the year compared to what is allowable under status quo or Option 3.2 (from 69.0% to 69.8%) or compared to what is allowable under Option 3.1 (from 67.1% to 69.8%). Note that under this allocation example, Option 3.3., Suboption 1 does not exceed the 70% seasonal target established under the 2001 Steller sea lion mitigation measures.

**Note, however, that the <60' fixed gear sector is not included in any of these tables because the allocation to this sector is not seasonally apportioned.** If the <60' fixed gear sector received the same allocation as it receives currently (0.7% of the BSAI Pacific cod ITAC), and the entire allocation was harvested in the first half of the year, the total BSAI Pacific cod ITAC harvested in the first half of the year could be a maximum of **70.5%**. Under this scenario, Option 3.3, Suboption 1 could slightly exceed the 70% seasonal target that was established under the 2001 Steller sea lion mitigation measures, when combined with the maximum allocation change proposed between trawl and fixed gear under Component 2. Because seasonal apportionments to the <60' fixed gear sector were not part of the Steller sea lion mitigation provisions established through the biological opinion, this may not be an important issue. It is also not the outcome for the majority of the allocation options proposed under Component 2. For example, any of the allocation options shown in Table 3-62 (allocations based on catch history only) combined with Option 3.3, Suboption 1, would not exceed the 70% threshold. In addition, if small boat allocations are fixed under Option 2.8, only those allocations combined with Option 2.6 would result in exceeding the 70% threshold (see Table 3-68).

**Note, also, that any quota that is reallocated from the trawl B season to the trawl C season would continue to shift the harvest distribution such that less than 70% of the ITAC is harvested in the first half of the year and more than 30% is harvested in the second half of the year.** See Table 3-18 and Table 3-19 in Section 3.3.5.6 for the average 2001 – 2004 trawl reallocation amounts by season. Trawl rollovers from the B to the C season occur frequently in the trawl CP sectors, averaging about 6% of the BSAI Pacific cod ITAC during 2001 – 2004. While this amendment overall is expected to reduce the level and frequency of reallocations during the fishing year, it is not expected to negate the need for reallocations in entirety.

### *Option 3.3, Suboption 2*

**Table 3-75 represents Option 3.3, Suboption 2, in which the reduction to the trawl sector's allocation is applied equally to the B and C trawl seasons.** In effect, Suboption 2 does not reflect the current B/C split for either of the trawl sectors. Neither Suboption 1 nor Suboption 2 affects the seasonal allocation apportionment to the fixed gear sectors or jig sector; only the trawl sectors are affected. Under Suboption 1, the trawl CP sectors would be allocated more of the ITAC in the B season than the C season, and the trawl CV sectors would be allocated more of the ITAC in the C season than the B season, as is done currently. Under Suboption 2, the trawl CP sector would receive equal apportionments in the B and C season; as would the trawl CV sector.

Note that under the **maximum** allocation change considered between the trawl and fixed gear sectors (10%), Option 3.3, Suboption 2 would increase the amount of the allowable harvest of the BSAI Pacific cod ITAC in the first half of the year compared to what is allowable under status quo or Option 3.2 (from 69.0% to 70.0%) or compared to what is allowable under Option 3.1 (from 67.1% to 70.0%). **Option 3.3, Suboption 2 appears to meet the 70% seasonal target that was established under the 2001 Steller sea lion mitigation measures when combined with almost every allocation scenario proposed under Component 2.** (In addition, note that the State AI cod fishery is seasonally apportioned such that it is consistent with the temporal dispersion measures in place to protect Steller sea lions in the overall Federal BSAI cod fishery: a maximum of 70% of the GHL may be harvested prior to June 10. Any unharvested GHL during the first season can be rolled into the second season such that not more than 70% of the total annual GHL can be harvested in the first season. If both the overall Federal BSAI Pacific cod fishery and the State AI cod fishery stay within the current allowable 70% – 30% seasonal split, these Steller sea lion mitigation measures would not be compromised.)

**However, like Suboption 1, the <60' fixed gear sector is not included in any of these tables because the allocation to this sector is not seasonally apportioned.** If the <60' fixed gear sector received the same allocation as it receives currently (0.7% of the BSAI Pacific cod ITAC), and the entire allocation was harvested in the first half of the year, the total BSAI Pacific cod ITAC harvested in the first half of the year could be a maximum of **70.7%**. Under this scenario, Option 3.3, Suboption 2 could slightly exceed the 70% seasonal target that was established under the 2001 Steller sea lion mitigation measures, when combined with the maximum allocation change proposed between trawl and fixed gear under Component 2. Because seasonal apportionments to the <60' fixed gear sector were not part of the Steller sea lion mitigation provisions established through the biological opinion, this may not be an important issue.

**Table 3-75 Example of maximum effect of Component 2 and Component 3, Option 3.3, Suboption 2 moving 10% of ITAC from trawl to fixed gear**

Date	TRAWL CP				TRAWL CV			TOTAL
	% of ITAC	Season	Trawl CP Seasonal % of Allocation	Trawl CP Seasonal % of ITAC	% of ITAC	Trawl CV Seasonal % of Allocation	Trawl CV Seasonal % of ITAC	Total Trawl % of ITAC
	<b>16.6%</b>				<b>20.5%</b>			<b>37%</b>
1-Jan	(no fishing allowed with trawl gear 1/1-1/20)							
20-Jan		A	70.8%	11.8%		80.2%	16.5%	28.2%
1-Apr		B	14.6%	2.4%		9.9%	2.0%	4.5%
1-Apr								
10-Jun		C	14.6%	2.4%		9.9%	2.0%	4.5%
10-Jun	(no cod target allowed with trawl gear after 11/1)							
1-Nov								
31-Dec	(no cod target allowed with trawl gear after 11/1)							
<b>TOTAL</b>			<b>100%</b>	<b>16.6%</b>		<b>100%</b>	<b>20.5%</b>	<b>37%</b>

Date	>60' FIXED				JIG				Total Fixed & Jig % of ITAC	Total trawl, fixed and jig % of ITAC
	Percent of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC	Percent of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC		
	<b>60.3%</b>				<b>2%</b>				<b>62.3%</b>	<b>99.4%</b>
1-Jan						A	40%	0.8%	37.4%	70.0%
20-Jan		A	60%	36.2%						
1-Apr						B	20%	0.4%		
1-Apr										
10-Jun										
10-Jun		B	40%	24.1%		C	40%	0.8%	24.9%	29.4%
1-Nov										
31-Dec										
<b>TOTAL</b>			<b>100%</b>	<b>60%</b>			<b>100%</b>	<b>2.0%</b>	<b>62%</b>	<b>99.4%</b>

<sup>1</sup>The 60.3% example allocation to the overall fixed gear sector does not include a 0.7% allocation to the <60' fixed gear sector, as the <60' fixed gear sector allocation is not seasonally apportioned. Accounting for an example allocation of 0.7% to the <60' fixed gear sector would bring the total to 100%. Note that if the entire 0.7% allocation was harvested in the first half of the year, the total BSAI Pacific cod ITAC harvested in the first half of the year could be a maximum of 70.7%.

**Also as discussed previously, any quota that is reallocated from the trawl B season to the trawl C season would continue to shift the harvest distribution such that less than 70% of the ITAC is harvested in the first half of the year and more than 30% is harvested in the second half of the year.** This scenario is a common occurrence for the trawl CP sectors. On average the trawl CP sectors have harvested 2.2% of the BSAI Pacific cod ITAC during their B season; note that under Option 3.3, Suboption 2, and the lowest overall trawl sector allocation proposed under Component 2, the trawl CP sectors are allocated 2.4% of the ITAC in the B season. However, while the example uses the lowest allocation to the overall trawl sectors (37%) proposed in Component 2, there are allocations proposed to the combined *trawl CP* sectors that are lower than the 16.6% used in the example. (Note that 20.5% is the lowest allocation proposed for the *trawl CV* sector.)

Option 3.3, Suboption 3

The following tables represent Option 3.3, Suboption 3, in which the percentage of the ITAC allocated to the trawl sectors' A season is the same as the status quo allocation (60% x 23.5% of the ITAC), and the reduction to the trawl sector's allocation is first applied in the C season. Any increase in the allocation to fixed gear is applied in the A season. In the event that the final revised allocations and apportionments exceed the 70/30 split in place under the Steller sea lion mitigation measures, the hook-and-line CP sector's A season allocation is adjusted as necessary by shifting A season quota to its B season.

The three primary differences under Suboption 3 are: 1) the reduction to the trawl sectors' overall BSAI allocation is taken entirely from the C season, if possible; 2) the increase in the fixed gear sectors' overall BSAI allocation is attributed to the A season, and 3) direction is provided on how to reduce the amount of the overall ITAC harvested in the A season should it become necessary. In the latter case, a portion of the hook-and-line CP sector's A season allocation would be shifted to its B season, to the extent necessary to meet the 70/30 overall split. It is assumed that the remaining fixed gear sectors would receive any increase in their allocation in the A season.

Table 3-76 shows the result of the first step in Option 3.3, Suboption 3, under the **maximum** allocation change considered between the trawl and fixed gear sectors (10%), **without having adjusted the hook-and-line sector's A season allocation to meet the 70% - 30% target.**

**Table 3-76 Example of first step of implementation of Component 2 and Option 3.3, Suboption 3, showing 10% of ITAC moved from trawl gear to fixed gear**

Date	TRAWL CP				TRAWL CV			TOTAL
	% of ITAC	Season	Trawl CP Seasonal % of Allocation	Trawl CP Seasonal % of ITAC	% of ITAC	Trawl CV Seasonal % of Allocation	Trawl CV Seasonal % of ITAC	Total Trawl % of ITAC
		16.6%				20.5%		
1-Jan	(no fishing allowed with trawl gear 1/1-1/20)							
20-Jan		A	70.8%	11.8%		80.2%	16.5%	28.2%
1-Apr								
1-Apr		B	29.2%	4.9%		19.8%	4.1%	8.9%
10-Jun								
1-Nov		C	0.0%	0.0%		0.0%	0.0%	0.0%
31-Dec	(no cod target allowed with trawl gear after 11/1)							
<b>TOTAL</b>			<b>100%</b>	<b>16.6%</b>		<b>100%</b>	<b>20.5%</b>	<b>37%</b>

Date	FIXED				JIG			Total Fixed & Jig % of ITAC	Total trawl, fixed and jig % of ITAC <sup>1</sup>	
	Percent of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC	Percent of ITAC	Season	Seasonal % of Allocation			Seasonal % of ITAC
		60.3%				2%				
1-Jan										
20-Jan		A	67%	40.2%		A	40%	0.8%	41.4%	78.5%
1-Apr										
1-Apr		B				B	20%	0.4%		
10-Jun										
10-Jun		B	33%	20.1%		C	40%	0.8%	20.9%	20.9%
1-Nov										
31-Dec										
<b>TOTAL</b>			<b>100%</b>	<b>60.3%</b>			<b>100%</b>	<b>2.0%</b>	<b>62.3%</b>	<b>99.4%</b>

<sup>1</sup>The 60.3% example allocation to the overall fixed gear sector does not include a 0.7% allocation to the <60' fixed gear sector, as the <60' fixed gear sector allocation is not seasonally apportioned. Accounting for an example allocation of 0.7% to the <60' fixed gear sector would bring the total to 100%.

Table 3-76 shows that if the trawl sectors' combined percentage of the ITAC in the A season is maintained at the existing percentage of 28.2%, and the entire reduction to the trawl sectors' BSAI allocations is taken from the C season, the trawl sector B season allocation is only slightly less than status quo (compare status quo of 9.4% of the ITAC to 8.9% under this suboption). It also shows that if the increase in overall allocation to the fixed gear sector is attributed to the A season (i.e., adding 10% of the ITAC to the fixed gear A season), the amount of the total BSAI Pacific cod ITAC that could be taken in the first half of the year increases to **78.5%**. In effect, because Suboption 3 takes the entire *reduction* to the trawl sector allocation *only* from the C season, and because any *increase* in the fixed gear allocation is applied to the A season, the total percentage of the ITAC that can be taken in the first half of the year well exceeds the 70% limit. It represents about 9% more ITAC in the first half of the year than is allowed under status quo (from 69.4% to 78.5%). Recall that both Suboptions 1 and 2 split the trawl reduction between both the B and C seasons.

**Table 3-77 below shows the result of the second step in Option 3.3, Suboption 3, meaning the adjustment is applied to the hook-and-line sector's A season allocation to meet the 70% - 30% target.** Suboption 3 directs that the total amount of the ITAC taken in the first half of the year should be limited to 70%, and that the reduction necessary to meet that limit is taken from the hook-and-line CP sector A season allocation. Thus, the result under this example is that 8.5% ( $78.5\% - 70\% = 8.5\%$ ) of the ITAC is shifted from the hook-and-line CP sector A season to its B season.

**Table 3-77 Example of second step of implementation of Component 2 and Option 3.3, Suboption 3, showing 10% of ITAC moved from trawl gear**

Date	TRAWL CP				TRAWL CV			TOTAL
	% of ITAC	Season	Trawl CP Seasonal % of Allocation	Trawl CP Seasonal % of ITAC	% of ITAC	Trawl CV Seasonal % of Allocation	Trawl CV Seasonal % of ITAC	Total Trawl % of ITAC
	<b>16.6%</b>				<b>20.5%</b>			<b>37%</b>
1-Jan	(no fishing allowed with trawl gear 1/1-1/20)							
20-Jan		A	70.8%	11.8%		80.2%	16.5%	28.2%
1-Apr		B	29.2%	4.9%		19.8%	4.1%	8.9%
10-Jun		C	0.0%	0.0%		0.0%	0.0%	0.0%
1-Nov	(no cod target allowed with trawl gear after 11/1)							
31-Dec								
<b>TOTAL</b>	<b>100%</b>		<b>16.6%</b>		<b>100%</b>	<b>20.5%</b>		<b>37%</b>

Date	>60' FIXED				JIG				Total Fixed & Jig % of ITAC	Total trawl, fixed and jig % of ITAC <sup>1</sup>
	Percent of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC	Percent of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC		
	<b>60.3%</b>				<b>2%</b>				<b>62.3%</b>	<b>99.4%</b>
1-Jan		A	53%	31.7%		A	40%	0.8%	32.9%	70.0%
20-Jan		B				B	20%	0.4%		
1-Apr									29.4%	29.4%
10-Jun		C	47%	28.6%		C	40%	0.8%		
10-Jun										
1-Nov										
31-Dec										
<b>TOTAL</b>	<b>100%</b>		<b>60.3%</b>		<b>100%</b>		<b>2.0%</b>		<b>62.3%</b>	<b>99.4%</b>

Note: Under this allocation example, the hook-and-line CP sector receives 48.5% of the total BSAI Pacific cod ITAC. In order to reduce the overall ITAC taken in the first half of the year from 78.5% to 70%, 8.5% of the ITAC is subtracted from the hook-and-line CP A season allocation. This results a hook-and-line CP sector allocation of 24.0% (A) + 24.5% (B) = 48.5% of the BSAI Pacific cod ITAC.

<sup>1</sup>The 60.3% example allocation to the overall fixed gear sector does not include a 0.7% allocation to the <60' fixed gear sector, as the <60' fixed gear sector allocation is not seasonally apportioned. Accounting for an example allocation of 0.7% to the <60' fixed gear sector would bring the total to 100%.

**In effect, all other fixed gear sectors that receive an increase in their overall BSAI allocation would realize that increase in the A season, however, the hook-and-line CP sector would receive a reduction in the amount of the ITAC they could take in the A season.** Regardless of the increase in total allocation to this sector, in this example, from 40.8% to 48.5%, the hook-and-line CP sector would be allocated 0.5 percentage points less of the ITAC in the A season than under status quo. For example:

**Table 3-78 Percent of BSAI Pacific cod ITAC allocated to the hook-and-line CP sector by season, status quo compared to example under Option 3.3, Suboption 3**

Hook-and-line CP sector	Option 3.3, Suboption 3 (% of BSAI ITAC)	Status quo (% of BSAI ITAC)
A season	24.0%	24.5%
B season	24.5%	16.3%
Total allocation	48.5%	40.8%

Note: The above uses an example of the allocation scenario from Table 3-77. This results in a new allocation to the hook-and-line CP sector of 48.5% of the BSAI Pacific cod ITAC.

In addition, because the reduction to the overall ITAC in the first half of the year comes off the hook-and-line CP sector allocation, the result is that the seasonal percentages of each fixed gear sectors' allocation are varied. Table 3-79 below shows the result of the example for the fixed gear sectors from Table 3-75. If the  $\geq 60'$  fixed gear sector overall, needs to meet an apportionment of 53% of their total allocation in the A season and 47% in the B season under that example allocation scenario, and this is accomplished by reducing only the hook-and-line CP sector's A season allocation, the hook-and-line CP sector allocation is apportioned about 50% - 50% between the A and B seasons, and all other fixed gear sector allocations are apportioned about 65% - 35%. This is because the allocations to the other fixed gear sectors are relatively small, and under Suboption 3, any increase in their allocations is applied only to the A season.

**Table 3-79 Example of seasonal apportionments to the hook-and-line CP sector and all other  $\geq 60'$  fixed gear sectors under Option 3.3, Suboption 3**

Season	H&L CP		all other fixed gear		All fixed gear	
	% ITAC	% allocation	% ITAC	% allocation	% ITAC	% allocation
A	24.0%	49.5%	7.7%	65.1%	31.7%	52.5%
B	24.5%	50.5%	4.1%	34.9%	28.6%	47.5%
total	48.5%	100.0%	11.8%	100.0%	60.3%	100.0%

Note: This table uses an example of a new allocation to the hook-and-line CP sector of 48.5% of the BSAI Pacific cod ITAC and a new allocation to the remaining  $\geq 60'$  fixed gear sectors of 11.8% of the BSAI Pacific cod ITAC.

The primary difference under Suboption 3, compared to Suboptions 1 and 2, is that the reduction in the trawl sectors' allocations are taken wholly from the trawl C season (second half of the year), as opposed to being split between the trawl B and C seasons (which encompasses the first and second halves of the year). Because of the level of change in the sectors' allocations, and the provision to stay within the current overall 70% - 30% split, the hook-and-line CP sector does not appear to receive the intended benefit of an increase in the A season.

Recall that the previous tables provide an example of one allocation scenario; the maximum shift in allocation from the overall trawl sector to the overall fixed gear sector. **However, there are a multitude of other allocation options proposed in this amendment package, some of which will have a greater effect on the hook-and-line CP sector's A season under Suboption 3.** For example, while the Council may select an allocation for each individual sector that falls within the allocation range determined by the proposed options, the specific options under Component 2 result in a maximum possible allocation to the combined trawl sectors of 42%.

Finally, all gear sectors have been combined in the above examples for Option 3.1 – Option 3.3, to simplify the illustration. However, it is important to provide at least one example of the resulting seasonal allocations to *each separate trawl sector*, since the trawl sectors do not currently have separate allocations between the AFA and non-AFA sectors, and the current seasonal apportionments differ between the CP and CV trawl sectors.

**The example illustrated below applies Option 3.3, Suboption 3**, since this suboption provides that *any reduction in trawl allocations will be made proportionately between the AFA CP, non-AFA CP, and AFA CV, non-AFA CV sectors based on their new allocation percentages.* Recall that Suboption 3 first requires that the current percentage of the ITAC allocated to the A season for trawl gear is maintained as status quo. Because the status quo does not currently have separate AFA and non-AFA trawl sector allocations, staff assumes that the same methodology italicized above is to be used to determine how much of the 'status quo' A season allocation is to be attributed to each AFA and non-AFA trawl sector. **This is a necessary step under any of the options or suboptions that maintain the current percentage of the ITAC allocated to the trawl sectors (Option 3.2 and Option 3.3, Suboptions 3.1 – 3.3), should the**

**preferred alternative establish separate allocations for the AFA and non-AFA trawl CP and/or CV sectors.** An example for both the trawl CV sectors and trawl CP sectors is provided below.

Table 3-80 below illustrates this concept for the trawl CP sectors, using the same allocation example as provided previously in Table 3-77, whereby the trawl CP sectors combined receive 16.6% of the BSAI Pacific cod ITAC. **Under this option,<sup>96</sup> the non-AFA trawl CP sector allocation is 15.7% and the AFA trawl CP sector allocation is 0.9% of the BSAI Pacific cod ITAC.** As provided for in Option 3.3, Suboption 3, the percent of the overall BSAI Pacific cod ITAC allocated to the trawl CP sectors' A season is maintained at 11.8%. That represents status quo (50% x 23.5% of the ITAC). The A season ITAC is then allocated proportionately to the non-AFA trawl CP and AFA trawl CP sectors, based on the sectors' new allocations. The non-AFA trawl CP sector receives 94.6% of the total trawl CP allocation under this allocation scenario, thus, 94.6% of the status quo A season ITAC is allocated to this sector. The AFA trawl CP sector receives 5.4% of the total trawl CP sector allocation under this allocation scenario, thus, 5.4% of the status quo A season ITAC is allocated to this sector. Each trawl CP sector's B season allocation is simply their A season allocation subtracted from their total BSAI allocation.

**Table 3-80 Example of effect of options in Component 2 and Option 3.3, Suboption 3, on the trawl CP sectors**

Date	TRAWL CP						Trawl CP Seasonal % of ITAC	Trawl CP Seasonal % of Allocation
	% ITAC for total trawl CP	Season	non-AFA CP % ITAC	non-AFA CP % allocation	AFA CP % ITAC	AFA CP % allocation		
	<b>16.6%</b>		<b>15.70%</b>		<b>0.90%</b>			
1-Jan	(no fishing allowed with trawl gear 1/1-1/20)							
20-Jan		A	11.1%	70.8%	0.6%	70.8%	11.8%	70.8%
1-Apr		B	4.6%	29.2%	0.3%	29.2%	4.8%	29.2%
10-Jun		C	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
1-Nov	(no cod target allowed with trawl gear after 11/1)							
31-Dec								
<b>TOTAL</b>			<b>15.7%</b>	<b>100.0%</b>	<b>0.9%</b>	<b>100.0%</b>	<b>16.6%</b>	<b>100.0%</b>

The same approach is used to illustrate the trawl CV sectors in Table 3-81 below. Under this option, the trawl CV sectors combined receive 20.5% of the BSAI Pacific cod ITAC. **The non-AFA trawl CV sector allocation is 2.7% and the AFA trawl CV sector allocation is 17.8% of the BSAI Pacific cod ITAC.** As provided for in Option 3.3, Suboption 3, the percent of the overall BSAI Pacific cod ITAC allocated to the trawl CV sectors' A season is maintained at 16.5%. That represents status quo (70% x 23.5% of the ITAC). The A season ITAC is then allocated proportionately to the non-AFA trawl CV and AFA trawl CV sectors, based on the sectors' new allocations. The non-AFA trawl CV sector receives 13.2% of the total trawl CV allocation under this allocation scenario, thus, 13.2% of the status quo A season ITAC is allocated to this sector. The AFA trawl CV sector receives 86.8% of the total trawl CV sector allocation under this allocation scenario, thus, 86.8% of the status quo A season ITAC is allocated to this sector. Each trawl CV sector's B season allocation is simply their A season allocation subtracted from their total BSAI allocation.

<sup>96</sup>These are the resulting allocations from Component 2, Option 2.6 and Option 2.8, Suboption 4.

**Table 3-81 Example of effect of options in Component 2 and Option 3.3, Suboption 3, on the trawl CV sectors**

Date	TRAWL CV								
	% ITAC for total trawl CV	Season	non-AFA CV % ITAC	non-AFA CV % allocation	AFA CV % ITAC	AFA CV % allocation	Trawl CV Seasonal % of ITAC	Trawl CV Seasonal % of Allocation	
	20.5%		2.70%		17.80%				
1-Jan	(no fishing allowed with trawl gear 1/1-1/20)								
20-Jan		A	2.2%	80.2%	14.3%	80.2%	16.5%	80.2%	
1-Apr		B	0.5%	19.8%	3.5%	19.8%	4.1%	19.8%	
10-Jun		C	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	
1-Nov									
31-Dec	(no cod target allowed with trawl gear after 11/1)								
<b>TOTAL</b>			<b>2.7%</b>	<b>100.0%</b>	<b>17.8%</b>	<b>100.0%</b>	<b>20.5%</b>	<b>100.0%</b>	

*Summary of effects of Component 3, Options 3.1 – 3.3*

Table 3-72 through Table 3-81 show the effect of Options 3.1 – 3.3 under Alternative 2, Component 3. **Option 3.1** would apply the current seasonal apportionments of the allocations to each sector to the new sector allocations selected under Component 2. In effect, this would mean that the overall trawl sector allocation reduction, determined under Component 2 (5%–10%), would be applied proportionately among the A, B, and C trawl seasons. Any increase to the fixed gear sectors’ allocations would also be applied proportionately between the A and B seasons.

Under **Option 3.2**, the reduction in the trawl sector’s overall allocation would only be applied to the C trawl season, and the percentage of the BSAI Pacific cod ITAC harvested by trawl gear in the A and B seasons would remain the same as the status quo. This means that, if the trawl sector allocation was reduced by 10% overall, the trawl CP sector would continue to be allowed to harvest up to 11.8% of the ITAC in the A season, 7.1% in the B season, and -2.2% in the C season, depending on the allocation option selected in Component 2. The trawl CV sector would continue to be allowed to harvest up to 16.5% of the ITAC in the A season, 2.4% in the B season, and 1.7% in the C season, depending on the allocation option selected in Component 2.

Note that under the maximum reduction, the trawl CP sector has a negative allocation in the C season. If Component 3, Option 3.2 is preferred, the combined trawl CP allocation would need to be at least 18.8% in order to avoid establishing a negative allocation in the C season. With an allocation of 18.8% to the trawl CP sector, the trawl CP sector would be apportioned 11.8% of the ITAC in the A season, 7.1% in the B season, and 0% in the C season. However, there are no options proposed in the amendment that would meet this threshold. Under the current options in Component 2, the highest (combined) allocation to the trawl CP sectors is 18.0%.<sup>97</sup>

Under **Option 3.3, Suboptions 1 and 2**, the reduction in the trawl sector’s overall allocation would be applied to both the B and C trawl seasons, and the percentage of the BSAI Pacific cod ITAC harvested by trawl gear in the A season would remain the same as the status quo. Under **Option 3.3, Suboption 1**, this

<sup>97</sup>This is the resulting allocation under Component 2, Option 2.2, including the AFA 9 and the drop year provision.

means that if the trawl sector allocation was reduced by a maximum of 10% overall, the trawl CP sector would continue to be allowed to harvest up to 11.8% of the ITAC in the A season, 2.9% in the B season, and 1.9% in the C season. Under this same example, the trawl CV sector would continue to be allowed to harvest up to 16.5% of the ITAC in the A season, 1.4% in the B season, and 2.7% in the C season, depending on the allocation option selected in Component 2.

Under **Option 3.3, Suboption 1**, the maximum amount of the allowable harvest of the BSAI Pacific cod ITAC in the first half of the year would increase to 69.8%, depending on the allocation option selected under Component 2. Note that this estimate does not account for the <60' fixed gear sector, as this sector's allocation is not currently seasonally apportioned. To understand the total amount of the BSAI Pacific cod ITAC that potentially could be harvested in the first half of the year under this option, the <60' fixed gear sector allocation would have to be included. For example, if this sector received the same allocation as it receives currently (0.7% of the BSAI Pacific cod ITAC), and the entire allocation was harvested in the first half of the year, the total BSAI Pacific cod ITAC harvested in the first half of the year could be a maximum of 70.5%.

Under the example used in **Option 3.3, Suboption 2**, the trawl CP sector would continue to be allowed to harvest up to 11.8% of the ITAC in the A season, and 2.4% in each of the B and C seasons, depending on the allocation option selected in Component 2. The trawl CV sector would continue to be allowed to harvest up to 16.5% of the ITAC in the A season, and 2.0% in each of the B and C seasons, depending on the allocation option selected in Component 2. The fixed gear sector would be apportioned 36.6% of the ITAC in the first half of the year and 24.4% in the second half of the year.

Under **Option 3.3, Suboption 2**, there is also the potential that the apportionments would result in meeting the 70% overall limit in the first half of the year established under the Steller sea lion mitigation measures. This is the case when this suboption is combined with most of the allocation options under Component 2. Like Suboption 1, the <60' fixed gear sector is not accounted for in this estimate, because the allocation to this sector is not seasonally apportioned. For example, if this sector received the same allocation as it receives currently (0.7% of the BSAI Pacific cod ITAC), and the entire allocation was harvested in the first half of the year, the total BSAI Pacific cod ITAC harvested in the first half of the year could be a maximum of 70.7%.

**Option 3.3, Suboption 3** differs from the previous suboptions in that the entire reduction to the trawl sectors' allocations is applied to the C season, and the percentage of the BSAI Pacific cod ITAC harvested by trawl gear in the A season would remain the same as the status quo. In addition, any increase in the fixed gear sectors' allocations is applied to the A season. If the result exceeds the overall 70% limit in the first half of the year, the hook-and-line CP sector's A season quota is reduced, by shifting quota to the B season to the extent necessary.

While Suboption 3 is stated such that the 70% threshold is not exceeded, the primary effect of the option is to reduce the amount of the ITAC that the hook-and-line CP sector may harvest in the A season. **This is a result of a combination of factors, primarily:** **1)** the reduction in the trawl sectors' allocations are taken wholly from the trawl C season (second half of the year), as opposed to being split between the trawl B and C seasons, as proposed in the other suboptions; **2)** the trawl sectors' current percentage of the ITAC allocated to its A season is maintained at status quo; and **3)** the 'leveling' to meet the 70% limit is achieved by reducing only the hook-and-line CP sector A season allocation (i.e., this sector bears the full cost).

The intent under Suboption 3 may be better achieved by applying the provision that states: *"In the event that this revision in allocations and apportionments exceeds the 70/30 Steller sea lion seasonal apportionment, the hook-and-line CP sector's A season allocation will be adjusted as necessary by*

*shifting A season allocation to the B season,”* to either Suboption 1 or Suboption 2 under Option 3.3. In effect, the trawl sectors would maintain their current A season percentage of the ITAC and receive a portion of their overall allocation reduction in both the B and C seasons; the fixed gear sectors would receive an increase in the amount of the ITAC they could harvest in the A season, and the 70% threshold would be maintained, albeit at a lesser cost to the hook-and-line CP sector.

**Finally, there are two general issues surrounding the options under Component 3, combined with the options under Components 1 and 2. The first issue is related to inseason management of the seasonal apportionments to the trawl sectors.** Component 1 proposes to create up to four distinct trawl sectors and Component 2 proposes separate allocations to each of those trawl sectors that are smaller than the overall trawl allocation in the past. The creation of small, more distinct sector allocations, combined with the options under Component 3 to seasonally apportion those allocations, result in much smaller seasonal apportionments to additional trawl sectors than currently exist under the status quo.

For example, under the option discussed previously, in which the overall trawl allocation is reduced to 37%,<sup>98</sup> the non-AFA trawl CV sector would receive an allocation of 2.7% of the BSAI Pacific cod ITAC. This is one of the highest allocations proposed to this sector under this amendment. Apportioning this allocation among three seasons, regardless of the seasons, results in very small allocations by season. For instance, under Option 3.2, 8.3% of the non-AFA trawl CV sector’s allocation would be apportioned to the C season. This equates to 0.22% (8.3% x 2.7%) of the BSAI Pacific cod ITAC, or about 400 mt using the 2006 BSAI Pacific cod ITAC of 179,450 mt. NMFS inseason managers will likely have increased difficulty monitoring these smaller trawl allocations.

If NMFS manages the Pacific cod allocations to the trawl sectors, as opposed to the sectors managing the allocations internally through a cooperative system, they will likely be managed much more conservatively in order to avoid exceeding a seasonal allocation or sector allocation. Sectors that have cooperative management systems in place would benefit from this ability to manage the allocations internally, as it is likely they would be able to manage the fisheries closer to a particular harvest limit, as opposed to having NMFS close fisheries early to avoid exceeding an allocation. Note that all of the trawl sectors, except for the non-AFA trawl CV sector, have or are proposed to have cooperative systems in place prior to approval of this amendment package. Thus, the issues of inseason management are more applicable to the non-AFA trawl CV sector than any other sector. See Section 3.4.2.9 for additional details on the issues related to inseason management of the sector allocations. These issues are compounded when the sector allocations are seasonally apportioned into smaller limits, and all trawl sector allocations will need to be closely managed (whether by cooperatives or by NMFS) in order to avoid exceeding the seasonal allocations, especially in the B and C seasons. Another option is to maintain the current combined trawl CV allocation, and refrain from establishing two separate Pacific cod allocations to each of the trawl CV sectors.

It is possible that in some cases, especially for the non-AFA trawl CV sector’s B and C season allocations, inseason management would be more likely to have a short, one or two-day opening and then close the directed fishery for that particular sector. Recall that this is only an issue of concern for the trawl sectors. None of the allocations or seasonal apportionments proposed for the fixed or jig gear sectors in this amendment pose an inseason management concern, due in part to: 1) the size of the seasonal allocations; 2) the number of eligible vessels that may fish the sector’s allocation; and/or 3) the relatively slow rate of the fishery, in the case of the <60’ fixed gear and jig vessels.

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<sup>98</sup>Option 2.6 (2000 – 2003) and Option 2.8, Suboption 4 (2% jig allocation and 2% <60’ fixed gear allocation).

**The second issue is related to whether Options 3.2 or 3.3 would trigger a formal re-consultation on Steller sea lions.** This question is spurred by the fact that the current seasonal apportionments determined for the trawl (60/20/20) and fixed gear (60/40) Pacific cod fisheries are mitigation measures as a result of the 2001 Biological Opinion, and the concept proposed would necessarily change those gear specific seasonal apportionments. Note that any method to maintain the current seasonal *harvest* by gear sector for a particular season in the context of modifying the overall allocations to each sector would necessarily change the gear specific seasonal apportionments. **Furthermore, 3% of the BSAI Pacific cod TAC is currently deducted for the AI State water fishery in 2006 and 2007.** The state fishery currently mirrors the overall 70% - 30% split in the first and second halves of the year, respectively, established under the Steller sea lion mitigation measures. If the concern is about removals, rather than allocations, the size, location, and seasonality of the AI State fishery may influence the final decision as to re-consultation, if this fishery is extended beyond 2007 and if the temporal dispersion measures are modified in the future such that they are inconsistent with Federal management measures.

**As mentioned previously, the overall approach in the Biological Opinion is to have temporal dispersion in the Pacific cod fishery, with a seasonal target for BSAI Pacific cod removals of 70% (Jan. 1 – June 10) in the first season and 30% (June 10 – December 31) in the second season.**<sup>99</sup> This seasonal split is currently achieved by establishing a 60% - 40% split in the fixed gear fishery (with the exception of fixed gear vessels <60' which have no seasonal apportionment) and 80% - 20% in the trawl fishery.<sup>100</sup> Among other factors, the Biological Opinion considered the current percentage of the BSAI Pacific cod ITAC that is allocated to each gear sector, the reallocations that were likely to continue to occur from the trawl to the fixed gear sector, and the seasonal harvest of each sector. The overall objective of the temporal dispersion is to limit the amount of the total Pacific cod harvest that could occur in the first half of the year. Thus, it is necessary to understand whether changes to the seasonal apportionment within the trawl and fixed gear sectors' allocations (60/40 for fixed; 60/20/20 for trawl) fall within the bounds of the 2001 consultation on Steller sea lions if the overall limitation on the amount of cod harvested by each gear type (and combined) in the first season is maintained.

On May 4, 2005, Council staff met with NMFS Protected Resources staff and provided them with a review of the concept represented in Options 3.2 and 3.3 and the question above.<sup>101</sup> A letter was subsequently sent from the Council to NMFS, Alaska Region, requesting a preliminary review of ESA issues related to the proposed concept. The agency's response was provided to the Council at its June 2005 Council meeting, and is attached as **Appendix B**.

Note that the maximum effect of any of the options on the current temporal distribution of the BSAI Pacific cod fishery is that the maximum allowable harvest in the first half of the year could be 70% (excluding the <60' fixed gear sector), compared to 69% under the status quo (also excluding the <60' fixed gear sector). Note that any trawl quota that is rolled from the A or B season to the subsequent C season will shift additional quota from the first half of the year to the second half of the year. Refer to Section 3.4.3 for a summary of the Council's preferred alternative on this and all components.

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<sup>99</sup>Table 5.4, p. 153 of the 2001 Biological Opinion, NMFS. October 2001.

<sup>100</sup>Which is achieved by 60% (A); 20% (B); and (20%) C seasons for trawl gear overall, and a 70% (A); 10% (B); 20% (C) split for trawl CVs and 50% (A); 30% (B); and 20% (C) for trawl CPs.

<sup>101</sup>Nicole Kimball (Council staff) provided Kaja Brix and Shane Capron (NMFS, Protected Resources Division) with a draft discussion paper outlining the concept proposed in the April 2005 Council motion. Council and NMFS staff met on May 4, 2005, to review the paper and discuss any preliminary issues of concern related to the ESA.

### Option 3.4

Option 3.4 is related only to the seasonal apportionments for the jig gear sector, and can be selected in combination with any of Options 3.1 – 3.3. Option 3.4 proposes to revise the jig gear seasons to a 60% - 20% - 20% trimester basis and continue to reallocate any unused jig quota to catcher vessels <60' using hook-and-line or pot gear at the end of each jig season. The jig seasons would change from:

40%	(Jan. 1 – Apr 30)	to:	60%	(Jan. 1 – Apr 30)
20%	(Apr 30 – Aug 31)		20%	(Apr 30 – Aug 31)
40%	(Aug 31 – Dec 31)		20%	(Aug 31 – Dec 31)

The jig fishery has received 2% of the (non-CDQ) BSAI Pacific cod TAC annually since 1994 under Amendments 24 and 46.<sup>102</sup> While the fixed and trawl gear fleets were allocated close to their average catch in the original allocations, Amendments 24 and 46 were designed to allow for a substantial increase in the share of the Pacific cod catch taken with jig gear, in order to allow for future growth in the sector. This fishery is considered a small boat, entry-level fishery, exempt from the LLP license requirements.<sup>103</sup> Under this amendment, Alternative 2, Component 2, Options 2.1 – 2.6 would allocate the jig sector its actual harvest during the series of years selected, which is about 0.1% of the BSAI Pacific cod TAC under all options. Under Option 2.7, the Council can select a percentage to each sector, including the jig sector, that falls within the range of allocations analyzed. Under Option 2.8, Suboptions 2, 3, or 4, the jig fishery would continue to receive 2% of the BSAI Pacific cod TAC. Thus, the range of jig sector allocations proposed in this amendment is 0.1% to 2% of the (non-CDQ) BSAI Pacific cod TAC.

The jig fishery for BSAI Pacific cod was seasonally apportioned starting in 2002, under the Steller sea lion rule and the authority under the BSAI FMP. The seasonal apportionment was intended to temporally disperse the cod fishery as a measure to protect cod as a food source for Steller sea lions. The jig fishery was apportioned 60% of the cod quota in the A season (Jan. 1 – June 10) and 40% in the B season (June 10 – Dec. 31) (50 CFR 679.20(a)(7)(iii)), and any unused portion of the first seasonal allowance was reapportioned to the next seasonal allowance.

The jig gear seasons were revised in 2004, from a 60% - 40% split to the existing trimester basis (40% - 20% - 40%) under Amendment 77. In addition, under Amendment 77, any unused jig quota is reallocated to catcher vessels <60' using hook-and-line or pot gear at the end of each jig season. The intent of this change was to provide an opportunity for the <60' fixed gear sector to fish additional quota during the spring and summer months. This is the optimal fishing time for the fleet, due both to better weather and because cod are better aggregated in the spring, compared to the fall.

Thus, not only did the direction of the reallocation change under Amendment 77, but the first seasonal jig allowance is no longer rolled over to subsequent jig seasons. Because the seasonal apportionment is part of the Steller sea lion rule, NMFS Protected Resources staff reviewed the options under consideration in Amendment 77 and determined that none of the options were cause for formal re-consultation under the ESA. NMFS indicated that the proposed options were likely in the realm of what has previously been considered for the jig fishery, meaning that the changes proposed were not significant enough to suspect

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<sup>102</sup>BSAI Amendment 24 originally established the 2% allocation to the BSAI Pacific cod jig fishery in 1994. This amendment was approved for the years 1994 - 1996. Upon expiration, BSAI Amendment 46 continued the 2% cod allocation to vessels using jig gear. Amendment 46 does not have a sunset provision attached. Regulations are located at 50 CFR 679.20(a)(7)(i)(A).

<sup>103</sup>Vessels that do not exceed 32' LOA in the BSAI, and vessels that do not exceed 60' LOA and that are using jig gear (no more than 5 jig machines, one line per machine, and 15 hooks per line) are exempt from the LLP requirements in the BSAI.

that any adverse impacts are likely beyond those previously considered in the FMP Biological Opinion and the 2001 Biological Opinion (NPFMC 2003).

Option 3.4 would revise the jig gear seasons to a 60% - 20% - 20% trimester basis and continue to reallocate any unused jig quota to catcher vessels <60' using hook-and-line or pot gear at the end of each jig season. In effect, 20% of the jig allocation that is currently allocated to the C season (August 31 – Dec. 31) would instead be allocated to the A season (Jan. 1 – Apr. 30), and potentially subject to reallocation if unused. Twenty percent of the current jig allocation represents 0.4% of the BSAI Pacific cod ITAC (718 mt using the 2006 ITAC).

Refer to Sections 3.3.2 and 3.3.4 for general background information on the BSAI Pacific cod jig fishery in recent years. **This sector harvested an average of 5% of its entire Pacific cod allocation in 1995–2003 (see Table 3-82), and no more than 12% in any one year since 1995.** Thus, the vast majority of the jig quota was reallocated to the hook-and-line catcher processor sector in the fall of each year, prior to 2004. **On average during 1995–2003, reallocations from the jig sector represented about 3% of the hook-and-line catcher processor sector’s revised allocation and 1% of the pot sector’s revised allocation.**

**Table 3-82 Allocation, catch, and number of vessels participating in the BSAI Pacific cod fishery using jig gear, 1995 – 2003**

Year	Allocation (mt)	Reallocated quota (mt)	Catch (mt)	% of allocation harvested	# vessels
1995	5,000	- 4,000	589	12%	42
1996	5,400	- 4,400	247	5%	34
1997	5,400	- 5,000	167	3%	17
1998	3,885	- 3,500	191	5%	10
1999	3,275	- 2,800	204	6%	15
2000	3,571	- 3,000	79	2%	16
2001	3,478	- 3,000	102	3%	19
2002	3,700	- 3,400	169	5%	18
2003	3,893	- 3,600	154	4%	15
Total 1995–2003	37,602	- 32,700	1,902	5%	
Ave 1995–2003	4,178	- 3,633	211	5%	21

Upon implementation of Amendment 77, 2004 was the first year that the <60' fixed gear sector was authorized to receive unused jig quota. In both 2004 and 2005, preliminary data indicate the jig sector harvested about 6% and 3% of its original allocation,<sup>104</sup> respectively, thus, the majority of the jig allocation was reallocated to other gear sectors (refer to Table 3-23). **Since the implementation of Amendment 77 in 2004, about half of the unused jig quota has been reallocated to the <60' fixed gear sector, and the other half has been reallocated to the ≥60' fixed gear sectors.**

Specifically, in 2004, the <60' fixed gear sector received a little less than half (44%) of the jig reallocations, the hook-and-line CP sector received about 54%, and the pot sectors received less than 3%. Similarly, in 2005, the <60' fixed gear sector received about 55% of the unused jig quota, the hook-and-line CP sector received about 42%, and the pot sectors received about 2%. On average during 2004 – 2005, reallocations from the jig sector represented about 56% of the <60' fixed gear sector’s total revised allocation. During that same time period, reallocations from the jig sector represented about 1.8% of the hook-and-line CP sector’s total allocation and 0.6% of the pot sector’s total allocation.

<sup>104</sup>NMFS Catch accounting system, 2004 and 2005. 2005 data are only through December 10, 2005.

**Should the jig seasons be modified such that additional jig quota is reallocated to the <60' sector earlier in the year, it potentially represents a shift in the distribution of additional cod quota from the hook-and-line catcher processor, and potentially the pot sectors, to the <60' hook-and-line and pot catcher vessel sector. The estimated amount of quota that may be redistributed under Option 3.4 is a 20% of the jig allocation.** The total jig allocation ranges from 0.1% (Alternative 2, Options 2.1 – 2.6) to 2% of the BSAI Pacific cod ITAC (Alternative 1 and Alternative 2, Option 2.8), thus 20% of the allocation ranges from 0.02% to 0.4% of the BSAI Pacific cod ITAC. This represents 36 mt to 718 mt, using the 2006 ITAC, respectively.

The intent of Option 3.4 is to provide additional Pacific cod quota to the <60' catcher vessel sector earlier in the year, through the existing rollovers from the jig sector. As discussed previously in Section 3.3.5.3, the <60' fixed gear sector harvested 19% and 64% of its allocation in 2000 and 2001, respectively. This sector first harvested its entire <60' allocation in 2002, and has since harvested its entire allocation, plus additional quota from the general pot and hook-and-line CV allocations each year. In addition, 2004 was the first year in which jig quota was reallocated to the <60' fixed gear sector at the end of the jig seasons. In 2004, the <60' fixed gear sector received an initial allocation of 1,416 mt and was reallocated 1,545 mt from the jig sector on April 7, for a total allocation of 2,961 mt. Preliminary data show the sector harvested its entire revised allocation, as well as a portion of the general CV allocations, for a total of 3,196 mt. Public testimony has suggested that this fleet could harvest additional cod if quota was available earlier in the year.<sup>105</sup>

No definitive conclusions can be drawn regarding whether the <60' sector will be capable of harvesting all reallocated jig quota in the future. However, because the <60' sector is not subject to seasonal apportionments, any reallocated quota can be fished throughout the year (although the <60' hook-and-line sector is subject to halibut bycatch caps, with no halibut bycatch allowance from June 10 – August 15). If the <60' fixed gear sector does not harvest the additional quota by the fall, it would likely be reallocated to the ≥60' fixed gear sectors.

Over time, it seems likely that the presence of significant amounts of unharvested Pacific cod, allocated to the <60' vessel class (in combination with that sector's exemptions from LLP, cod endorsement requirements, etc.) may induce capital investment, including new entrants, in this sector. Growth in the <60' sector may be consistent with the Council's intent, given its expressed desire to provide for an "entry level" cod fishery. However, as the size and capacity of the <60' sector increases, pressure to reallocate additional shares of the Pacific cod TAC, at the expense of other user groups, is possible. As of April 2006, 116 BSAI LLPs are designated for use on <60' fixed gear vessels; six of these are interim licenses. Note that on average, only twenty-six <60' fixed gear vessels had retained BSAI Pacific cod landings during 1995 – 2003.

In evaluating Option 3.4 to reapportion the BSAI Pacific cod jig seasons, it is also important to consider the temporal distribution of the jig and <60' fixed gear harvest. The average percent harvest by sector and trimester in 2002–2004 are provided below in Table 3-83. Note also that the jig allocation was apportioned into two seasons in 2002 and 2003, and by trimester since 2004. The <60' fixed gear sector has no seasonal apportionments.

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<sup>105</sup>In 2005, NMFS reports that the <60' fixed gear sector harvested 2,201 mt of BSAI Pacific cod by November 5, 2005. This sector's initial allocation was 1,354 mt. It received 2,000 mt of jig quota during April, May, and August for a revised allocation of 3,354 mt.

**Table 3-83 Percent of each sector's BSAI Pacific cod harvest by trimester, average 2002–2004**

Trimester	<60' hook-and-line CV	<60' pot CV	Jig gear
Jan. 1 - Apr. 30	70	60	14
Apr. 30 - Aug. 31	26	37	86
Aug. 31 - Dec. 31	4	3	1
Total	100	100	100

Source: ADF&G fishtickets, 2002 – 2004. It is necessary to provide aggregate data for confidentiality purposes. However, the fixed gear sectors' percentage harvest was substantially higher in the A season in 2003 and 2004 than 2002.

Table 3-83 shows that in the past three years for which data are available, the jig fishery has harvested the majority of its allocation (86%) in the spring and summer months (May – August), with very little harvest occurring in the first and last trimester. Thus, if an additional 20% of the jig allocation from the last trimester is moved to the first trimester, it would not likely disrupt the current jig fishery. This is primarily because the jig fishery only harvested an average of 5% of its allocation in the past ten years, and because almost all of the harvest occurred prior to the last trimester. Industry representatives have asserted in the past that the jig fishery can operate year-round, making it preferable to have some cod available each trimester, even though the majority of the harvest is in the second trimester. **Given the above, the impact of Option 3.4 on the BSAI Pacific cod jig sector appears modest if not negligible at this time.**

If the intent of Option 3.4 is to provide additional quota to the <60' fixed gear sector earlier in the year, such that this sector can harvest more Pacific cod, the temporal variations in the <60' fixed gear sector are also necessary to consider. Table 3.67 shows that while the <60' fixed gear sector does not have seasonal apportionments, both the <60' hook-and-line and pot sectors have harvested the majority of their BSAI Pacific cod catch in the first trimester. A lower percentage of harvest is taken in the second trimester, and very little is harvested in the third trimester. The data in Table 3-83 are aggregated over 2002 – 2004 for confidentiality purposes; however, both the <60' pot and hook-and-line sectors' percentage harvest was substantially higher in the A season in 2003 and 2004 than in 2002.

Also note that the <60' fixed gear BSAI Pacific cod fishery has started earlier in recent years. While starting dates are extremely dependent on weather, the <60' fixed gear sectors have consistently harvested the great majority of their total BSAI Pacific cod harvest prior to September. In addition, it is preferable to participants to receive reallocations in a manner that allows the fleet to continue fishing, without starting and stopping intermittently. The earlier the reallocation, the more time for participants to plan their fishing year.

Refer to Table 3-71 for the current seasonal apportionments by gear sector. The current regulations allow for a 69.0% – 30.3% distribution of the BSAI Pacific cod ITAC between the first and second halves of the year (not including the <60' fixed gear sector). Table 3-84 provides an example of the potential shift in distribution of the cod allocations between the first and second halves of the year under Option 3.4 and no other changes to the allocations or seasonal apportionments. Note, however, that it is uncertain whether the shift would occur to this extent, as quota can continue to be rolled from the first half of the year to the second half if the other sector's seasonal apportionments are unused.

**Table 3-84 Effect of Option 3.4 and current allocations**

Date	Trawl gear (47%)			>60' Fixed gear (50.3%)			Jig Gear (2%)				TOTAL	
	Season	Percent of trawl allocation	Percent of TAC	Season	Percent of fixed gear allocation	Percent of TAC	Date	Season	Percent of jig gear allocation	Percent of TAC	% of ITAC	
1-Jan	No directed cod trawl fishing prior to Jan. 20			A	60%	30.2%	1-Jan	A	60%	1.2%	<b>69.4%</b>	
20-Jan	A	60%	28.2%				30-Apr					
1-Apr	B	20%	9.4%				30-Apr	B	20%	0.4%		
1-Apr				31-Aug								
10-Jun	C	20%	9.4%	B	40%	20.1%	31-Aug	C	20%	0.4%		<b>29.9%</b>
1-Nov	No directed cod trawl fishing after Nov. 1						31-Dec					
31-Dec	<b>TOTAL</b>	<b>100%</b>	<b>47%</b>		<b>100%</b>	<b>50.3%</b>		<b>100%</b>	<b>2%</b>	<b>99.3%</b>		

Note: The 50.3% allocation to the ≥60' fixed gear sector does not include the current 0.7% allocation to the <60' fixed gear sector, as the <60' fixed gear sector allocation is not seasonally apportioned. Accounting for the <60' fixed gear sector allocation would bring the total fixed gear allocation to 51% of the BSAI cod ITAC. Note that if the entire 0.7% allocation was harvested in the first half of the year, a maximum of 70.1% of the total BSAI Pacific cod ITAC would be allowed in the first half of the year.

Finally, it is necessary to consider whether the proposed change to the jig sector seasonal apportionments, combined with changes to the allocations selected in Component 2 and seasonal apportionments in Component 3, Options 3.1–3.3, would result in significant changes to the distribution of BSAI Pacific cod harvest between the first and second halves of the year. As discussed previously, the 2001 Biological Opinion provided a guideline temporal distribution for this fishery such that up to 70% of the cod harvest is allowed in the first half of the year. Depending on the options selected by the Council in Components 2 and 3, there is the potential that the allocations and seasons would be modified for each sector such that overall, up to 70% of the cod harvest would be allowed in the first half of the year. This does not account for the <60' fixed gear allocation, which is not seasonally apportioned under the Steller sea lion mitigation measures.

**In sum, the proposed change to the jig sector seasonal apportionments under Option 3.4 would potentially redistribute 20% of the jig allocation. The effect of Options 3.1–3.3 are shown in Table 3-72 to Table 3-81. To understand the effects of Option 3.4 on Options 3.1–3.3, 20% of the final jig allocation would be added to the amount of the Pacific cod ITAC that could be harvested in the first half of the year, and 20% less in the second half of the year. The maximum jig allocation under consideration in this amendment is 2%, 20% of which equals 0.4% of the BSAI Pacific cod ITAC.**

It appears that Option 3.4 would likely benefit the <60' fixed gear fleet, due to the larger potential reallocation of cod in the first trimester. Notwithstanding a considerable increase in effort in the BSAI Pacific cod jig fishery, the jig sector would be minimally affected, if at all. As stated previously, the cod harvest by the hook-and-line CP sector and pot sectors, however, could be reduced by a maximum of 20% of the jig allocation, which represents a maximum of 0.4% of the BSAI Pacific cod ITAC under all of the options under consideration (718 mt using the 2006 ITAC).

Depending on the options selected by the Council in both Components 2 and 3, there is the potential that the allocations and seasons would be modified for each sector such that overall, up to **70.0%** of the BSAI Pacific cod ITAC would be allocated in the first half of the year (not accounting for the <60' fixed gear sector, which is not subject to seasonal apportionments). Including Option 3.4 under this scenario would increase the percentage of the BSAI Pacific cod ITAC allocated in the first half of the year to a maximum of **70.4%**. While all possible combinations under Alternative 2 can be determined using the data and tables provided in this analysis, note that only the maximum possible change is provided in the tables.

The Council's preferred alternative on this and all components is described in Section 3.4.3.

### 3.4.2.4 Component 4: Rollovers between gear sectors

Inseason management would retain flexibility to determine how to reallocate projected unused sector allocations (rollovers), taking into consideration the hierarchy in the options below. NMFS takes into account the intent of the rollover hierarchy and the likelihood of a sector's capability to harvest reallocated quota.

**Option 4.1** Modified status quo. The suite of provisions below comprises Option 4.1.

- 4.1.1 Projected unused trawl sector allocations are considered for reallocation to other trawl sectors (AFA CP; non-AFA CP; AFA CV; non-AFA CV) before being reallocated to the fixed gear sectors (hook-and-line CP; hook-and-line CV  $\geq 60'$ ; pot CP; pot CV  $\geq 60'$ ).
- 4.1.2 Reallocation of TAC from the trawl sectors to fixed gear sectors will be 0.9% to pot CP, 4.1% to pot CV  $\geq 60'$ , and 95% to hook-and-line CP.
  - Suboption 1: Reallocation of TAC from the trawl sectors to the fixed gear sectors will be proportional to the new fixed gear allocations.
- 4.1.3 Projected unused allocation in the jig sector is considered for reallocation to the  $<60'$  fixed gear CV sector on a seasonal basis. The third trimester jig rollover should be available to the  $<60'$  fixed gear CV sector on September 1.
- 4.1.4 Projected unused pot sector allocations (CPs and  $\geq 60'$  CVs) are considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.
- 4.1.5 Projected unused allocations in the  $<60'$  fixed gear CV sector, both pot sectors (CP and  $\geq 60'$  CV), and hook-and-line CV  $\geq 60'$  are reallocated to the hook-and-line CP sector.

**Option 4.2** Projected unused allocations to any sector delivering inshore must be considered for reallocation to other inshore sectors before being considered for reallocation to any offshore sector. The suite of provisions below comprises Option 4.2.

4.2.1 Projected unused allocation in the jig sector is considered for reallocation to the <60' fixed gear CV sector on a seasonal basis. The third trimester jig rollover should be available to the <60' fixed gear CV sector on September 1.

4.2.2 Any unused allocation from any inshore sector will first be considered for reallocation to the jig sector and/or <60' fixed gear CV sector; then to the hook-and-line CV  $\geq 60'$  or pot CV  $\geq 60'$  sector; then to the trawl CV sectors. Any CV allocation that is not likely to be harvested through this hierarchy will be reallocated as per components 4.2.3 – 4.2.6 below.

4.2.3 Projected unused trawl sector allocations are considered for reallocation to other trawl sectors (AFA CP; non-AFA CP; AFA CV; non-AFA CV) before being reallocated to the fixed gear sectors (hook-and-line CP; hook-and-line CV  $\geq 60'$ ; pot CP; pot CV  $\geq 60'$ ).

4.2.4 Reallocation of TAC from the trawl sectors to fixed gear sectors will be 0.9% to pot CP, 4.1% to pot CV  $\geq 60'$ , and 95% to hook-and-line CP.

Suboption 1: Reallocation of TAC from the trawl sectors to the fixed gear sectors will be proportional to the new fixed gear allocations.

4.2.5 Projected unused pot sector allocations (CPs and  $\geq 60'$  CVs) are considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.

4.2.6 Projected unused allocations in the <60' fixed gear CV sector, both pot sectors (CP and  $\geq 60'$  CV), and hook-and-line CV  $\geq 60'$  are reallocated to the hook-and-line CP sector.

#### *Option 4.1 – Modified status quo*

**Option 4.1** under Alternative 2, Component 4, is comprised of the suite of provisions in 4.1.1–4.1.5. These provisions are intended as a hierarchy from which to manage quota that is projected to remain unused by a particular gear sector. Note that, with the exception of the jig sector, any unused quota by a sector at the end of a *season* is rolled over to that sector's next subsequent season. Reallocated quota between gear sectors is only applicable to quota that is projected to remain unused by the end of the fishing year. Also note that this component only applies to the non-CDQ sectors, as the CDQ allocations are not reallocated to other non-CDQ sectors.

Option 4.1 mirrors the status quo with three exceptions. These are:

- Addition of the four trawl sector allocations in 4.1.1 as opposed to the existing two trawl sector allocations (trawl CP and trawl CV)
- Suboption 1 under 4.1.2: Reallocated quota from the trawl sectors to the fixed gear sectors would be proportional to the new fixed gear allocations
- Second sentence in 4.1.3: The third trimester jig rollover should be available to the <60' fixed gear CV sector on September 1.

In addition, note that while reallocating cod between pot sectors is addressed in provision 4.1.4 of Option 4.1, it is not explicitly mandated in current Federal regulations. Currently, NMFS has broad authority at 50 CFR 679.20(a)(7)(ii)(C) to reallocate Pacific cod that is projected to remain unused from either the

trawl or non-trawl sectors through Federal Register notice, subject to specific provisions. Thus, while unnecessary in the past, NMFS could reallocate unused pot CP (or pot CV) quota to the other pot sector before it is reallocated to the other gear sectors under its existing authority. This approach is consistent with the way the trawl sectors are addressed, in that cod is reallocated within the gear type before being reallocated to a different gear type. Provision 4.1.4 would thus make this approach explicit in regulation for the pot sectors, but does not represent a practical difference in NMFS's current authority to reallocate pot quota in this manner.

The current seasonal apportionments are outlined in Section 3.3.5.6 and the effects of continuing the status quo are addressed under Alternative 1 (Section 3.4.1). Thus, this section focuses on the effects of the three primary differences in Alternative 2, Option 4.1 compared to the status quo.

First, **provision 4.1.1** includes the additional trawl sectors that may be established under Alternative 2, Component 1. This provision clarifies that if a trawl sector is projected to have unused BSAI Pacific cod quota in its last season, that quota will be considered by NMFS inseason managers for reallocation first to the other trawl sectors, prior to being reallocated to another gear sector. This is consistent with the current regulations, the only difference is that provision 4.1.1 makes it explicit that there may be additional trawl sectors to consider depending on the decision under Component 1 (Component 1 establishes the sectors that will receive a distinct BSAI Pacific cod allocation). If all four trawl sectors received cod allocations under Alternative 2, provision 4.1.1 under Option 4.1 applies as stated. In effect, if it is projected that the AFA CV sector would not use all of its cod allocation by the end of the year, NMFS could reallocate unused quota to the non-AFA CV sector, and vice versa. Likewise, if it is projected that the AFA CP sector would not use all of its cod allocation by the end of the year, NMFS could reallocate unused quota to the non-AFA CP sector, and vice versa.

Alternatively, if only two or three trawl sectors are established under Alternative 2, Component 1, provision 4.1.1 would be modified to list only the trawl sectors that receive a separate allocation under the amendment. Since 1995, there has been only one year (1997) in which a trawl sector (trawl CV) received quota reallocated from another sector (trawl CP) (see Table 3-10). Thus, while this provision may be necessary to have addressed in regulation, it is not very likely that this scenario will occur under either alternative.

**Second, 4.1.2 provides a suboption that varies from the status quo. Suboption 1** states that reallocated quota from the trawl sectors to the fixed gear sectors would be proportional to the new fixed gear allocations. The 'new' fixed gear allocation is interpreted to mean the allocations as established under Alternative 2, Component 2 of this amendment. Section 1.1.1.1 describes the current rollover hierarchy of unused trawl quota among the fixed gear sectors: 95% to the hook-and-line CP sector; 0.9% to the pot CP sector; 4.1% to the general pot CV sector. This split is based on the actual harvest of reallocated quota from the trawl and jig sectors harvested by each fixed gear sector during 1996–1998.

Suboption 1 under 4.1.2 would modify the split to the three sectors described above to be the same as the new fixed gear allocations determined in Component 2. The allocation options proposed in Component 2 are based on actual harvest history from varying series of years during 1995 – 2003. Suboption 1 would therefore mirror the allocation split among the hook-and-line CP, pot CP, and  $\geq 60'$  pot CV sectors. Table 3-85 provides the range of allocations that each of the three sectors could receive in Component 2. The allocation percentages in Table 3.69 are shown as: (1) a percentage of the BSAI Pacific cod ITAC and (2) a percentage of the total allocation to the three sectors combined. Based on these data, Suboption 1 could result in the following percentage splits shown in the right-hand columns of Table 3-85, depending on the option selected under Component 2.

Note that the three fixed gear sectors affected by Suboption 1 could potentially receive allocations under Component 2 that, if combined, represented approximately 56%–61% of the BSAI Pacific cod ITAC. Thus, the percentages in the right-hand columns of Table 3.69 show each of the three sector’s share of the total of 56%–61%. Note that the ranges provided in the table reflect the fact that there are several variations of possible allocations under each of Component 2, Options 2.1–2.8, depending on whether the following options are also selected under Component 1: 1) Suboption a or b; and/or 2) Option 1.1. However, application of these options does not change the allocations to the three fixed gear sectors at issue. Note also that Option 2.7 means the Council can choose allocations for each sector that fall within the range analyzed., thus, no specific allocation percentages are associated with Option 2.7 at this time.

**Table 3-85 Potential distribution of reallocated trawl quota among the hook-and-line CP and pot sectors under Option 4.1 (provision 4.1.2, Suboption 1) compared to status quo**

Allocation options	H&L CP % of ITAC	Pot CP % of ITAC	≥60 Pot CV % of ITAC	H&L CP % of trawl reallocations	Pot CP % of trawl reallocations	≥60 Pot CV % of trawl reallocations
Status quo	40.8%	1.7%	7.6%	95%	0.9%	4.1%
Option 2.1	48.0 – 49.6%	2.2 – 2.3%	8.4 – 8.6%	81.6 – 82.2%	3.7 – 3.9%	14.1 – 14.5%
Option 2.2	47.6 – 49.5%	2.0 – 2.1%	7.6 – 8.2%	82.4 – 83.6%	3.4 – 3.5%	13.0 – 14.1%
Option 2.3	48.5 – 50.3%	1.7 – 1.8%	8.1 – 8.3%	82.8 – 83.6%	2.9 – 3.0%	13.5 – 14.1%
Option 2.4	48.3 – 50.1%	1.8%	8.0 – 8.3%	82.6 – 83.6%	3.0 – 3.1%	13.4 – 14.3%
Option 2.5	48.5 – 49.6%	1.6 – 1.7%	8.9%	82.1 – 82.6%	2.6 – 2.8%	14.8 – 15.1%
Option 2.6	48.9 – 50.1%	1.4 – 1.5%	9.1 – 9.2%	82.1 – 82.7%	2.3 – 2.5%	15.0 – 15.4%
Option 2.7	--	--	--	--	--	--
Option 2.8	45.8 - 49.1%	1.4 – 2.3%	7.3 – 9.0%	81.6 – 83.6%	2.3 – 3.9%	13.0 – 15.4%

Note: The ranges reflect that there are several variations of possible allocations under each of Component 2, Options 2.1–2.8, depending on whether the following options are selected under Component 1: (1) Suboption a or b; and/or (2) Option 1.1. However, application of these options does not change the allocations to the three fixed gear sectors above. Note also that Option 2.7 means the Council can choose allocations for each sector that fall within the range analyzed., thus, no specific allocation percentages are associated with Option 2.7 at this time.

The effect of Suboption 1 under 4.1.2, under any of the allocation options in Component 2, is that the hook-and-line CP sector will receive 81.6%–83.6% of the trawl reallocations, which represents a reduction of 11.4%–13.4% from the status quo (95%). The pot CP sector would receive 2.3%–3.9% of the trawl reallocations, which represents an increase of 1.4%–3.0% from the status quo (0.9%). The ≥60’ pot CV sector would receive 13.0%–15.4% of trawl reallocations, representing an increase of 8.9%–11.3% from the status quo (4.1%), respectively.

The relative reduction in the hook-and-line CP sector’s share of the trawl reallocations under Option 4.1 compared to the status quo is due to the fact that the status quo is based on this sector’s share of the *actual harvest of trawl reallocations during 1996 – 1998*, and Option 4.1 is based on this sector’s share of the *overall BSAI Pacific cod ITAC* among these three fixed gear sectors during a series of years from 1995 – 2003.

Note that in the past four years (2001 – 2004), the hook-and-line CP sector has been allocated about 97% of reallocated trawl quota on average, and harvested nearly all of that quota. Overall, the hook-and-line CP sector has been allocated about 95% of reallocated quota from all other gear sectors on average during that same time period, and harvested about 92% of the total reallocated quota (see Table 3-86). In 2004, the percentage harvested is lower than the average (86%), because half of the jig reallocation was reallocated to the <60’ fixed gear sector under Amendment 77.

In recent years, the pot sector has both received reallocated quota and had quota reallocated from it. On average over the past four years, the pot sector has contributed about 8% of the reallocated quota. In

2004, the first year in which the pot CP and pot CV sectors received separate BSAI Pacific cod allocations, the pot CP sector harvested nearly (97%) its entire initial allocation (and received 114 mt in reallocated quota). The pot CV sector harvested about 81% of its initial allocation and had 3,439 mt reallocated from it to the hook-and-line CP sector.

**Thus, regardless of the distribution under Suboption 1, this suboption may continue to result in a very similar allocation of reallocated trawl quota to the hook-and-line CP sector that it has realized in the past several years, as NMFS will consider both the hierarchy provided and a sector's harvest capability prior to reallocating quota.** Under the status quo allocations, the pot sectors, specifically the pot CV sector, do not currently appear capable of harvesting a substantial amount of reallocated quota late in the year. In some years, the pot sectors have had quota reallocated from them, and thus clearly have not been capable of harvesting the 5% of trawl reallocations that they could potentially receive under current regulations. The potential for the pot sectors to harvest additional reallocated quota under Component 4, Option 4.1, Suboption 1, will also depend on the allocation it receives under Component 2. If its allocation is significantly lower than the status quo, the pot sectors may be capable of harvesting more reallocated quota than in previous years; however, the ability of a sector to harvest reallocated quota late in the year is likely more dependent on whether the sector is still on the fishing grounds late in November and December.

**Table 3-86 Reallocations harvested by hook-and-line CP and pot sectors, 2001–2004**

Year	Total annual reallocated quota	H&L CP initial allocation	H&L CP catch	H&L CP catch attributed to reallocations	% of total reallocated quota harvested by H&L CP	Pot initial allocation	Pot catch	Pot catch attributed to reallocations	% of total reallocated quota harvested by pot
2004	18,524	80,930	96,786	15,856	85.6%	18,512	15,598	-3,325	-17.9%
2003	16,771	77,911	93,412	15,501	92.4%	17,822	20,573	839	5.0%
2002	15,040	75,080	89,397	14,317	95.2%	17,175	15,054	-3,140	-20.9%
2001	27,000	70,551	96,238	25,687	95.1%	16,139	16,506	367	1.4%
Ave 2001 - 04	19,334	76,118	93,958	17,840	92.1%	17,412	16,933	-1,315	-8.1%

Source: Data are from NMFS Blend (2001 - 2002) and the NMFS catch accounting database (2003 - 2004), thus it includes all catch that was attributed to a sector's allocation by NMFS.

Note: The data show that the pot sector had quota reallocated from it (to the hook-and-line CP sector) in 2002 and 2004. In 2002, the pot allocation was combined (CP and CV). In 2004, the pot CP and CV allocations were separate for the first time. In 2004, the reallocated pot quota was only from the pot CV sector. Note also that in 2002, the pot catch exceeded the pot initial allocation and the amount reallocated to the pot sector, thus, only the amount reallocated to the pot sector was counted as 'pot catch attributed to reallocations.'

Note again that the hierarchy in both options under Component 4 is intended only for consideration by NMFS inseason managers. NMFS managers would take into account the intent of the rollover hierarchy, and the likelihood of a sector's capability to harvest reallocated quota prior to making the reallocation. It is important that inseason managers retain this flexibility to determine how to reallocate projected unused sector allocations, in order to avoid intermittent starting and stopping of the fishery and to reduce the risk of foregone harvest.

Finally, **provision 4.1.3** in Option 4.1 states that the third trimester jig rollover should be made available to the <60' fixed gear CV sector on September 1. Note that both the existing jig seasons (Alternative 2, Component 3, Option 3.1) and the modified jig seasons proposed under Alternative 2, Component 3, Option 3.4, are comprised of three trimester seasons, the last of which starts on August 31 and ends December 31. The difference between the two options is that the existing system under Option 3.1 apportions 40% of the total jig allocation to the third trimester, and Option 3.4 would reduce that apportionment to 20%. If the jig allocation remains at 2% of the BSAI Pacific cod ITAC, these apportionments represent .8% and .4% of the BSAI Pacific cod ITAC, respectively.

Provision 4.1.3 in Option 4.1 would thus require NMFS to make the third season jig rollover available to the <60' fixed gear sector on Sept. 1. As shown in Table 3-23, unused jig quota from the last trimester is typically reallocated in late September to mid-October. In 2003, unused jig quota was reallocated as late as December, although that is not the norm. The intent of provision 4.1.3 under Option 4.1 is to provide the last rollover from the jig sector as early as possible in the last trimester, such that the <60' fixed gear sector would still be on the fishing grounds. The later in the year, the less likely the <60' fixed gear sector would be able to continue fishing due to weather. Thus, the unused jig quota from the last trimester is typically reallocated to the hook-and-line CP sector.

In effect, provision 4.1.3 would require NMFS to reallocate quota that is *projected to remain unused* by the jig sector in the third trimester the day after the third jig season starts. Recall that NMFS has the discretion to decide what portion of the seasonal apportionment would be left unharvested by the jig sector at that point in time, thus, this provision does not mean that all of the jig allocation that is unharvested by September 1 must be reallocated to the <60' fixed gear sector. This provision only requires that NMFS consider whether there will be any unused allocation by the jig sector, and if so, make that amount available to the <60' fixed gear sector by September 1. If NMFS is uncertain of the level of effort that may participate in the jig fishery in the last trimester, NMFS may be more conservative as to how much jig quota would be made available on September 1. If NMFS is confident that very little additional effort will be entering the jig fishery in the last trimester, it may be less conservative in its reallocation.

As stated previously, the jig sector has harvested about 5% of its total allocation (2% of the BSAI Pacific cod ITAC) on average during 1995–2003. In addition, Table 3-83 in the previous section indicates that in the past several years, the jig sector has harvested about 1% of its annual Pacific cod catch in the last trimester.<sup>106</sup> Thus, it is reasonable to assume that the majority of the jig apportionment in the last trimester would continue to be made available for reallocation in the future. Under provision 4.1.3, the majority of the jig apportionment from the last trimester would likely be made available to the <60' fixed gear sector by September 1. The portion that is not made available, but that is left unused later in the third trimester, would likely be reallocated to the hook-and-line CP sector.

If Option 3.4 is selected under Alternative 2, Component 3 to change the seasonal apportionments of the jig allocation, this provision could reallocate a maximum of 20% of the jig allocation, or 0.4% of the BSAI Pacific cod ITAC (718 mt using the 2006 ITAC), by September 1 to the <60' fixed gear sector.<sup>107</sup> Alternatively, if Option 3.4 is not selected under Alternative 2, Component 3 and the jig apportionments remain the same as status quo, this provision could reallocate a maximum of 40% of the jig allocation, or 0.8% of the BSAI Pacific cod ITAC (1,436 mt using the 2006 ITAC) to the <60' fixed gear sector by September 1. Note that the <60' fixed gear sector would benefit from Option 3.4 under Component 3, as well as provision 4.1.3 under Component 4, Option 4.1. **The primary effect of provision 4.1.3 is the potential redistribution of unused jig quota from the hook-and-line CP sector to the <60' fixed gear sector. The maximum potential amount of unused jig quota that could be available in the third trimester is determined by Component 3, and ranges from 0.4% to 0.8% of the BSAI Pacific cod ITAC.**

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<sup>106</sup>One percent of (5% harvest x 2% allocation) = .00001 of the BSAI Pacific cod ITAC being harvested by jig gear in the last trimester. Using the 2005 ITAC, this represents about 1.9 mt of BSAI Pacific cod.

<sup>107</sup>The maximum jig sector allocation proposed in this amendment is 2% of the BSAI Pacific cod ITAC. Thus, 20% of 2% equals 0.4% of the BSAI Pacific cod ITAC.

#### *Option 4.2 – Revised reallocation scheme*

**Option 4.2** under Alternative 2, Component 4, is comprised of the suite of provisions in 4.2.1 – 4.2.6. These provisions are intended as a hierarchy from which to manage quota that is projected to remain unused by a particular gear sector. Note that, like Option 4.1, with the exception of the jig sector, any unused quota by a sector at the end of a *season* is rolled over to that sector's next subsequent season. Reallocated quota between gear sectors is only applicable to quota that is projected to remain unused by the end of the fishing year. **The primary difference in Option 4.2 from Option 4.1 is that projected unused allocations to any sector delivering inshore must be considered for reallocation to other inshore sectors before being considered for reallocation to any offshore sector.**

Option 4.2 is structured such that after each inshore sector is given consideration for a reallocation from another inshore sector, the remaining hierarchy mirrors the provisions in Option 4.1. Thus, Option 4.2 includes the changes from the status quo related to the addition of the four trawl sector allocations; reallocating quota from the trawl sectors to the fixed gear sectors proportional to the new fixed gear allocations; and the timing of the third trimester jig reallocation to the <60' fixed gear sector. Please reference the previous discussion under Option 4.1 for analysis of these provisions.

The primary difference in Option 4.2 from both the status quo and Option 4.1, is that NMFS would be required to consider reallocating within the inshore sectors before reallocating from the inshore to the offshore sectors. It is difficult to predict whether reallocations within the inshore sectors would actually occur, given the dynamics of the fishery each year. Note, however, that with the exception of the jig sector, this reallocation scheme is still only applicable to the last season for each sector. Thus, at that point in the year, NMFS has some knowledge as to which sectors are still fishing and plan to remain fishing for the rest of the year.

The inshore sectors at issue are the <60' fixed gear sector, ≥60' pot CV sector, ≥60' hook-and-line sector, non-AFA trawl CV sector, and AFA trawl CV sector. Reallocations from these inshore sectors typically occur in October or November, and less frequently in December. First, one must consider whether any of the inshore sectors would be expected to have unused quota toward the end of the year.

It is uncertain whether the <60' fixed gear sector would have unused quota. This sector has typically harvested its entire allocation in addition to quota from the general pot and hook-and-line CV sector allocations. Under Alternative 2, this sector would be limited to harvesting its own allocation, plus any quota that was reallocated from the jig sector. It is uncertain at this point whether this sector would harvest all of this quota, or whether unused quota would need to be reallocated subsequently. It is also unlikely that this provision would benefit the <60' fixed gear sector, as these vessels do not typically stay on the fishing grounds late in the year, due to weather. In addition, with current participation levels, the reallocations from the jig sector may keep this sector fishing into the fall.

As for the ≥60' hook-and-line CV sector, it has harvested its entire allocation in the past ten years, and thus, barring any significant increases in the BSAI Pacific cod TAC, it is not likely that this sector would have unused quota. It is uncertain, however, whether this sector would benefit from additional quota that was reallocated from another inshore sector.

The ≥60' pot CV sector has only had a separate allocation since 2004. In 2004, a portion (about 23%) of the pot CV sector allocation was reallocated to other gear sectors, since it appeared as if this sector would not be able to harvest its entire Pacific cod allocation by the end of the year. In 2005, however, the pot CV sector harvested 95% of its allocation. The pot CV sector has not had a separate allocation for a sufficient amount of time to indicate whether it is capable of harvesting its entire allocation at the current TAC

levels. It is, thus, also uncertain whether this sector could potentially benefit from additional quota that would be reallocated from another inshore sector.

Finally, the non-AFA trawl CV sector and the AFA trawl CV sectors could receive separate allocations under Alternative 2. The overall trawl CV sector has reallocated quota in almost every year since the gear splits were established in 1994 (see Table 3-10). In addition, the AFA CV sector is currently subject to sideboards in the BSAI Pacific cod fishery, and has harvested an average of 65% of its sideboard (2000 – 2004) since it was established. While it is uncertain whether either of these sectors would harvest its entire allocation, historical data indicate that these sectors combined, have not harvested their entire allocation of BSAI Pacific cod for various reasons. Thus, of the inshore sectors, the trawl sectors are the most likely to have unused quota that may be reallocated in the last season to other inshore sectors. While the average annual amount of reallocated quota (1997 – 2004) from the trawl CV sector has been about 3,600 mt, it is not likely that this level of reallocation would continue under the revised and separate trawl CV allocations proposed under Alternative 2. It is anticipated that the amount of reallocated quota would be reduced under Alternative 2, Component 2, as the allocations are revised to reflect actual use by sector (including reallocations).

In sum, the effect of Option 4.2 cannot be easily quantified, due to annual changes in the fishery and the variability in each sector's ability to harvest its entire allocation each year. The minimum effect would be the same as Option 4.1, in the case that NMFS determines toward the end of the year that no other inshore sector is likely capable of fishing reallocated quota and/or no inshore sector is projected to leave quota unused. A reasonable outcome may be, however, that the trawl CV sector(s) are projected to leave a portion of their allocation unused, which is then reallocated to the  $\geq 60'$  pot CV, or  $\geq 60'$  hook-and-line CV sectors, prior to being considered for reallocation to the other trawl sectors, and prior to being considered for reallocation to the hook-and-line CP and pot CP sectors. The amount of this potential reallocation is unknown, but likely less than the historical amount of reallocated quota from the trawl CV sector, which is about 11% of the trawl CV sector's initial allocation on average during 2000 – 2004, or nearly 3% of the BSAI Pacific cod ITAC.

Note that both Options 4.1 and 4.2 have an effect on NMFS inseason management, as harvest by sector will need to be monitored and quota reallocated in a timely manner to avoid foregone catch. Under Option 4.1, the primary additional monitoring responsibility for NMFS inseason managers is the addition of two new trawl sectors (from two to four sectors total). This option represents an additional monitoring task, as it requires opening and closing two additional sectors and monitoring smaller quotas on a near real-time basis. Each additional sector and reallocation among sectors represents additional staff resources and administrative efforts. Note that the additional new trawl sectors, however, is more accurately a result of Component 1, and the decision to potentially establish separate BSAI Pacific cod allocations to the four identified trawl sectors. Otherwise, Option 4.1 does not pose any additional monitoring tasks than exist under the status quo.

Option 4.2 results in the same additional monitoring of the four trawl sectors as described above in Option 4.1. In addition, Option 4.2 requires that NMFS inseason managers assess two exclusive strategies for reallocating unused BSAI Pacific cod quota among sectors. While this may not ultimately result in additional notices being prepared to implement reallocations, it would require NMFS to consider several more possible reallocations prior to the final notice of reallocation. As long as NMFS retains flexibility to determine how to reallocate projected unused sector allocations, this option may not represent substantial additional staff time. This is primarily because NMFS would continue to take into account the intent of the rollover hierarchies and the likelihood of a sector's capability to harvest reallocated quota.

### 3.4.2.5 Component 5: CDQ Allocation of BSAI Pacific cod

The CDQ Program reserve for BSAI Pacific cod shall be removed from the TAC prior to the allocation to all other sectors at percentage amounts equal to one of the following options:

<b>Option 5.1</b>	7.5% (status quo)
<b>Option 5.2</b>	10%
<b>Option 5.3</b>	15%

Component 5 contains three options for establishing the CDQ reserve of BSAI Pacific cod, two of which propose to increase the CDQ reserve from 7.5% to 10% or 15%. General background information on the CDQ Program, including the purpose of the program and combined revenue generation and assets held by the CDQ groups, is provided in Section 3.3.6.

Note that a CDQ allocation increase to 10% is also included in the Council's preferred alternative for BSAI Amendment 80 (June 10, 2006) for each primary target flatfish species and incidental species. In addition, Amendment 80 includes a component for adjusting some PSC allocations to the CDQ Program to be proportional to the target CDQ flatfish allocations. One issue thus associated with Component 5 under this amendment package is whether non-target CDQ species and PSC species harvested incidentally in the CDQ target Pacific cod fishery would also need to be increased under Option 5.2 or 5.3. This is discussed in the following sections.

In addition, the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241, July 11, 2006) includes significant changes to the fisheries management and government oversight aspects of the CDQ Program. **One of the primary changes is to make the CDQ Pacific cod allocation a directed fishing allowance of 10% upon the establishment of new BSAI Pacific cod sector allocations (Section 305(i)(1)(B)(ii)(1)).** In brief, this requirement means that 10% of the BSAI Pacific cod TAC must be provided to the CDQ Program for directed fishing by vessels fishing on behalf of the CDQ groups, and an amount of Pacific cod in addition to the 10% must be provided to the CDQ Program to provide for incidental catch of Pacific cod in other groundfish CDQ fisheries. As new Pacific cod sector allocations are proposed in this FMP amendment package, this amendment includes FMP and regulatory amendments to increase the CDQ Pacific cod allocation to 10% as a directed fishing allocation, as mandated by the Act.

**Therefore, while this analysis evaluates the effects of three possible options for a CDQ Pacific cod allocation under Alternative 2, the only viable option upon the effectiveness of the proposed action under Alternative 2 is 10% as a directed fishing allocation.** Appendix H is NOAA GC's legal opinion related to this specific amendment, and NMFS is currently undergoing a comprehensive analysis of the requirements to implement the Coast Guard and Maritime Transportation Act of 2006. Refer to **Section 3.4.3.4** for a discussion of the Council's preferred alternative on the CDQ component and details on the requirements of the Coast Guard Act that are implemented under Amendment 85.

#### 3.4.2.5.1 Historic CDQ harvest of BSAI Pacific cod

While the initial allocation to the CDQ Program was pollock, subsequently, halibut, sablefish, and all other groundfish and crab species were included in the program. Pacific cod was included as part of the multi-species program, with the first allocations established in 1998.

The most common component of any CDQ group and industry partnership is the royalty payment derived from leasing the CDQ quota. While the pollock fishery is the most valuable in terms of overall amount

and revenue stream, Pacific cod, Bristol Bay red king crab, opilio, and halibut are the most important CDQ target species. The royalties from pollock, Pacific cod, Bristol Bay red king crab, and opilio, typically comprise over 95% of the total CDQ royalties. Pacific cod is the second most important species in terms of metric tons, and is typically the second or third most important in terms of royalties (behind pollock and all crab combined). Pacific cod royalties comprised over 6% or \$2.95 million of the total royalties for the CDQ groups combined, on average, during 2001–2003. During that time period, the average royalty payment to the CDQ groups was \$232 per metric ton of Pacific cod (see Table 3-87). Historical groundfish CDQ and PSQ catch is detailed in Table 3-88 and Table 3-89. Further detail on the CDQ catch of BSAI Pacific cod is portrayed in Table 3-90.

**Table 3-87 CDQ royalties for all groups combined, 2001, 2002, & 2003**

Species	2001		2002		2003		Average 2001 - 03	
	Total (\$) all groups	% of total royalties	Total (\$) all groups	% of total royalties	Total (\$) all groups	% of total royalties	Ave. (\$) all groups	Ave. % of total royalties
<b>Pollock</b>	36,721,924	86.28%	39,609,795	85.43%	42,779,382	80.04%	39,703,700	83.92%
<b>Pacific Cod</b>	2,733,315	6.42%	2,743,795	5.92%	3,365,920	6.30%	2,947,677	6.21%
<b>Other Groundfish</b>	311,118	0.73%	297,371	0.64%	366,734	0.69%	325,074	0.69%
<b>Halibut</b>	202,822	0.48%	214,872	0.46%	1,922,821	3.60%	780,172	1.51%
<b>Crab total</b>	2,492,197	5.86%	3,448,377	7.44%	4,612,294	8.63%	3,517,623	7.31%
<b>Other species</b>	97,565	0.23%	52,975	0.11%	401,112	0.75%	183,884	0.36%
<b>Total CDQ royalties</b>	<b>42,558,941</b>	<b>100.00%</b>	<b>46,367,185</b>	<b>100.00%</b>	<b>53,448,263</b>	<b>100.00%</b>	<b>47,458,130</b>	<b>100.00%</b>

Source: NOAA Fisheries, Alaska Region. Compiled from CDQ groups' audited financial statements.

**Table 3-88 Groundfish CDQ harvests (mt), 1999–2005**

CDQ species	1999	2000	2001	2002	2003	2004	2005
BS Pollock	99,113	113,554	138,883	148,427	149,121	149,169	149,718
AI Pollock	16	0	0	0	0	0	12
Bogoslof Pollock	0	0	0	0	0	0	0
Pacific Cod	12,495	13,527	12,363	14,128	14,465	16,009	14,727
BS FG Sablefish	18	66	40	150	66	143	220
AI FG Sablefish	103	120	87	129	103	14	296
BS Sablefish	14	6	4	27	6	21	11
AI Sablefish	3	1	0	6	7	0	17
WAI Atka Mackerel	601	1,788	1,991	1,341	1,203	1,476	1,436
CAI Atka Mackerel	822	1,807	2,467	1,591	2,129	2,248	2,520
EAI/BS Atka Mackerel	1,166	1,192	519	320	696	771	476
Yellowfin Sole	1,968	219	182	1,972	5,564	6,321	6,150
Rock Sole	575	401	221	553	641	892	1,825
BS Greenland Turbot	196	244	26	53	48	31	40
AI Greenland Turbot	37	65	35	46	33	29	31
Arrowtooth Flounder	787	286	139	302	437	432	576
Flathead Sole	724	439	223	464	392	545	889
Other Flatfish	283	80	35	56	89	72	61
Alaska Plaice	n/a	n/a	n/a	137	184	302	121
BS Pacific Ocean Perch	35	1	8	9	15	2	5
WAI Pacific Ocean Perch	317	372	318	355	404	336	315
CAI Pacific Ocean Perch	129	216	152	155	185	170	159
EAI Pacific Ocean Perch	159	167	162	167	249	165	130
BS Other Red Rockfish	10	7	3	2	n/a	n/a	n/a
BS Northern	n/a	n/a	n/a	n/a	2	n/a	n/a
AI Sharpchin/Northern	247	346	328	n/a	n/a	n/a	n/a
AI Northern Rockfish	n/a	n/a	n/a	342	276	n/a	n/a
BS Shortraker/rougheyeye	n/a	n/a	n/a	n/a	8	n/a	n/a
Northern (BSAI)	n/a	n/a	n/a	n/a	n/a	403	218
Shortraker (BSAI)	n/a	n/a	n/a	n/a	n/a	29	9
Rougheyeye (BSAI)	n/a	n/a	n/a	n/a	n/a	3	4
AI Shortraker/Rougheyeye	28	35	17	14	25	n/a	n/a
BS Other Rockfish	6	6	2	2	4	4	4
AI Other Rockfish	27	36	18	32	10	17	8
Other Species	1,908	2,060	1,650	2,311	2,330	3,294	2,473
Squid	n/a	51	n/a	n/a	n/a	n/a	n/a

Source: NOAA Fisheries, Groundfish Catch to Date for All CDQ Groups Combined, 1999 - 2005.

**Table 3-89 Groundfish PSQ harvests, 1999–2005**

PSQ species	1999	2000	2001	2002	2003	2004	2005
Zone 1 Red King Crab	172	0	0	431	1,883	175	107
Zone 1 Bairdi Tanner Crab	2,998	17	690	4,074	9,119	1,679	204
Zone 2 Bairdi Tanner Crab	18,531	1,593	436	3,695	2,736	13,483	1,522
Opilio Tanner Crab	53,199	4,338	624	25,568	4,927	29,860	7,527
Pacific Halibut	217	103	86	149	175	153	127
Chinook Salmon	584	430	2,507	2,093	2,565	2,966	1,933
Non-Chinook Salmon	243	1	2,427	1,993	5,292	960	35
Pollock ICA (mt)		606	746	967	1286	1,424	637
Total Chinook	1,662	749	2,561	2,103	2713	3,010	2,056
Total Non-Chinook	909	1,706	3,286	3,604	8402	10,424	8,391

Source: NOAA Fisheries, 2005. Crab and salmon harvests are in number of animal, halibut is in pounds.

**Table 3-90 BSAI Pacific cod CDQ reserve (mt), catch, and percent harvested, 2001–2004**

CDQ Species	2001			2002			2003			2004			Average 2001-04
	CDQ Reserve	Catch	Percent harvest	Percent harvest									
BSAI Pacific cod	14,100	12,527	89%	15,000	14,128	94%	15,563	14,465	93%	16,163	16,009	99%	94%
# Hook-and-line CPs	15			17			18			19			17

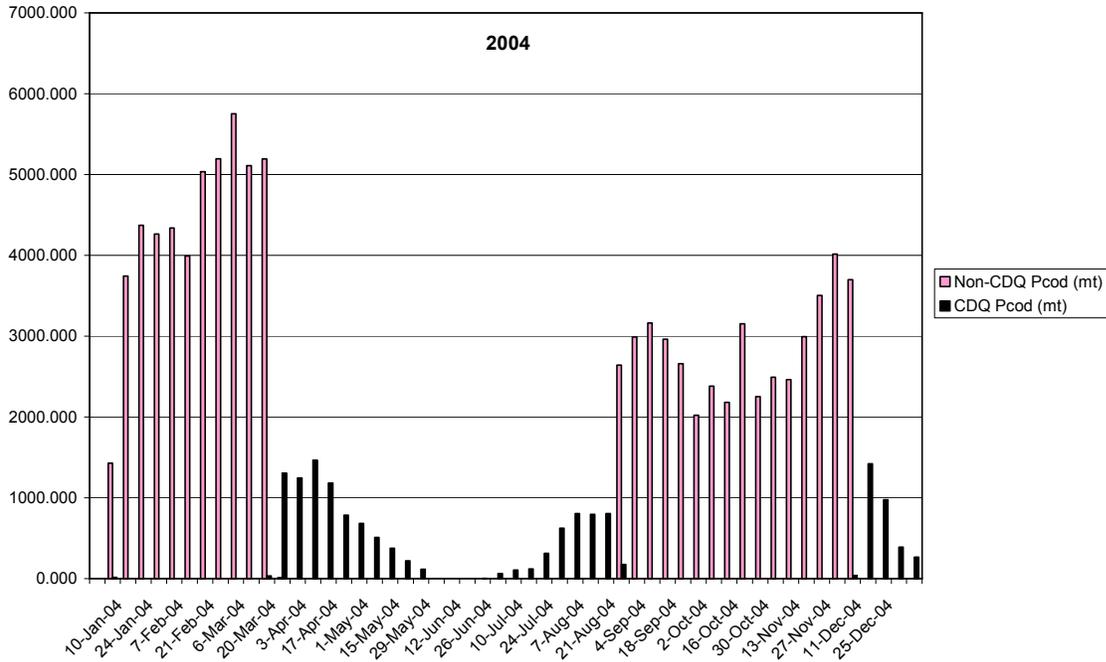
Source: NOAA Fisheries, 2005. The last row refers to the number of hook-and-line CPs participating in the CDQ fisheries. The hook-and-line CDQ fisheries are primarily CPs targeting Pacific cod.

**Note:** 2005 data show that the CDQ groups harvested 14,729 mt (95%) of their 15,450 Pacific cod allocation. The overall 2001 – 2005 average is 94%.

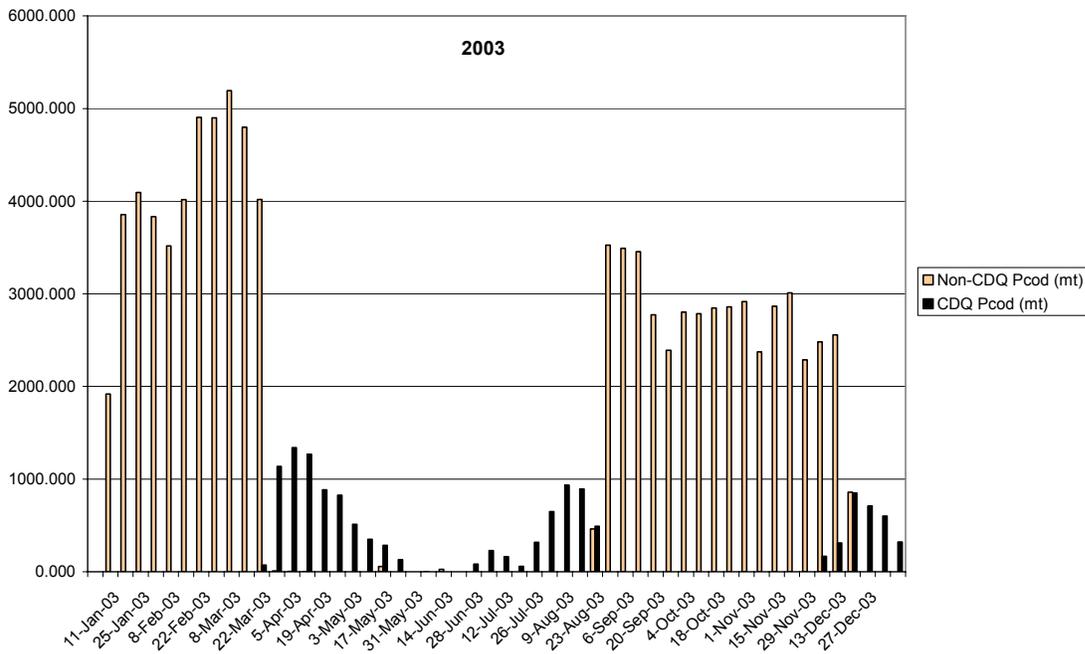
The amount of the CDQ Pacific cod reserve, catch, and percent harvested is shown above in Table 3-90. The hook-and-line CDQ fisheries are primarily hook-and-line catcher processors targeting Pacific cod. Relatively little Pacific cod CDQ is used for incidental catch in other target fisheries; what is used is primarily to prosecute the pollock and Atka mackerel fisheries. During the period 2001–2004, the NMFS CDQ catch reports indicate that vessels fishing CDQ harvested about 94% of the total BSAI Pacific cod CDQ allocation, and 93% of the total cod catch was harvested with hook-and-line gear, which is primarily the directed Pacific cod fishery. The 2005 CDQ Pacific cod fishery was similar, and including 2005 does not change the above averages. Some of the most common species harvested incidentally to CDQ Pacific cod are halibut, arrowtooth flounder, shorttraker rockfish, rougheye rockfish, Bering Sea ‘other’ rockfish, and the ‘other species’ category (sharks, skates, sculpins, octopus).

The CDQ BSAI Pacific cod fishery using hook-and-line gear is currently subject to the same seasonal apportionments as the non-CDQ hook-and-line fishery: 60% (Jan. 1 – June 10) and 40% (June 10 – Dec. 31). Any quota not used in the first season is rolled over to the second season. Generally, the CDQ Pacific cod fishery begins as the non-CDQ Pacific cod fishery season is finishing. The CDQ cod fishery also occurs during the summer, when the non-CDQ hook-and-line sector is not fishing cod due to lack of a halibut bycatch allowance (June 10 – Aug. 15). Thus, the majority of CDQ cod is harvested at different times than the non-CDQ cod in the BSAI. Figure 3-17 and Figure 3-18 compare the temporal distribution of Pacific cod catch by hook-and-line catcher processors fishing CDQ with those fishing in the limited access fishery (non-CDQ), in 2003 and 2004.

**Figure 3-17 2004 temporal distribution of CDQ and non-CDQ BSAI Pacific cod harvest by hook-and-line CP sector**



**Figure 3-18 2003 temporal distribution of CDQ and non-CDQ BSAI Pacific cod harvest by hook-and-line CP sector**



### 3.4.2.5.2 CDQ group investment in BSAI Pacific cod vessels

The CDQ groups have become more established in the fishing industry by investing in the Bering Sea fishing fleet. Each of the CDQ groups has made several equity acquisitions, and all six CDQ groups have acquired ownership interests in hook-and-line catcher processors, used to harvest Pacific cod. As mentioned previously, virtually all of the Pacific cod CDQ is fished by hook-and-line catcher processors, although several of the groups have ownership interest in other vessels that fish Pacific cod in the non-CDQ fisheries. Table 3-91 provides a summary of the groups' ownership interests in vessels that may fish Pacific cod, with the understanding that it is the hook-and-line catcher processor sector that have harvested the Pacific cod CDQ reserve to date.

**Table 3-91 CDQ group ownership interest in vessels that participate in the (CDQ and non-CDQ) BSAI Pacific cod fisheries**

Vessel	% ownership	Company/Partner	Description
<b>APICDA</b>			
Bering Prowler	20%	Prowler Fisheries	Longline CP; 124' LOA
Prowler	20%	Prowler Fisheries	Longline CP; 124' LOA
Ocean Prowler	20%	Prowler Fisheries	Longline CP; 155' LOA
Barbara J	50%	Trident Seafoods	Combo (pot/longline) CV; 124' LOA
Golden Dawn	25%	Trident & Aleutian Spray	AFA Trawl CV; 149' LOA
Farwest Leader	25%	Trident & Aleutian Spray	Pot CV; 121' LOA
<b>BBEDC</b>			
Bristol Leader LLC	50%	Alaskan Leader	Longline CP; 167' LOA
Bering Leader LLC	50%	Alaskan Leader	Longline CP; under construction
Cascade Mariner LLC	40%	Kevin Kaldestad	Pot CV; 120' LOA
Bristol Mariner LLC	45%	Kevin Kaldestad	Pot CV; 125' LOA
Nordic Mariner LLC	45%	Kevin Kaldestad	Pot CV; 124' LOA
Northern Mariner LLC	45%	Kevin Kaldestad	Pot CV; 124' LOA
Arctic Wind	50%	Dona Martita LLC/ Nina Fisheries	AFA trawl CV; 124'
<b>CBSFA</b>			
Deep Pacific	2.89%	Pacific Longline Co.	Longline CP; 130' LOA
Lilli Ann	2.89%	Pacific Longline Co.	Longline CP; 141' LOA
North Cape	2.89%	Pacific Longline Co.	Longline CP; 124' LOA
Starlite	75%		AFA trawl CV; 124' LOA
Starward	75%		AFA trawl CV; 124' LOA
Fierce Allegiance	30%		AFA trawl CV; 166' LOA
<b>CVRF</b>			
Deep Pacific	35%	Pacific Longline Co.	Longline CP; 130' LOA
Lilli Ann	35%	Pacific Longline Co.	Longline CP; 141' LOA
North Cape	35%	Pacific Longline Co.	Longline CP; 124' LOA
Ocean Prowler	20%	Prowler Fisheries	Longline CP; 155' LOA
Prowler	20%	Prowler Fisheries	Longline CP; 124' LOA
Bering Prowler	20%	Prowler Fisheries	Longline CP; 124' LOA
Katie Ann	45%	American Seafoods	AFA Trawl CP; 296' LOA
Silver Spray	50%	Silver Spray Seafoods	Pot CP; 124' LOA

Vessel	% ownership	Company/Partner	Description
<b>NSEDC</b>			
Norton Sound	51.78%	Glacier Fish Co.	Longline CP; 136' LOA
Glacier Bay	50%	Glacier Fish Co.	Longline CP; 178' LOA
<b>YDFDA</b>			
Baranof	41%	Romanzof Fishing Co.	Combo (pot/longline) CP; 180' LOA
Courageous	100%	N/A	Combo (pot/longline) CP; 180' LOA

Source: CDQ groups, as of October 2005. Vessel length data are from the NMFS LLP database, August 2005. Note that BSAI Pacific cod CDQ is targeted entirely by hook-and-line catcher processors; however, some groups have invested in other vessels that fish in the non-CDQ BSAI Pacific cod fishery.

### 3.4.2.5.3 Incidental catch in the target CDQ Pacific cod fishery

As stated previously, the most common species harvested incidentally to CDQ Pacific cod are halibut, arrowtooth flounder, shortraker rockfish, roughey rockfish, Bering Sea 'other' rockfish, and the 'other species' category (sharks, skates, sculpins, octopus). The CDQ groups receive separate PSQ allocations of halibut, as well as individual group allocations of arrowtooth flounder and Bering Sea 'other' rockfish.

The other species category is managed on the CDQ Program (reserve) level, thus no individual group allocations are made. Shortraker, roughey, and northern rockfish have also been managed at the reserve level during the 2003-2005 allocation cycle under an administrative determination made in the last allocation process and continue to be managed on the reserve level in 2006. Generally, harvest of non-target species that are managed on the reserve level in the CDQ fisheries does not prevent the CDQ groups from fully harvesting their target species allocations. CDQ groups are subject to having these species categories placed on prohibited species status, or other management measures, if they catch in excess of the annual CDQ reserve.

Note that the Council approved an amendment in December 2005 to only allocate target species CDQ reserves among individual CDQ groups, and to manage CDQ non-target species on the reserve level (not allocated to individual CDQ groups). CDQ target species allocations would continue to be managed as hard caps and unallocated CDQ reserves would be managed as soft caps. As part of this action, the Council adopted a list of CDQ target and non-target species that would be provided in Federal regulation. All of the species caught incidentally to Pacific cod, with the exception of arrowtooth flounder, would be identified as non-target species and managed at the reserve level upon approval of this regulatory amendment by the Secretary of Commerce. Note that while arrowtooth flounder would be identified on the target species list and continue to be allocated to the individual groups, it remains primarily an incidentally caught species to date. Arrowtooth flounder was placed on the target species list with the understanding that developing markets may warrant it becoming a target species in the near future.

Note also that the Coast Guard and Maritime Transportation Act of 2006, mentioned in a previous section, made significant amendments to the Magnuson Stevens Act provisions (Section 305(i)) pertaining to the CDQ Program. These amendments may include changes to the species that will be allocated to the CDQ Program. Legal interpretation of the amendments, by NOAA GC, and whether the Council's action in December 2005 is consistent with the amendments, is ongoing.

#### 3.4.2.5.4 Effects of Options 5.1–5.3

##### *Effects on the CDQ Pacific cod fishery*

Component 5 proposes two options to increase the Pacific cod allocations made to the CDQ Program. Option 5.2 would increase the Pacific cod CDQ allocation to 10 percent, and Option 5.3 would increase the Pacific cod CDQ allocation to 15 percent of the BSAI Pacific cod TAC. Option 5.1 would retain the current 7.5 percent allocation to the program. An example of the projected increase in CDQ Pacific cod allocations is shown in Table 3-92, using the 2006 and 2007 (projected) BSAI Pacific cod TACs as a basis for calculations.

**Table 3-92 Projected 2006 and 2007 CDQ Pacific cod allocations under Options 5.1 – 5.3**

Species	TAC	Option 5.1: 7.5% allocation	Option 5.2: 10% allocation	Option 5.3: 15% allocation
BSAI Pacific cod	(2006) 194,000 mt	14,550 mt	19,400 mt	29,100 mt
	(2007) 148,000 mt (projected)	11,100 mt	14,800 mt	22,200 mt

Source: 70 FR 74739, December 16, 2005. Note that the TAC amounts do not account for the State water AI Pacific cod fishery that was approved in March 2006 for two years (2006 – 07). The State water fishery reduces the 2006 – 07 TACs by 3%.

Given the historic CDQ utilization rates for Pacific cod quota, increasing the percentage amount allocated to the CDQ program will almost certainly result in increased amounts of Pacific cod CDQ revenues, from direct harvesting and through the royalty payments derived from leasing portions of that quota. As stated previously, the hook-and-line CDQ fisheries are primarily carried out by catcher processors targeting Pacific cod. During the period 2001–2005, the NMFS CDQ catch reports indicate that vessels fishing CDQ harvested about 94% of the total BSAI Pacific cod CDQ allocation; with 93% of that total cod catch harvested with hook-and-line gear, which is primarily the directed Pacific cod fishery. In this target fishery in particular, past performance is likely a reliable indicator of future fishing practices.

In addition, it appears that the Pacific cod ABC and TAC will decline in the next several years, from 194,000 mt in 2006, to 148,000 mt projected for 2007. The 2007 TAC represents nearly a 24% reduction in the BSAI Pacific cod TAC from 2006, and about 28% from the 2005 TAC. Increasing the CDQ Pacific cod allocation does not guarantee that the CDQ Program would receive greater amounts of Pacific cod in the future. If the TAC decreases substantially, the CDQ Program may be allocated an increased percentage, but still be allocated relatively less quota than is available at current TAC levels.

There is little concern that an increase in the BSAI Pacific cod CDQ reserve would result in unharvested Pacific cod quota, as the CDQ groups will not likely have any obstacles in leasing an increased amount of quota. It is the same hook-and-line CPs that fish the non-CDQ BSAI Pacific cod fishery that partner with the CDQ groups to prosecute the BSAI Pacific cod CDQ fishery. Thus, whether these vessels are operating in the CDQ or non-CDQ BSAI Pacific cod fishery, past performance indicates that they are capable of harvesting Pacific cod at the levels under consideration in this amendment.

##### *Effects on incidentally caught species in the CDQ Pacific cod fishery*

Future performance in the CDQ fisheries for primary target species, including Pacific cod, may also be affected by the change in the management of non-target species in the CDQ Program, as described previously. The Council approved this change in December 2005 and NOAA GC is currently evaluating whether this change is consistent with the requirements of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241), approved on July 11, 2006. If the Council's action is implemented, it is intended to make it easier for the CDQ groups to prosecute their target fisheries, as non-target species will not be allocated to the individual groups and subject to hard caps, but instead be managed at the reserve level under soft caps.

Table 3-93 compares the associated incidental catch and PSC rates per metric ton of Pacific cod harvested in the 2005 CDQ fisheries, to the total catch of these species in the CDQ fisheries to determine if an increase in the Pacific cod CDQ allocation might result in the program as a whole exceeding any incidental catch species, or halibut PSC limits. This exercise provides only a rough approximation of the potential of this issue, as it must assume that the other target fisheries and their incidental catch needs remain the same.

**Table 3-93 Projected incidental catch needs in the CDQ Pacific cod fishery based on 2005 catch rates**

<b>Non-target or PSQ species</b>	<b>halibut</b>	<b>other species<sup>1</sup></b>	<b>arrowtooth</b>	<b>shortraker rockfish<sup>1</sup></b>	<b>rougheye rockfish</b>	<b>BS 'other' rockfish</b>
Amt (mt) of incidental species harvested in hook-and-line fisheries in 2005	49.7	2,172.6	178.7	5.3	2.0	1.2
Ratio of incidental species to cod in 2005 <sup>2</sup>	0.003624	0.158414	0.013030	0.000386	0.000146	0.000087
<b>Amt (mt) of incidental species allocated to CDQ program in 2005 (7.5%)</b>	<b>342</b>	<b>2,175.0</b>	<b>900</b>	<b>45</b>	<b>17</b>	<b>35</b>
Amt (mt) of total incidental species harvested in 2005 <sup>3</sup>	127.0	2,473.2	576.2	8.7	3.6	4.6
<b>Estimates (mt) of total incidental species needed if CDQ cod allocation is 10% (calculated using 2005 ratios above and 2006 TAC)</b>	<b>142.7</b>	<b>3,158.7</b>	<b>632.6</b>	<b>10.4</b>	<b>4.2</b>	<b>5.0</b>
<b>Estimates (mt) of total incidental species needed if CDQ cod allocation is 15% (calculated using 2005 ratios above and the 2006 TAC)</b>	<b>175.4</b>	<b>4,587.8</b>	<b>750.1</b>	<b>13.9</b>	<b>5.5</b>	<b>5.8</b>

Source: CDQ Participation and Catch by Gear, NMFS 2005.

<sup>1</sup>Note that the 'other species' category, rougheye rockfish, and shortraker rockfish are not allocated among the CDQ groups, but are managed on the CDQ Program (reserve) level. Managing on the reserve level has been determined appropriate for some non-target species that have a significant buffer between TAC and ABC. CDQ groups are subject to having these species categories placed on prohibited species status or other management measures if they catch in excess of their annual CDQ reserve.

<sup>2</sup>All ratios and estimates of incidental catch are based on incidental and PSC catch rates in the 2005 CDQ fisheries. Note that the projections estimated in this table assume that the incidental catch needs in other target fisheries remain constant.

<sup>3</sup>This is the total CDQ harvest of these non-target species (whether in the directed Pacific cod fishery or some other target fishery).

Table 3-93 uses the projected allocation in Table 3-92 under a 10% and 15% CDQ Pacific cod allocation (using the 2006 TAC), multiplied by a 93% catch rate in the hook-and-line cod target fishery, and the ratio of incidental species to Pacific cod harvest in 2005 to estimate the incidental catch needs for the CDQ Pacific cod fishery if the Pacific cod allocations were increased. The only non-target species group allocation that is projected to be exceeded is the 'other species' category. As stated previously, however, this particular species category is already managed differently than most other categories, due to concerns that this category could constrain the CDQ groups' Pacific cod fisheries.

While the 2005 CDQ allocation of other species was 2,175 mt, the total actual harvest of other species (in Pacific cod and all other fisheries) was 2,473 mt. If the CDQ Program allocation of Pacific cod was increased to 10%, the projected additional amount of 'other species' necessary to prosecute the Pacific cod fishery would be 686 mt, resulting in a projected total of 3,159 mt of 'other species' necessary to harvest all of the target CDQ fisheries. Similarly, if the CDQ Program allocation of Pacific cod was increased to 15%, the projected additional amount of 'other species' necessary to prosecute the Pacific cod fishery would be 2,115 mt, resulting in a total of 4,588 mt necessary to harvest all target CDQ

fisheries. Using these rough estimates, the ‘other species’ category appears to be the only non-target species allocation that may be reached, or exceeded, if the CDQ cod allocations were increased. However, since the ‘other species’ CDQ reserve is managed on an aggregate basis with general fisheries management measures, catching the entire annual ‘other species’ CDQ reserve would not necessarily constrain the CDQ Pacific cod fishery. This is not necessarily true for other incidental catch categories. Other (non-cod) target CDQ fisheries rely on these same non-target species, so changes in those allocations or fisheries will likely also affect overall incidental catch needs.

Note also that BSAI Amendment 80, on which the Council took final action in June 2006, includes an increase to the primary flatfish allocations to the CDQ Program (Atka mackerel, flathead sole, Pacific Ocean perch, rock sole, yellowfin sole) to 10%, as well as an increase to some incidental catch species associated with the flatfish target species. The relevant CDQ provisions in the preferred alternative for Amendment 80 are provided below. The Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241), approved July 11, 2006, also appears to increase the target flatfish allocations to 10%. NMFS intends to continue to make these increases through BSAI Amendment 80 and its associated regulatory amendments.

**Council preferred alternative relevant to CDQ Program under BSAI Amendment 80**

**Component 2** CDQ allocations for each primary target (Component 1)\* species in the program shall be removed from the TACs prior to allocation to sectors at percentage amounts equal to 10%.

For Amendment 80 species, the reserves would be set at 10% of the TAC and all would be allocated to the CDQ reserves.

CDQ allocations for secondary groundfish species (except Pacific cod) taken incidental in the primary trawl target fisheries shall be removed from the TACs prior to allocation to sectors at percentage amounts equal to 10%.

**Component 5** Increase PSQ reserves allocated to the CDQ program (except herring, halibut, and Chinook salmon) to levels proportional to the CDQ allocation of primary species under Component 2.

\*The primary target species under Component 1 are: yellowfin sole, rock sole, flathead sole, Atka mackerel, and Aleutian Islands Pacific Ocean perch.

The incidental catch species associated with the Amendment 80 flatfish target species historically include all BSAI TAC categories. Reference the public review draft EA/RIR/IRFA for BSAI Amendment 80 for details on this issue. That analysis illustrates that some amount of every 2004 BSAI TAC category was caught in the directed CDQ fisheries for the flatfish target species in 2004. Incidental catch in the 2001–2003 CDQ fisheries for flatfish target species exhibit a similar pattern to the 2004 and 2005 CDQ fisheries. Some amount of every, or almost every, annual TAC category in place was caught in the target flatfish CDQ fisheries, with limited exceptions. In general, since the directed fisheries for the primary flatfish species considered under Amendment 80 are conducted in various regions of both the AI and BS, during various times of the year, at different depths, and with varying fishing tactics, it is likely that these fisheries will catch species comprising each BSAI TAC category at some point in time, even if some species are not caught every year.

The ‘other species’ category appears to be the only non-target species allocation that may be reached or exceeded if the CDQ Pacific cod allocations are increased; however, since the ‘other species’ CDQ reserve is managed on an aggregate basis with general fisheries management measures, catching the entire annual ‘other species’ CDQ reserve would not necessarily constrain the CDQ Pacific cod fishery. In addition, BSAI Amendment 80 proposes to increase all other CDQ allocations of non-target species

incidental to the CDQ target flatfish species. Because these include the same species that are incidentally caught in the BSAI Pacific cod fisheries, there does not appear to be a need to *further* increase the non-target species CDQ allocations (e.g., halibut, arrowtooth flounder, shortraker rockfish, roughey rockfish, Bering Sea other rockfish, and ‘other species’) that are caught incidentally in the Pacific cod fisheries.

**In sum, current CDQ allocations of non-target species, with the exception of the ‘other species’ category, harvested incidentally in the target CDQ Pacific cod fishery appear sufficient to support an increase in the CDQ Pacific cod allocation. Further, these non-target species CDQ allocations are proposed to be increased from 7.5% to 10% under the Council’s preferred alternative in BSAI Amendment 80.** Final Council action on Amendment 80 was taken in June 2006, and implementation is expected in 2008.

Finally, the approach in Amendment 80 to increase percentage amounts of incidental catch species to the CDQ Program are predicated on a continuation of the existing catch accounting requirements for the CDQ fisheries. CDQ groups currently are prohibited from exceeding their annual groundfish CDQ allocations, and catching an entire annual allocation of a given incidental catch species may impact whether a CDQ group may continue to fishing for some other primary species. Past Council action modified the management of two different species, squid and “other species.” Squid is no longer allocated to the CDQ Program<sup>108</sup> and the “other species” category is allocated to the CDQ Program at the reserve level (not the individual group level). Catch of “other species” in CDQ fisheries is managed at the program level with directed fishing closures and the use of other management measures, as previously discussed.

Note also that the President signed the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) into law on July 11, 2006. Among other actions, this Act amends Section 305(i) of the Magnuson Stevens Act, pertaining to the CDQ Program. This includes significant changes to the fisheries management and government oversight aspects of the CDQ Program, including a change to make the CDQ Program Pacific cod allocation a directed fishing allocation of 10% upon effectiveness of new Pacific cod sector allocations. Regulatory and FMP amendments will be necessary to implement the changes resulting from this Act. An analysis of the requirements to implement the Act is ongoing by NMFS.

#### *Direct benefits to the CDQ Program*

Increasing CDQ allocations for BSAI Pacific cod could directly benefit the CDQ groups by increasing the amount of BSAI Pacific cod catch and the resulting royalties associated with that catch. Note that on average during 2001–2003, Pacific cod royalties comprised over 6% or \$2.95 million of the total royalties for the CDQ groups combined. During that time period, the average royalty payment to the CDQ groups was \$232 per metric ton of Pacific cod. As discussed previously, using the 2006 TAC, Option 5.2 and Option 5.3 represent increases of 4,850 mt and 14,550 mt to the CDQ Pacific cod reserve, respectively. Using the average royalty rates from the most recent time period available (2001 – 2003), one could estimate that the projected *increase* in royalty payments to the CDQ groups combined would be \$1.13 million and \$3.38 million under Options 5.2 and 5.3, respectively.

Although increasing the allocation amount of BSAI Pacific cod to the CDQ Program could benefit CDQ groups via increased royalties and other associated employment opportunities, increased allocations also could impart some additional costs on CDQ groups. One such cost could include the administrative costs related to negotiating new or amended harvesting and business agreements with the companies that

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<sup>108</sup>In 1999, squid was removed from being a species allocated to the CDQ Program by Amendment 66 to the BSAI FMP. Concern that there would be inadequate squid available to account for the possible catch of squid in the pollock CDQ fishery led the Council and NMFS to remove squid from the CDQ Program.

harvest Pacific cod. As a whole, however, it is expected that the potential benefits to the CDQ groups associated with an increase in the Pacific cod reserve under either Option 5.2 or 5.3 would outweigh the potential costs discussed above. Increased allocations could provide CDQ groups with both direct monetary benefits and other indirect benefits.

### *Effects on non-CDQ sectors*

Options 5.2 and 5.3 would increase the CDQ BSAI Pacific cod allocations. Selection of either option would correspondingly decrease the amount of the BSAI Pacific cod TAC allocated to the non-CDQ sectors by either 2.5 percent (Option 5.2) or 7.5 percent (Option 5.3), effectively reducing revenues (and other attributable benefits) to the non-CDQ sectors. This action would produce no new benefits, from a national accounting perspective, but would simply represent a “transfer” of wealth from non-CDQ to CDQ user groups. The non-CDQ sectors include the ten sectors under consideration in this amendment package under Alternative 2, Component 1. As the CDQ reserve is taken off the top of the BSAI Pacific cod TAC, each sector’s resulting allocation under Component 2 would be reduced proportionally, either by 2.5% or 7.5%, depending on the option selected under Component 5. Recall that the non-CDQ Pacific cod TAC has historically been fully utilized, and that an additional 3% was deducted from the 2006 BSAI Pacific cod ABC for the State water AI cod fishery. The State water fishery was established for 2006 and 2007. These additional deductions further transfer wealth among sectors, although it is not yet certain which sectors will primarily fish and benefit from the State water AI fishery. The first A season was primarily harvested by trawl catcher vessels.

Note also that the vessels that have historically harvested CDQ BSAI Pacific cod are a subset of the hook-and-line CP sector. Fishing companies that harvest CDQ are presumed to derive some benefit from harvesting CDQ, even if they must return part of their harvesting proceeds to the CDQ groups in the form of royalties. Thus, while all non-CDQ sectors would be affected proportional to their sector allocations resulting from Component 2, the hook-and-line CP sector would not be affected to such a relative extent. Thus, in contrast to other non-CDQ sectors that would realize a reduction in the relative amount of their cod allocation, the hook-and-line CP sector would continue to contract with the CDQ groups to harvest the CDQ Pacific cod allocation under any of Options 5.1 – 5.3. Table 3-91 in the previous section outlines CDQ group ownership interest in vessels that participate in the (CDQ and non-CDQ) BSAI Pacific cod fisheries.

Estimates of the impacts various allocation alternatives would have on the profitability of the companies that own vessels in the non-CDQ Pacific cod fisheries cannot be generated, as information on the vessels’ cost structure is necessary to develop those estimates and this information is not available. It is only clear that revenues from these firms would be reduced under Options 5.2 and 5.3, as a direct result of a reduced (non-CDQ) BSAI Pacific cod ITAC. A general estimate of the relative reduction to each sector can be made by multiplying the proposed allocations to each sector under Component 2 by the reduction proposed under Option 5.2 (2.5%) or Option 5.3 (7.5%). The resulting percentage can be multiplied by the BSAI Pacific cod ITAC for a given year, and then multiplied by a sector’s estimated ex-vessel or first wholesale price, in order to generate an estimate of the reduction in ex-vessel or first wholesale revenues by sector.

For example, if the  $\geq 60'$  pot CV sector received an allocation of 8.0% of the BSAI Pacific cod ITAC under this amendment, and the ITAC was reduced by 2.5% under Option 5.2, the  $\geq 60'$  pot CV sector’s allocation would be reduced by 0.2 percentage points to 7.8%. Multiplying 0.2% by the 2006 ITAC of 179,450 mt equals 358.9 mt (791,231 pounds). If the pot sector’s ex-vessel price is \$0.25/pound (round cod), then the increase in the CDQ allocation to 10% represents an estimated loss of approximately \$198,000 to the  $\geq 60'$  pot CV sector overall. These are gross estimates, and thus, not used in this analysis to compare the benefits and costs for each sector. Note only that the increase in the BSAI Pacific cod CDQ reserve represents a redistribution of Pacific cod among the existing sectors.

## Management Costs

An increase in the CDQ Pacific cod reserve from 7.5% to 10% or 15% is not expected to significantly affect NMFS management costs. Increases to CDQ Program percentage amounts have been implemented in the past without significant increases in the time or resources that NMFS, Alaska Region must devote to CDQ Program administration. For example, under the AFA, the pollock CDQ allocation increased from 7.5 percent to 10 percent of annual pollock TACs. This led to revisions in catch reporting and monitoring software to reflect the revised allocations. Similarly, if percentage amounts were increased as proposed under Options 5.2 or 5.3, Alaska Region staff would have to contribute additional resources to several aspects of program management, including modifying CDQ catch monitoring software and the CDQ catch reporting system.

### 3.4.2.6 Component 6: Apportionment of trawl halibut and crab PSC to trawl cod fishery group

Component 6 addresses the apportionment of trawl halibut PSC and trawl crab PSC that is apportioned to the entire trawl cod fishery group through the annual specifications process. There are no options currently proposed under this action that would modify this process from the status quo. **This amendment does not propose to change the PSC allowances to the overall cod trawl fishery group, it only addresses splitting the crab and halibut PSC allowances between the trawl sectors (see Component 7).** Thus, for a description of the current process and PSC apportionments, see Section 3.3.5.8 and Table 3-44 under Alternative 1.

Groundfish fishery PSC rates are calculated by dividing the sum of the weights or counts of PSC in a set of observer data by the sum of the weight of groundfish in the data set. For rates from observed vessels extrapolated to unobserved vessels, a minimum of three different weekly observer reports are required before an average rate is used. NMFS monitors PSC limits for the non-CDQ and CDQ groundfish fisheries using PSC rate estimates. Reaching a PSC limit results in closure of an area (in the case of crab) or a fishery season (in the case of halibut), even if the groundfish TAC remains unharvested.

Currently, there are PSC limits for halibut, herring, red king crab, *C. opilio*, *C. bairdi*, Chinook salmon, and “other” salmon (primarily chum salmon) for the trawl fisheries. NOAA Fisheries sets PSC limits under 50 CFR 679.21 through the annual TAC-setting process. Of this amount, 7.5 percent of each PSC limit specified for halibut and crab is allocated as a prohibited species quota reserve to the CDQ Program. The remaining PSC limits are apportioned to fishery categories, gear groups, or seasons to create more refined PSC limits. Salmon and herring PSC limits are not addressed in this component in either Alternative 1 or 2; yet this amendment does not propose to change PSC limits for any PSC species to the trawl cod fishery group.

The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process and can vary annually. The trawl halibut PSC is typically 3,400 mt, which is apportioned between Pacific cod; yellowfin sole; rocksole/other flatfish/flathead sole; pollock/Atka mackerel/other. Generally, about 1,400 mt is apportioned to the cod trawl fishery group. In 2006, the halibut PSC limit for the cod trawl fishery group is 1,434 mt.

The crab PSC limit for 2006 is 182,225 red king crab in Zone 1; 4,494,569 *C. opilio* in the COBLZ; and 906,500 *C. bairdi* in Zone 1 and 2,747,250 *C. bairdi* in Zone 2. The 2006 cod trawl fishery group PSC allowance is 26,563 red king crab; 139,331 *C. opilio*, 183,112 *C. bairdi* in Zone 1; and 324,176 *C. bairdi* in Zone 2.

**Note that while this action does not propose to change the PSC allowances to the overall trawl cod fishery group, these amounts would change under proposed BSAI Amendment 80.** The Council’s

preferred alternative under Amendment 80 (final action in June 2006) apportions crab and halibut PSC to the non-AFA trawl CP sector, based on use in all of the sector's fisheries, including Pacific cod. Thus, while the total amount of halibut or crab PSC apportioned to the trawl cod fishery group is not proposed to be changed under Amendment 85, any estimate of the effect of splitting the trawl cod fishery PSC among the trawl sectors in Component 7 requires knowledge of the overall allocation of halibut PSC to the trawl cod fishery group as a whole. While in recent years, approximately 1,434 metric tons of halibut PSC has been allocated to the Pacific cod trawl fishery group, this amount will be reduced with the implementation of Amendment 80.

**For example, the Council's preferred alternative under BSAI Amendment 80 allocates 2,525 mt of halibut PSC to the non-AFA trawl CP sector and the remaining 875 mt to the remaining 'limited access' trawl sectors, to support all of their target fisheries.** Some portion of this 875 mt, likely the majority, would be allocated to the trawl cod fishery group in the annual specifications process. The halibut PSC allocated to the Pacific cod trawl fishery group is reduced from 1,434 metric tons, since the non-AFA trawl CP sector would no longer be using that PSC allocation for its target cod fishery. Thus, while Amendment 85 did not provide options to modify the amount of halibut PSC allocated to the trawl cod fishery group, the public should understand that the halibut allowance will be 875 mt or lower in the future, at such time that Amendment 80 is effective. A similar approach was selected for crab PSC under Amendment 80, to the extent that the non-AFA trawl CP sector receives its own separate crab PSC allocations under Amendment 80. The interaction between Amendment 85 and Amendment 80, relevant to halibut and crab PSC, is described in detail in Section 3.4.3.5 under the Council's preferred alternative.

Both Amendment 85 and Amendment 80 assume that the PSC allocations established under Amendment 80 will take priority for the non-AFA trawl CP sector when implemented. **Since the Amendment 80 PSC allocation is intended to support all catch (including Pacific cod) by the non-AFA trawl CP sector, if that amendment is approved by the Secretary, no additional halibut PSC would be allocated to that sector under Amendment 85.**<sup>109</sup> Allocations of halibut PSC would be made to the other trawl sectors for the Pacific cod trawl fishery under Amendment 85. Thus, the annual specification process outcome should clearly provide that the halibut and crab PSC allocation to the Pacific cod trawl fishery group would be divided among the remaining trawl sectors (e.g., potentially: AFA CV; AFA CP, non-AFA trawl CV), with no allocation to the non-AFA trawl catcher processor sector.

#### **3.4.2.7 Component 7: Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors**

Option 7.1	The annual PSC allocation to the trawl Pacific cod fishery will be apportioned to the cod trawl sectors based on the cod allocation percentages determined for each sector under Component 2.
Option 7.2	The annual PSC allocation to the trawl Pacific cod fishery will be apportioned to the cod trawl sectors based on the sector's directed cod fishery harvests during the qualifying period under Component 2.

<sup>109</sup>This is the assumption regardless of the timing of implementation of the two amendments. If Am. 80 is implemented simultaneously with Am. 85, it will be clear how much PSC is allocated to this sector under Am. 80 and the remainder will be allocated among the three remaining trawl groups under Am. 85. If Amendment 85 is implemented before Amendment 80, it could apportion the halibut and crab trawl PSC allowances among all four trawl sectors according to Options 7.1 and 7.2 in Component 7, until such time that Amendment 80 is effective.

This section presents a discussion of the effects of the apportionment of PSC to the various trawl sectors under Alternative 2, Options 7.1 and 7.2. This section includes an evaluation of the PSC apportionments to all trawl cod sectors: AFA trawl CP, non-AFA trawl CP, AFA trawl CV, and non-AFA trawl CV. **However, as discussed above, if Amendment 80 is implemented, the approach selected under this component would only be applied to the AFA trawl CP and trawl CV sectors, as the non-AFA trawl CP sector would receive all of its PSC under the methodology selected in Amendment 80.**

*Option 7.1*

Allocation of halibut PSC

Using the Pacific cod trawl sector allocations resulting from Option 2.1 (excluding the AFA 9) as an example (see Table 3-62), the following trawl sector allocations for halibut PSC can be determined. Table 3-94 shows the resultant halibut PSC allocations from applying the Pacific cod allocations under this option to the fixed halibut PSC limit. Column 1 of Table 3-94 shows the respective proportions of Pacific cod sector allocations for the trawl sectors, as a percent of the total allocation to all sectors. Column 2 of the table translates the proportional share of only the trawl sector allocations of Pacific cod under Option 2.1, in effect normalizing column 1 to 100 percent. Column 3 shows the current apportionment (1,434 mt for 2006) of halibut PSC for all trawl sectors in the directed Pacific cod fishery. Column 4 shows the allocation of halibut PSC that would result under Option 2.1 Pacific cod allocations for the respective trawl sectors. The respective halibut PSC allocations in this example are: AFA Trawl CPs – 66.2 mt; AFA Trawl CVs – 812.6 mt; non-AFA trawl CPs – 489.0 mt; and non-AFA trawl CVs – 66.2 mt. This example is only one of the many options for allocating Pacific cod to the various trawl sectors. Each option under Component 2 will result in a different allocation of halibut PSC under Option 7.1.

**Table 3-94 Example of trawl halibut PSC allocations under Option 7.1 resulting from Pacific cod sector allocations**

Trawl Sector	Option 2.1 Sector Allocation*	Percent of total BSAI trawl cod harvest	Trawl cod fishery group halibut PSC allocation	Halibut PSC allocation (mt)
AFA Trawl CPs	1.8%	4.6%	1,434 mt	66.2
AFA Trawl CVs	22.1%	56.7%	1,434 mt	812.6
Non-AFA Trawl CPs	13.3%	34.1%	1,434 mt	489.0
Non-AFA Trawl CVs	1.8%	4.6%	1,434 mt	66.2
Total	39.00%	100.00%	1,434 mt	1,434.0

\*This column represents an example allocation scenario. See Table 3-62, Option 2.1 excluding the AFA 9.

Source: Table 3-62, Option 2.1 excluding the AFA 9

**Table 3-69 in a previous section provides the full range of potential sector allocations resulting from Alternative 2, Components 1 and 2.** Using this information, one can determine the potential ranges of halibut PSC trawl sector allocations that could occur under Option 7.1.

Table 3-95 below applies the potential range of Pacific cod allocations to the trawl halibut PSC allocation to show for each sector the lowest and highest halibut PSC allocation that would be possible under the different Pacific cod allocation options and Option 7.1. Note that none of the options under consideration would simultaneously achieve all of the lowest sector allocations or all of the highest sector allocations.

Neither the high nor the low could be reached by applying the many sector allocation options because none of them has all of the highest or lowest allocations by sector. Each Pacific cod allocation option has a unique mix of allocation by sector, but under the method selected by the Council, the halibut PSC sector allocations for each individual option will total 1,434 mt. Table 3-95 serves to show the bounds of the range of the various sector allocations under all of the alternatives. The halibut PSC allocation calculated for any particular option can be compared to the overall ranges shown in Table 3-95.

**Table 3-95 Range of trawl halibut PSC allocations under Option 7.1 associated with the range of proposed Pacific cod sector allocations**

Trawl Sector	Lowest P. Cod Sector Allocation	Halibut Trawl PSC Allocation (mt) - <b>Low</b>	Highest P. Cod Sector Allocation	Halibut Trawl PSC Allocation (mt) - <b>High</b>
AFA Trawl CPs	0.9% <sup>1</sup>	32.9	3.7% <sup>1</sup>	126.6
AFA Trawl CVs	17.8% <sup>2</sup>	688.0	24.4% <sup>2</sup>	861.8
Non-AFA Trawl CPs	12.7% <sup>3</sup>	476.8	16.2% <sup>3</sup>	606.6
Non-AFA Trawl CVs	0.50% <sup>4</sup>	17.1	3.10% <sup>4</sup>	113.4

<sup>1</sup> lowest sector allocation from Option 2.6 drop year ; highest sector allocation from Option 2.2 (Table 3-62)

<sup>2</sup> lowest sector allocation from Option 2.6 (Table 3-68); highest sector allocation from Option 2.2 w/o AFA 9 (Table 3-65)

<sup>3</sup> lowest sector allocation from Option 2.1 w/AFA 9 (Table 3-68) ; highest sector allocation from Option 2.6. (Table 3-62)

<sup>4</sup> lowest sector allocation from Option 2.2.drop year w/AFA 9 (Table 3-65) ; highest sector allocation from Option 2.6 drop year w/AFA 9 (Table 3-62)

As shown in the analysis under Alternative 1, Component 7, the historical average annual halibut mortality, by sector, over the period from 1995-2003 is: **non-AFA trawl CPs – 458.7 mt; AFA trawl CPs – 20.8 mt; and trawl CVs – 736.5 mt. The annual total for the average halibut PSC harvest for these three sectors totaled 1,216 mt.** This is less than the current PSC limit of 1,434 mt allocated to the trawl cod fishery group. Under the allocation method selected by the Council for Option 7.1, the halibut PSC allocation is set to equal the amount currently set in regulation, and would not fluctuate with changes in resource abundance or changes in future fishing conditions, unless regulations were revised.

By not tying the sector allocation of halibut PSC to historical use levels in the cod fishery, it is likely that the sectors combined would receive more halibut PSC than historically needed to prosecute the fishery. In addition, some sectors, such as the non-AFA trawl CP fisheries for yellowfin sole and flathead sole may be precluded from using a portion of the ‘unused’ halibut PSC Pacific cod allocation used in the past. The result could be much less flexibility for inseason management decisions and potential reductions in reaching TAC levels for the other species. However, note that it is primarily the non-AFA trawl CP sector that has benefited from ‘unused’ halibut PSC in the Pacific cod trawl group, and this sector is proposed to receive PSC associated with all of its target fisheries, based on historical use, under Amendment 80.

#### Allocation of crab PSC

Option 7.1 also makes allocations of crab PSC for the different trawl cod sectors. The crab PSC allocations are determined in the Council specifications process. The 2006 limits for crab PSC in the BSAI Pacific cod trawl fishery are: red king crab – 26,563 animals; *C. opilio* – 139,331 animals; *C. bairdi* in Zone 1 – 183,112 animals; and *C. bairdi* zone 2 – 324,176 animals.

Under Option 7.1, the sector allocations of crab PSC would occur in the same manner as described above for halibut, for each unique Pacific cod allocation set out in Table 3-62–Table 3-68. The range of sector allocations of PSC crab that would occur under each of the options are shown below in Table 3-96 – Table 3-99.

Crab PSC is typically not a strong concern for the BSAI Pacific cod trawl fisheries, however, there have been occasional PSC crab closures in the past. In 2002, both the A season trawl CP fishery and the A season trawl CV fisheries were closed by red king crab PSC harvests in zone 1. In 1997, both the A season trawl CP and trawl CV fisheries were similarly closed in zone 1 due to the PSC limit for *C. bairdi*.

While the allocation method for Option 7.1 would result in allocation of the entire PSC limit to the Pacific cod trawl sectors, the historical use has been less than the amount available in most years. During 1995-2002, the annual average PSC harvest of red king crab has been: non-AFA trawl CPs – 4,730 crab; AFA trawl CPs – 166 crab; and trawl CVs – 1,114 crab. The annual total for the average halibut PSC harvest for these three sectors totaled 6,010, well below the PSC limit red king crab PSC of 26,563.

For the same period, the annual average PSC harvest of *C. bairdi* Tanner crab in Zone 1 was non-AFA trawl CPs – 72,391 crab; AFA trawl CPs – 469 crab; and trawl CVs – 59,810 crab. The annual total for the average Zone 1 *C. bairdi* PSC harvest for these three sectors has totaled 132,670 crab, again well below the current Zone 1 *C. bairdi* PSC limit of 183,112.

Again, for the same time period, 1995-2002, the annual average PSC harvest of *C. bairdi* Tanner crab in Zone 2 was: non-AFA trawl CPs – 25,546 crab; AFA trawl CPs – 1,685 crab; and trawl CVs – 19,376 crab. The annual total for the average Zone 2 *C. bairdi* PSC harvest for these three sectors has totaled 46,607 crab, well below the current Zone 2 *C. bairdi* PSC limit of 324,176.

The annual average PSC harvest of *C. opilio* Tanner crab within the COBLZ during 1995-2002 was as follows: non-AFA trawl CPs – 34,645 crab; AFA trawl CPs – 189 crab; and trawl CVs – 6,768 crab. The annual total for the average PSC harvest for these three sectors has totaled 41,602 crab, well below the current COBLZ PSC limit of 139,331.

**Table 3-96 Range of trawl red king crab PSC allocations under Option 7.1 associated with the range of proposed Pacific cod sector allocations**

Trawl Sector	Lowest P. Cod Sector Allocation	Red King Crab PSC Allocation (# of crab) by Trawl Sector - <b>Low</b>	Highest P. Cod Sector Allocation	Red King Crab PSC Allocation (# of crab) by Trawl Sector - <b>High</b>
AFA Trawl CPs	0.9% <sup>1</sup>	610	3.7% <sup>1</sup>	2,346
AFA Trawl CVs	17.8% <sup>2</sup>	12,745	24.4% <sup>2</sup>	15,964
Non-AFA Trawl CPs	12.7% <sup>3</sup>	8,831	16.2% <sup>3</sup>	11,236
Non-AFA Trawl CVs	0.50% <sup>4</sup>	317	3.10% <sup>4</sup>	2,101

Source: Based on the BSAI Trawl Bycatch Allowances for 2006 (26,563 red king crab).

<sup>1</sup> lowest sector allocation from Option 2.6 drop year ; highest sector allocation from Option 2.2 (Table 3-62)

<sup>2</sup> lowest sector allocation from Option 2.6 (Table 3-68); highest sector allocation from Option 2.2 w/o AFA 9 (Table 3-65)

<sup>3</sup> lowest sector allocation from Option 2.1 w/AFA 9 (Table 3-68) ; highest sector allocation from Option 2.6. (Table 3-62)

<sup>4</sup> lowest sector allocation from Option 2.2.drop year w/AFA 9 (Table 3-65) ; highest sector allocation from Option 2.6 drop year w/AFA 9 (Table 3-62)

**Table 3-97 Range of trawl *C. Opilio* crab PSC allocations under Option 7.1 associated with the range of proposed Pacific cod sector allocations**

Trawl Sector	Lowest P. Cod Sector Allocation	<i>C. Opilio</i> Crab PSC Allocation (# of crab) - by Trawl Sector - <b>Low</b>	Highest P. Cod Sector Allocation	<i>C. Opilio</i> PSC Allocation (# of crab) - by Trawl Sector - <b>High</b>
AFA Trawl CPs	0.9% <sup>1</sup>	3,199	3.7% <sup>1</sup>	12,304
AFA Trawl CVs	17.8% <sup>2</sup>	66,849	24.4% <sup>2</sup>	83,736
Non-AFA Trawl CPs	12.7% <sup>3</sup>	46,322	16.2% <sup>3</sup>	58,934
Non-AFA Trawl CVs	0.50% <sup>4</sup>	1,663	3.10% <sup>4</sup>	11,019

Source: Based on the BSAI Trawl Bycatch Allowances for 2006 (139,331 *C. Opilio*).

<sup>1</sup> lowest sector allocation from Option 2.6 drop year ; highest sector allocation from Option 2.2 (Table 3-62)

<sup>2</sup> lowest sector allocation from Option 2.6 (Table 3-68); highest sector allocation from Option 2.2 w/o AFA 9 (Table 3-65)

<sup>3</sup> lowest sector allocation from Option 2.1 w/AFA 9 (Table 3-68) ; highest sector allocation from Option 2.6. (Table 3-62)

<sup>4</sup> lowest sector allocation from Option 2.2.drop year w/AFA 9 (Table 3-65) ; highest sector allocation from Option 2.6 drop year w/AFA 9 (Table 3-62)

**Table 3-98 Range of trawl Zone 1 Bairdi crab PSC allocations under Option 7.1 associated with the range of proposed Pacific cod sector allocations**

Trawl Sector	Lowest P. Cod Sector Allocation	Zone 1 Bairdi PSC Allocation (# of crab) - by Trawl Sector - <b>Low</b>	Highest P. Cod Sector Allocation	Zone 1 Bairdi PSC Allocation (# of crab) - by Trawl Sector - <b>High</b>
AFA Trawl CPs	0.9% <sup>1</sup>	4,204	3.7% <sup>1</sup>	16,170
AFA Trawl CVs	17.8% <sup>2</sup>	87,854	24.4% <sup>2</sup>	110,048
Non-AFA Trawl CPs	12.7% <sup>3</sup>	60,878	16.2% <sup>3</sup>	77,452
Non-AFA Trawl CVs	0.50% <sup>4</sup>	2,185	3.10% <sup>4</sup>	14,481

Source: Based on the BSAI Trawl Bycatch Allowances for Zone 1 Bairdi 2006 (183,112 crab).

<sup>1</sup> lowest sector allocation from Option 2.6 drop year ; highest sector allocation from Option 2.2 (Table 3-62)

<sup>2</sup> lowest sector allocation from Option 2.6 (Table 3-68); highest sector allocation from Option 2.2 w/o AFA 9 (Table 3-65)

<sup>3</sup> lowest sector allocation from Option 2.1 w/AFA 9 (Table 3-68) ; highest sector allocation from Option 2.6. (Table 3-62)

<sup>4</sup> lowest sector allocation from Option 2.2.drop year w/AFA 9 (Table 3-65) ; highest sector allocation from Option 2.6 drop year w/AFA 9 (Table 3-62)

**Table 3-99 Range of trawl Zone 2 Bairdi crab PSC allocations under Option 7.1 associated with the range of proposed Pacific cod sector allocations**

Trawl Sector	Lowest Pacific Cod Sector Allocation	Zone 2 Bairdi PSC Allocation (# of crab) - by Trawl Sector - <b>Low</b>	Highest Pacific Cod Sector Allocation	Zone 2 Bairdi PSC Allocation (# of crab) - by Trawl Sector - <b>High</b>
AFA Trawl CPs	0.9% <sup>1</sup>	7,443	3.7% <sup>1</sup>	28,627
AFA Trawl CVs	17.8% <sup>2</sup>	155,535	24.4% <sup>2</sup>	194,825
Non-AFA Trawl CPs	12.7% <sup>3</sup>	107,776	16.2% <sup>3</sup>	137,119
Non-AFA Trawl CVs	0.50% <sup>4</sup>	3,868	3.10% <sup>4</sup>	25,636

Source: Based on the BSAI Trawl Bycatch Allowances for Zone 2 Bairdi 2006 (324,176 crab).

<sup>1</sup> lowest sector allocation from Option 2.6 drop year ; highest sector allocation from Option 2.2 (Table 3-62)

<sup>2</sup> lowest sector allocation from Option 2.6 (Table 3-68); highest sector allocation from Option 2.2 w/o AFA 9 (Table 3-65)

<sup>3</sup> lowest sector allocation from Option 2.1 w/AFA 9 (Table 3-68) ; highest sector allocation from Option 2.6. (Table 3-62)

<sup>4</sup> lowest sector allocation from Option 2.2.drop year w/AFA 9 (Table 3-65) ; highest sector allocation from Option 2.6 drop year w/AFA 9 (Table 3-62)

### Option 7.2

Option 7.2 would apportion the annual PSC allocations to the trawl Pacific cod fishery to the cod trawl sectors based on each sector's directed cod harvests during the qualifying period under Component 2. In effect, one first calculates the percent of total BSAI trawl cod harvest to each trawl sector, as done under Option 7.1. Because there are a multitude of options available under Component 2, the analysis of this option also uses an example of the Pacific cod trawl sector allocations resulting from Option 2.1 (excluding the AFA 9). Then one calculates the percent of retained Pacific cod that is harvested in the target Pacific cod fishery by sector. The result of multiplying these two percentages is the percentage of the total trawl cod fishery group PSC allowance that is allocated to each trawl sector.

Table 3-100 below shows the percent of Pacific cod harvested in the Pacific cod, pollock, and ‘other’ target fisheries for the non-AFA and AFA trawl CV sectors during 1999 – 2003. Targeting was determined by computing total retained harvests (including cod destined for meal production) for each vessel by sector, NMFS week-ending date, area, and BSAI TAC species group, as well as the total retained harvests for the entire week, all species combined. The target is assigned as the dominant (largest retained mt) BSAI TAC species group by week.

On average, the **non-AFA trawl CV sector** harvested about **99.8%** of its total retained BSAI Pacific cod catch in the Pacific cod target fishery. Less than 0.2% of the retained cod by this sector was taken in fisheries other than the Pacific cod target fishery. In the **AFA trawl CV sector**, about **92.2%** of the total retained BSAI Pacific cod catch by this sector was harvested in the directed Pacific cod fishery. The remaining 7.8% of this sector’s total retained cod was taken in the directed pollock fishery. The combined trawl CV sector harvested about 93.1% of its total retained BSAI Pacific cod catch in the Pacific cod target fishery.

**Table 3-100 Percent of (retained) BSAI Pacific cod harvested in the Pacific cod target, trawl CV sectors**

Year	Sector	% Pacific cod from Pacific cod targeted weeks	% Pacific cod from pollock targeted weeks	% Pacific cod from other species targeted weeks
1999	Non-AFA Trawl CV	99.86	0.14	0
2000	Non-AFA Trawl CV	99.68	0.32	0
2001	Non-AFA Trawl CV	99.82	0.02	0.16
2002	Non-AFA Trawl CV	99.99	0	0.01
2003	Non-AFA Trawl CV	99.70	0.00	0.30
<b>1999 - 2003</b>	<b>Non-AFA Trawl CV</b>	<b>99.8%</b>	<b>0.1%</b>	<b>0.1%</b>
Year	Sector	% Pacific cod from Pacific cod targeted weeks	% Pacific cod from pollock targeted weeks	% Pacific cod from other species targeted weeks
1999	AFA Trawl CV	94.26	5.72	0.02
2000	AFA Trawl CV	93.81	6.16	0.03
2001	AFA Trawl CV	90.88	9.12	0
2002	AFA Trawl CV	91.36	8.64	0
2003	AFA Trawl CV	90.02	9.98	0
<b>1999 - 2003</b>	<b>AFA Trawl CV</b>	<b>92.2%</b>	<b>7.8%</b>	<b>0.0%</b>

Source: ADF&G fishtickets, 1999 - 2003.

Note: Targeting was determined by computing total retained harvests (mt) for each vessel by sector, NMFS week-ending date, area, and BSAI TAC species group, as well as the total retained harvests (mt) for the entire week, all species combined. The target is assigned as the dominant (largest retained mt) BSAI TAC species group by week. CDQ harvests are not included.

Table 3-101 is a comparable table for the non-AFA and AFA trawl CP sectors during 1999 – 2003. On average, the **non-AFA trawl CP sector** harvested about **54.1%** of its total retained BSAI Pacific cod catch in the Pacific cod target fishery. The remainder of the Pacific cod harvested by this sector was taken in target fisheries other than Pacific cod, primarily the yellowfin sole, rock sole, flathead sole, and Atka mackerel fisheries.<sup>110</sup>

In the **AFA trawl CP sector**, about **55.8%** of the total retained BSAI Pacific cod catch by this sector was harvested in the directed Pacific cod fishery. The remaining 41.8% and 2.3% of this sector’s total retained cod was taken in the directed pollock fishery and flatfish fisheries, respectively.

**Table 3-101 Percent of (retained) Pacific cod harvested in the Pacific cod target, by trawl CP sector**

Year	Sector	% Pacific cod from Pacific cod targeted weeks	% Pacific cod from pollock targeted weeks	% Pacific cod from other species targeted weeks
1999	Non-AFA Trawl CP	50.88	0.20	48.92
2000	Non-AFA Trawl CP	49.73	0.12	50.14
2001	Non-AFA Trawl CP	43.79	0.33	55.88
2002	Non-AFA Trawl CP	60.16	0.04	39.80
2003	Non-AFA Trawl CP	62.69	0.03	37.28
<b>Ave. 1999 - 2003</b>	<b>Non-AFA Trawl CP</b>	<b>54.1%</b>	<b>0.3%</b>	<b>45.8%</b>
Year	Sector	% Pacific cod from Pacific cod targeted weeks	% Pacific cod from pollock targeted weeks	% Pacific cod from other species targeted weeks
1999	AFA Trawl CP	70.45	26.16	3.39
2000	AFA Trawl CP	63.31	35.30	1.38
2001	AFA Trawl CP	49.82	46.30	3.89
2002	AFA Trawl CP	36.73	62.20	1.07
2003	AFA Trawl CP	46.51	52.51	0.98
<b>Ave. 1999 - 2003</b>	<b>AFA Trawl CP</b>	<b>55.8%</b>	<b>41.8%</b>	<b>2.3%</b>

Source: Weekly processor reports, 1999 – 2003.

Note: Targeting was determined by computing total retained harvests (mt) for each vessel by sector, NMFS week-ending date, area, and BSAI TAC species group, as well as the total retained harvests (mt) for the entire week, all species combined. The target is assigned as the dominant (largest retained mt) BSAI TAC species group by week. CDQ harvests are not included.

### Allocation of halibut PSC

The following table shows the resulting halibut PSC apportionments to each trawl sector under Option 7.2. Due to the multitude of allocation options possible, Table 3-102 uses the average percentage of targeted cod by sector from 1999 – 2003, as shown previously and the same example of BSAI Pacific cod trawl sector allocations used in Option 7.1.<sup>111</sup> **The result of multiplying these two percentages (and adjusting to 100% of the total) is the percentage of the total trawl cod fishery group halibut PSC**

<sup>110</sup>On occasion, a non-AFA vessel appears to have a pollock target. This can occur when a vessel fished in more than one Federal zone during the same week (separate targets are assigned for each Federal zone). In addition, there is one ‘unlisted’ trawl CP that is eligible to target BSAI pollock under the AFA, but is included in the non-AFA trawl CP sector for purposes of non-pollock fisheries.

<sup>111</sup>The example BSAI Pacific cod trawl allocations are from Alternative 2, Component 2, Option 2.1 (excluding the AFA 9).

**allowance that is allocated to each trawl sector under Option 7.2 (column 5).** Column 6 translates that percentage to metric tons, using the existing cod trawl halibut bycatch cap of 1,434 mt.

**Table 3-102 Example of trawl halibut PSC allocations under Option 7.2 resulting from Pacific cod sector allocations**

Column number	1	2	3	4	5	6
Trawl Sector	Option 2.1 Sector Allocation* (% of ITAC)	Percent of total BSAI trawl cod allocation	Percent of cod harvested in target cod fishery**	Product of Column 2 x Column 3	Percent of trawl cod halibut PSC allocation (adjusted to 100% of total)	Halibut PSC allocation (mt)
AFA Trawl CP	1.8%	4.6%	55.8%	2.6%	<b>3.3%</b>	<b>47.4</b>
AFA Trawl CV	22.1%	56.7%	92.2%	52.2%	<b>67.1%</b>	<b>962.0</b>
Non-AFA Trawl CP	13.3%	34.1%	54.1%	18.4%	<b>23.7%</b>	<b>339.7</b>
Non-AFA Trawl CV	1.8%	4.6%	99.8%	4.6%	<b>5.9%</b>	<b>84.8</b>
Total	39.0%	100.0%	n/a	77.9%	<b>100.0%</b>	<b>1434.0</b>

\*This column represents an example allocation scenario. See Table 3-62, Option 2.1 excluding the AFA 9.

\*\*Average percentage of BSAI Pacific cod harvested in the directed BSAI Pacific cod fishery by sector, 1999 – 2003.

**Note that the primary result of Option 7.2 is to increase the halibut PSC allowance to the trawl cod sectors which catch the great majority of their Pacific cod in the target cod fishery.** This is because the PSC being allocated is for the *trawl cod fishery group*, meaning it is intended to represent the halibut necessary to prosecute the *directed* cod fishery. Halibut PSC necessary to prosecute other target trawl fisheries would be allocated under a different (non-cod) trawl fishery group. In effect, this option would not provide additional PSC for other target trawl fisheries that catch cod incidentally.

Overall, the trawl CP sectors have the lowest percentage of targeted cod, relative to the trawl CV sectors. About 54.1% and 55.8% of the retained Pacific cod harvested by the non-AFA trawl CP and AFA trawl CP sectors, respectively, were caught in the cod target fishery on average during 1999 – 2003. The trawl CV sectors show a much higher percentage of targeted cod: AFA trawl CV (92.2%) and non-AFA trawl CV (99.8%). **Because of this substantial difference, Option 7.2 results in increasing the percentage of the total trawl cod halibut PSC allowance to the trawl CV sectors relative to the trawl CP sectors.**

As provided for in the analysis of Option 7.1, Table 3-103 below provides the possible range of halibut PSC allocations to the trawl sectors under Option 7.2, based on the minimum and maximum Pacific cod allocations proposed for each sector in Component 2. As shown in the previous example, this means that the minimum/maximum allocation was determined for each sector, and then translated to a percentage of the total trawl cod allocation. That percentage was then adjusted to account for cod harvested in the target cod fishery only (and adjusted to 100% scale). Note that the estimates of metric tons of halibut mortality are based on the current halibut PSC allowance of 1,434 mt for the trawl cod fishery group.

**Table 3-103 Range of trawl halibut PSC allocations under Option 7.2 associated with the range of proposed Pacific cod sector allocations**

Trawl Sector	Lowest P. Cod Sector Allocation	Halibut Trawl PSC Allocation (mt) - <b>Low</b>	Highest P. Cod Sector Allocation	Halibut Trawl PSC Allocation (mt) - <b>High</b>
AFA Trawl CPs	0.9% <sup>1</sup>	24.0	3.7% <sup>1</sup>	92.4
AFA Trawl CVs	17.8% <sup>2</sup>	837.5	24.4% <sup>2</sup>	1,023.3
Non-AFA Trawl CPs	12.7% <sup>3</sup>	334.1	16.2% <sup>3</sup>	433.0
Non-AFA Trawl CVs	0.50% <sup>4</sup>	22.4	3.10% <sup>4</sup>	147.5

<sup>1</sup> lowest sector allocation from Option 2.6 drop year ; highest sector allocation from Option 2.2 (Table 3-62)

<sup>2</sup> lowest sector allocation from Option 2.6 (Table 3-68); highest sector allocation from Option 2.2 w/o AFA 9 (Table 3-65)

<sup>3</sup> lowest sector allocation from Option 2.1 w/AFA 9 (Table 3-68) ; highest sector allocation from Option 2.6. (Table 3-62)

<sup>4</sup> lowest sector allocation from Option 2.2.drop year w/AFA 9 (Table 3-65) ; highest sector allocation from Option 2.6 drop year w/AFA 9 (Table 3-62)

Finally, Table 3-104 below compares the resulting range of halibut PSC allocations to each trawl sector (percentage and metric tons) under Option 7.1 and Option 7.2. **Note that the resulting halibut PSC allocations to each trawl sector under either Option 7.1 or 7.2, with the exception of the non-AFA trawl CP sector, are higher than the average amount of halibut PSC used by each sector during 1995 – 2003 (refer to Table 3-49).** By contrast, the non-AFA trawl CP sector had an average halibut mortality of about 458.7 mt during 1995 – 2003, and Option 7.2 could allocate a range of 334 mt – 433 mt to that sector under the current halibut bycatch allowance, depending on the allocations selected under Component 2. This is because a relatively high percentage of the Pacific cod caught by this sector was in a different species target, and Option 7.2 bases halibut allocations on the sector’s Pacific cod allocation and the percentage of cod harvested in the target cod fishery.

**Table 3-104 Comparison of range of trawl sector halibut PSC allocations under Option 7.1 and Option 7.2**

Sector	Option 7.1				Option 7.2			
	Minimum halibut (mt)	Minimum % of total halibut	Maximum halibut (mt)	Maximum % of total halibut	Minimum halibut (mt)	Minimum % of total halibut	Maximum halibut (mt)	Maximum % of total halibut
AFA Trawl CP	32.92	2.3%	126.63	8.8%	24.0	1.7%	92.4	6.4%
AFA Trawl CV	688.01	48.0%	861.81	60.1%	837.5	58.4%	1,023.30	71.4%
Non-AFA Trawl CP	476.75	33.2%	606.55	42.3%	334.1	23.3%	433.0	30.2%
Non-AFA Trawl CV	17.11	1.2%	113.4	7.9%	22.4	1.6%	147.5	10.3%

Note: The estimates of halibut mortality in metric tons are based on the current halibut PSC limit of 1,434 mt allocated to the BSAI cod trawl fishery group.

Note: Maximum and minimum allocations are from Table 3-95 and Table 3-103.

**It is important to recall that upon implementation of BSAI Amendment 80, the non-AFA trawl CP sector would receive 2,525 mt of halibut PSC, which is to be used for prosecuting all of its target fisheries (including Pacific cod).** In effect, some portion of the 875 mt of halibut PSC that remains for the limited access trawl sectors (AFA trawl CP and trawl CV sectors) would be allocated to the trawl *cod* fishery group in the annual specifications process. The amount allocated to the trawl cod fishery group

(≤875 mt) would be further divided among the AFA CP and trawl CV sectors, using the method selected under Amendment 85. The effect of Amendment 80 on the Council’s preferred alternative for Amendment 85, relative to PSC, is outlined in Section 3.4.3.5.

Allocation of crab PSC

As noted under the discussion of Option 7.1, crab bycatch allowances are determined in the Council specifications process. The 2006 limits for crab PSC in the BSAI Pacific cod trawl fishery are: red king crab – 26,563 animals; *C. opilio* – 139,331 animals; *C. bairdi* in Zone 1 – 183,112 animals; and *C. bairdi* in Zone 2 – 324,176 animals. The PSC limits are set to fluctuate in response to changes in resource abundance for the specific crab species.

As is the case for halibut PSC described above, under Option 7.2, crab PSC is apportioned to the different trawl sectors according to each sector’s proportional share of directed Pacific cod harvest. The sequence of calculations to determine the results of Option 7.2 is outlined in Table 3-102. The percent allocations for each sector, shown in column 5 of Table 3-102 for halibut PSC, are the same percentages used to apportion crab PSC. This is because the same data (the sector allocation of Pacific cod and the sector’s percent of cod harvested in the target cod fishery) are used to determine both halibut and crab PSC apportionments under Option 7.2.

As noted in the discussion above, an analysis of all of the possible allocation options would be unnecessarily confusing and voluminous. **Instead, the following tables present an example of the allocations that would result from one specific Pacific cod allocation option (Component 2, Option 2.1, excluding the AFA 9, shown in Table 3-62).** Similar to the halibut examples, the crab examples below are based on the average percentages of targeted cod, by trawl sector, from 1999 – 2003.

The results of the example option are shown below for each of the four crab PSC allocations in Table 3-105. The second column shows the percent of the total crab PSC allowance to the trawl cod fishery group allocated to each trawl sector under the example allocation scenario. These are the same percentages calculated in Table 3-102. The percentages in column 2 are then translated to numbers of crab, using the current crab PSC limit for the trawl cod fishery group. Each of the sector allocation options in Component 2 would result in a different crab PSC apportionment among sectors, depending on the Pacific cod allocation selected and the sector’s historical percentage of targeted cod.

**Table 3-105 Example of crab PSC allocations under Option 7.2 resulting from one example of Pacific cod sector allocations\***

Trawl Sector	Percent of trawl cod crab PSC allocation (adjusted to 100% of total)**	Red king crab PSC allocation (# of crab)	C. Opilio PSC allocation (# of crab)	Bairdi Zone 1 PSC allocation (# of crab)	Bairdi Zone 2 PSC allocation (# of crab)
AFA Trawl CP	3.3%	877	4,598	6,043	10,698
AFA Trawl CV	67.1%	17,824	93,491	122,868	217,522
Non-AFA Trawl CP	23.7%	6,295	33,021	43,498	76,830
Non-AFA Trawl CV	5.9%	1,567	8,221	10,804	19,126
Total	100.0%	26,563	139,331	183,112	324,176

\*The example allocation scenario is from Table 3-62, Option 2.1 excluding the AFA 9.  
 \*\*See Column 5 of Table 3-102 for the origin of this column.

The following four tables indicate the maximum and minimum crab PSC allocations to each trawl sector, by applying the potential range of BSAI Pacific cod allocations proposed under Component 2. There is not an individual option that would simultaneously achieve every minimum, or every maximum allocation of crab PSC to each sector. However, Table 3-106 through Table 3-109 below encompass the entire range of crab PSC allocations possible under the full suite of options.

Table 3-106 shows the range of apportionments for red king crab, followed by tables for *C. opilio*, Zone 1 *bairdi* and Zone 2 *bairdi*. Maps showing these designated areas are included in Section 3.4.1.5 of the analysis.

**Table 3-106 Range of red king crab PSC allocations to the trawl sectors under Option 7.2**

Trawl Sector	Lowest P. Cod Sector Allocation	Red King Crab PSC Allocation (# of crab) by Trawl Sector - <b>Low</b>	Highest P. Cod Sector Allocation	Red King Crab PSC Allocation (# of crab) by Trawl Sector - <b>High</b>
AFA Trawl CPs	0.9% <sup>1</sup>	444	3.7% <sup>1</sup>	1,712
AFA Trawl CVs	17.8% <sup>2</sup>	15,512	24.4% <sup>2</sup>	18,956
Non-AFA Trawl CPs	12.7% <sup>3</sup>	6,188	16.2% <sup>3</sup>	8,021
Non-AFA Trawl CVs	0.50% <sup>4</sup>	416	3.10% <sup>4</sup>	2,733

Source: Based on the 2006 BSAI trawl bycatch allowances of 26,563 red king crab.

<sup>1</sup> lowest sector allocation from Option 2.6 drop year ; highest sector allocation from Option 2.2 (Table 3-62)

<sup>2</sup> lowest sector allocation from Option 2.6 (Table 3-68); highest sector allocation from Option 2.2 w/o AFA 9 (Table 3-65)

<sup>3</sup> lowest sector allocation from Option 2.1 w/AFA 9 (Table 3-68) ; highest sector allocation from Option 2.6. (Table 3-62)

<sup>4</sup> lowest sector allocation from Option 2.2.drop year w/AFA 9 (Table 3-65) ; highest sector allocation from Option 2.6 drop year w/AFA 9 (Table 3-62)

Similar to the PSC allocations under Option 7.1, Option 7.2 would result in allocating the entire crab PSC limit to the BSAI Pacific cod trawl sectors. However, the historical use of crab PSC has been less than the crab PSC limit available in most years. The lowest possible red king crab PSC allocations to each trawl sector under Option 7.2 are higher than the average annual harvest during 1995 – 2002. During 1995-2002, the annual average PSC harvest of red king crab was: non-AFA trawl CPs – 4,730 crab; AFA trawl CPs – 166 crab; and trawl CVs – 1,114 crab. The annual average total of red king crab PSC harvest for these sectors totaled 6,010 crab, well below the PSC limit red king crab PSC of 26,563 crab.

The annual average PSC harvest of *C. opilio* Tanner crab within the COBLZ during 1995-2002 was: non-AFA trawl CPs – 34,645 crab; AFA trawl CPs – 189 crab; and trawl CVs – 6,768 crab. The annual total for the average PSC harvest for these three sectors has totaled 41,602 crab, well below the current COBLZ PSC limit of 139,331 crab.

For the same period, the annual average PSC harvest of *C. bairdi* Tanner crab in Zone 1 was: non-AFA trawl CPs – 72,391 crab; AFA trawl CPs – 469 crab; and trawl CVs – 59,810 crab. The average annual total for Zone 1 *C. bairdi* PSC harvest for these three sectors was 132,670 crab, well below the current Zone 1 *C. bairdi* PSC limit of 183,112 crab.

Also during 1995-2002, the annual average PSC harvest of *C. bairdi* Tanner crab in Zone 2 was: non-AFA trawl CPs – 25,546 crab; AFA trawl CPs – 1,685 crab; and trawl CVs – 19,376 crab. The average annual total for Zone 2 *C. bairdi* PSC harvest for these three sectors was 46,607 crab, well below the current Zone 2 *C. bairdi* PSC limit of 324,176 crab.

Table 3-107 through

Table 3-109 shows the range of PSC apportionments for *C. opilio*, Zone 1 *C. bairdi* and Zone 2 *C. bairdi* that result from Option 7.2. These ranges can be compared with the historic levels of *C. opilio* and *C. bairdi* PSC taken in each trawl sector. In most cases, crab PSC harvest for the different trawl sectors has been less than the minimum allocations under Option 7.2. However, for *C. opilio*, the average annual use for the non-AFA trawl CP sector was 34,645 crab during 1995 - 2002, which is higher than the minimum allocation (32,460 crab) shown below. Also for the non-AFA trawl CP sector, the historical average annual use of zone 1 *C. bairdi* was 72,391 crab during 1995 - 2002. This is much higher than either the minimum apportionment under Option 7.2 (42,660 zone 1 *C. bairdi*) or the maximum apportionment under Option 7.2 (55,290 zone 1 *C. bairdi*).

**Table 3-107 Range of *C. Opilio* crab PSC allocations to the trawl sectors under Option 7.2**

Trawl Sector	Lowest P. Cod Sector Allocation	<i>C. Opilio</i> Crab PSC Allocation (# of crab) - by Trawl Sector - <b>Low</b>	Highest P. Cod Sector Allocation	<i>C. Opilio</i> PSC Allocation (# of crab) - by Trawl Sector - <b>High</b>
AFA Trawl CPs	0.9% <sup>1</sup>	2,327	3.7% <sup>1</sup>	8,980
AFA Trawl CVs	17.8% <sup>2</sup>	81,369	24.4% <sup>2</sup>	99,428
Non-AFA Trawl CPs	12.7% <sup>3</sup>	32,460	16.2% <sup>3</sup>	42,070
Non-AFA Trawl CVs	0.50% <sup>4</sup>	2,181	3.10% <sup>4</sup>	14,336

Source: Based on the 2006 BSAI trawl bycatch allowance of 139,331 *C. Opilio*.

<sup>1</sup> lowest sector allocation from Option 2.6 drop year ; highest sector allocation from Option 2.2 (Table 3-62)

<sup>2</sup> lowest sector allocation from Option 2.6 (Table 3-68); highest sector allocation from Option 2.2 w/o AFA 9 (Table 3-65)

<sup>3</sup> lowest sector allocation from Option 2.1 w/AFA 9 (Table 3-68) ; highest sector allocation from Option 2.6. (Table 3-62)

<sup>4</sup> lowest sector allocation from Option 2.2.drop year w/AFA 9 (Table 3-65) ; highest sector allocation from Option 2.6 drop year w/AFA 9 (Table 3-62)

**Table 3-108 Range of Zone 1 *C. bairdi* crab PSC allocations to the trawl sectors under Option 7.2**

Trawl Sector	Lowest P. Cod Sector Allocation	Zone 1 <i>C. bairdi</i> PSC Allocation (# of crab) - by Trawl Sector - <b>Low</b>	Highest P. Cod Sector Allocation	Zone 1 <i>C. bairdi</i> PSC Allocation (# of crab) - by Trawl Sector - <b>High</b>
AFA Trawl CPs	0.9% <sup>1</sup>	3,058	3.7% <sup>1</sup>	11,801
AFA Trawl CVs	17.8% <sup>2</sup>	106,937	24.4% <sup>2</sup>	130,671
Non-AFA Trawl CPs	12.7% <sup>3</sup>	42,660	16.2% <sup>3</sup>	55,290
Non-AFA Trawl CVs	0.50% <sup>4</sup>	2,867	3.10% <sup>4</sup>	18,841

Source: Based on the 2006 BSAI trawl bycatch allowances for Zone 1 *C. bairdi* i of 183,112 crab.

<sup>1</sup> lowest sector allocation from Option 2.6 drop year ; highest sector allocation from Option 2.2 (Table 3-62)

<sup>2</sup> lowest sector allocation from Option 2.6 (Table 3-68); highest sector allocation from Option 2.2 w/o AFA 9 (Table 3-65)

<sup>3</sup> lowest sector allocation from Option 2.1 w/AFA 9 (Table 3-68) ; highest sector allocation from Option 2.6. (Table 3-62)

<sup>4</sup> lowest sector allocation from Option 2.2.drop year w/AFA 9 (Table 3-65) ; highest sector allocation from Option 2.6 drop year w/AFA 9 (Table 3-62)

**Table 3-109 Range of Zone 2 *C. bairdi* crab PSC allocations to the trawl sectors under Option 7.2**

Trawl Sector	Lowest Pacific Cod Sector Allocation	Zone 2 <i>C. bairdi</i> PSC Allocation (# of crab) - by Trawl Sector - <b>Low</b>	Highest Pacific Cod Sector Allocation	Zone 2 <i>C. bairdi</i> PSC Allocation (# of crab) - by Trawl Sector - <b>High</b>
AFA Trawl CPs	0.9% <sup>1</sup>	5,414	3.7% <sup>1</sup>	20,892
AFA Trawl CVs	17.8% <sup>2</sup>	189,318	24.4% <sup>2</sup>	231,336
Non-AFA Trawl CPs	12.7% <sup>3</sup>	75,523	16.2% <sup>3</sup>	97,884
Non-AFA Trawl CVs	0.50% <sup>4</sup>	5,075	3.10% <sup>4</sup>	33,355

Source: Based on the 2006 BSAI trawl bycatch allowances for Zone 2 *C. bairdi* of 324,176 crab.

<sup>1</sup> lowest sector allocation from Option 2.6 drop year ; highest sector allocation from Option 2.2 (Table 3-62)

<sup>2</sup> lowest sector allocation from Option 2.6 (Table 3-68); highest sector allocation from Option 2.2 w/o AFA 9 (Table 3-65)

<sup>3</sup> lowest sector allocation from Option 2.1 w/AFA 9 (Table 3-68) ; highest sector allocation from Option 2.6. (Table 3-62)

<sup>4</sup> lowest sector allocation from Option 2.2.drop year w/AFA 9 (Table 3-65) ; highest sector allocation from Option 2.6 drop year w/AFA 9 (Table 3-62)

Finally, the four tables below (Table 3-110 through Table 3-113) provide a comparison of Option 7.1 and Option 7.2 for each crab species. Since the percentages for the crab allocations are the same as presented in Table 3-104, they are not repeated in this series of tables—the results are only presented in terms of numbers of crab. Note that all options assume that the current overall trawl crab bycatch allowances are maintained; the options only propose methods for splitting the total among the four trawl sectors.

The general conclusion in comparing Option 7.1 and Option 7.2 is that for the trawl CV sectors (AFA trawl CV and non-AFA trawl CV), the range of crab PSC allocations is higher under Option 7.2, than under Option 7.1. In the trawl CP sectors, however, the range of crab PSC allocations is higher under Option 7.1 than under Option 7.2. This is because Option 7.2 is based on the percentage of Pacific cod harvested by each sector in the *targeted* Pacific cod fishery, and the trawl CP sectors have a much lower percentage of targeted cod, than the trawl CV sectors (see Column 3 of Table 3-102).

In general, the historical use of crab PSC by the trawl sectors is less than the minimum proposed allocations of crab PSC under either Option 7.1 or 7.2. However, there are a couple of notable exceptions. The historic use of *C. opilio* PSC in the non-AFA trawl CP sector averaged 34,645 crab for the years 1995 – 2002, which is greater than the minimum allocation of 32,460 crab under the most restrictive sector allocation under Option 7.2. Of greater concern for the non-AFA trawl CP sector is for Zone 1 *C. bairdi*, historic use of which averaged 72,391 crab in 1995 - 2002. This historic use level is greater than the both the minimum (42,660 crab) and maximum (55,290 crab) proposed under Option 7.2 and also greater than the minimum (60,878 crab) allocation under Option 7.1. If future harvests for Zone 1 *C. bairdi* follow the average use during 1995 - 2002, the PSC allocation for the non-AFA trawl CP sector will be constraining under most of the Pacific cod allocations combined with Option 7.1 or Option 7.2.

Recall again that a cooperative structure is being recommended for the non-AFA trawl CP sector under BSAI Amendment 80. This amendment would provide the cooperative(s) in the non-AFA trawl CP sector with halibut and crab PSC allocations for all of their target fisheries, including PSC associated with Pacific cod. Under this management structure, the non-AFA trawl CP sector is expected to be able to better manage its PSC use internally. The Council selected a preferred alternative under Amendment 80 in June 2006. The effect of Amendment 80 on the Council’s preferred alternative for Amendment 85, relative to PSC, is outlined in Section 3.4.3.5. Both amendments are clear that upon implementation of

Amendment 80, only the remaining trawl sectors (trawl CV and AFA trawl CP) will receive PSC apportionments as determined in Amendment 85.

**Table 3-110 Comparison of Option 7.1 and 7.2: red king crab PSC**

Sector	Option 7.1		Option 7.2	
	Minimum red king crab (# of crab)	Maximum red king crab (# of crab)	Minimum red king crab (# of crab)	Maximum red king crab (# of crab)
AFA Trawl CP	610	2,346	444	1,712
AFA Trawl CV	12,745	15,964	15,512	18,956
Non-AFA Trawl CP	8,831	11,236	6,188	8,021
Non-AFA Trawl CV	317	2,101	416	2,733

Note: The estimates of red king crab mortality in numbers of crab are based on the 2006 red king crab PSC limit of 26,563 crab allocated to the BSAI cod trawl fishery group.

**Table 3-111 Comparison of Option 7.1 and 7.2: *C. opilio* PSC allocations**

Sector	Option 7.1		Option 7.2	
	Minimum <i>C. opilio</i> (# of crab)	Maximum <i>C. Opilio</i> (# of crab)	Minimum <i>C. Opilio</i> (# of crab)	Maximum <i>C. Opilio</i> (# of crab)
AFA Trawl CP	3,199	12,304	2,327	8,980
AFA Trawl CV	66,849	83,736	81,369	99,428
Non-AFA Trawl CP	46,322	58,934	32,460	42,070
Non-AFA Trawl CV	1,663	11,019	2,181	14,336

Note: The estimates of *C. opilio* crab mortality in numbers of crab are based on the 2006 *C. opilio* PSC limit of 139,331 crab allocated to the BSAI cod trawl fishery group.

**Table 3-112 Comparison of Option 7.1 and 7.2: Zone 1 *C. bairdi* PSC allocations**

Sector	Option 7.1		Option 7.2	
	Minimum <i>C. bairdi</i> zone 1 (# of crab)	Maximum <i>C. bairdi</i> zone 1 (# of crab)	Minimum <i>C. bairdi</i> zone 1 (# of crab)	Maximum <i>C. bairdi</i> zone 1 (# of crab)
AFA Trawl CP	4,204	16,170	3,058	11,801
AFA Trawl CV	87,854	110,048	106,937	130,671
Non-AFA Trawl CP	60,878	77,452	42,660	55,290
Non-AFA Trawl CV	2,185	14,481	2,867	18,841

Note: The estimates of *C. bairdi* zone 1 crab mortality in numbers of crab are based on the 2006 Bairdicurrent *C. bairdi* zone 1 PSC limit of 183,112 crab allocated to the BSAI cod trawl fishery group.

**Table 3-113 Comparison of Option 7.1 and 7.2: Zone 2 *C. bairdi* PSC allocations**

Sector	Option 7.1		Option 7.2	
	Minimum <i>C. bairdi</i> zone 2 (# of crab)	Maximum <i>C. bairdi</i> zone 2 (# of crab)	Minimum <i>C. bairdi</i> zone 2 (# of crab)	Maximum <i>C. bairdi</i> zone 2 (# of crab)
AFA Trawl CP	7,443	28,627	5,414	20,892
AFA Trawl CV	155,535	194,825	189,318	231,336
Non-AFA Trawl CP	107,776	137,119	75,523	97,884
Non-AFA Trawl CV	3,868	25,636	5,075	33,355

Note: The estimates of *C. bairdi* zone 2 crab mortality in numbers of crab are based on the 2006 Bairdicurrent *C. bairdi* zone 2 PSC limit of 324,176 crab allocated to the BSAI cod trawl fishery group.

### *Economic Impacts Associated with Allocations of PSC*

There may be economic impacts associated with further division of PSC allocations among the various sectors. Currently, Federal regulations do not include specific provisions for reallocating PSC among different fishery categories within the same gear sector (i.e., moving halibut PSC allocated to the cod trawl fishery group to the flatfish trawl fishery group). Nevertheless, reallocating unutilized PSC, specifically halibut PSC, by a specific fishery group has been an important economic benefit of in-season management adjustments, routinely administered by NMFS, toward the end of each fishing year. Allocating PSC by individual trawl sector, as proposed under Component 7, reduces the flexibility to shift PSC among trawl sectors and fisheries to some extent.

Table 3-114 shows the amount of halibut PSC allocated to, and used in, the BSAI Pacific cod trawl fishery during 1995 - 2005. The column on the right provides the annual percent utilization of the halibut PSC allocation to the Pacific cod trawl sectors. Over the 11 years from 1995 through 2005, the utilization of the halibut PSC allocation within the BSAI trawl cod fishery averaged 85 percent. This table highlights a trend toward slightly higher utilization of halibut PSC within the Pacific cod trawl fishery in recent years, leaving a smaller proportion 'left over', and thus available to be reallocated to other trawl fisheries.

There are likely a number of factors that may help to explain this trend, but a few are obvious. Pacific cod was not seasonally allocated for trawl gear until 2001, so the trawl sector only fished cod in the A season. This left the unused PSC allocation to be reallocated to other trawl fisheries later in the year. There is also the potential that better record keeping changed the halibut PSC use records from 2003 to the present. In 2003, NMFS began using halibut mortality estimates for the CV sector based at the vessel level instead of the processor level (with implementation of the catch accounting database replacing the blend database). Also, as noted in the market information, Pacific cod prices have increased in recent years, making it a higher priority fishery than when prices were lower. With a higher intensity fishery, vessels are targeting Pacific cod in the spring, summer, and fall, and with the extended fishery use a higher proportion of their total halibut PSC allowance.

**Table 3-114 Halibut mortality in the BSAI Pacific cod trawl fishery, 1995 - 2005**

Year	Halibut PSC limit (mt)	Halibut mortality (mt)	remaining PSC allowance (mt)	% utilized
2005	1,434	1,302	132	90.8%
2004	1,434	1,578	-144	110.0%
2003	1,434	1,234	200	86.1%
2002	1,434	1,128	306	78.7%
2001	1,334	672	662	50.4%
2000	1,434	935	499	65.2%
1999	1,473	1,364	109	92.6%
1998	1,434	1,186	248	82.7%
1997	1,600	1,350	250	84.4%
1996	1,685	1,640	45	97.3%
1995	1,550	1,510	40	97.4%

Source: NMFS, Alaska Region. Catch accounting annual summaries, 1995 – 2005.

There are likely a number of factors that may help to explain this trend, but a few are obvious. Pacific cod was not seasonally allocated for trawl gear until 2001, so the trawl sector only fished cod in the A season. This left the unused allocation to be reallocated to other trawl fisheries later in the year. There is also the potential that better record keeping changed the halibut PSC use records from 2003 to the present. In 2003, NMFS began using halibut mortality estimates for the CV sector based at the vessel level instead of the processor level (with implementation of the catch accounting database replacing the blend database). Also, as noted in the market information, Pacific cod prices have increased in recent years, making it a higher priority fishery than when prices were lower. With a higher intensity fishery, vessels are targeting Pacific cod in the spring, summer, and fall, and with the extended fishery use a higher proportion of their total halibut PSC allowance.

Movement of PSC within the trawl fisheries, as administered by NMFS in-season managers, has enabled late season flatfish fisheries to be prosecuted that otherwise could not have occurred. Data are not available to show which trawl fisheries received PSC that was not utilized in the Pacific cod trawl fishery. The extent of the harvest of yellowfin sole, or ‘other’ flatfish that was leveraged by the use of the PSC, is also unknown. Note also that in 2004, the typical situation was reversed. The BSAI trawl Pacific cod fishery exceeded its halibut PSC allocation, due primarily to Pacific cod being in deeper waters than normal. In the late summer/early fall, the only fishery that still had TAC available was the Pacific cod fishery. The flatfish fisheries experienced lower than normal halibut mortality, so halibut PSC allocation from the yellowfin sole fishery was utilized to enable additional fishing in the Pacific cod fishery.

If Amendment 85 created a situation where ‘left over’ PSC allocated to the cod trawl fishery group would be encumbered to the extent that in-season managers could not use it in other late summer and early fall fisheries as they have in the past, there would be a negative economic impact (largely to the non-AFA trawl CP sector) from this outcome. As stated previously, the shift of halibut PSC between trawl fishery groups has occurred largely to extend fisheries primarily prosecuted by the non-AFA trawl CP sector. However, this sector is proposed to receive all of the PSC associated with all of its target fisheries (including Pacific cod) under BSAI Amendment 80. Thus, the concern described above would be allayed for this sector under Amendment 80, as this sector’s PSC would not be allocated by NMFS to separate fishery groups. Instead, the sector would be able to use its PSC allocation, as needed, for any of its target fisheries, as determined by the sector through the cooperative structure. If successful, self-management of these PSC allowances would be expected to reduce transactions costs, improve economic and operational efficiency, and optimize the use of these valuable shellfish and finfish resources to the benefit of the Nation.

There are obvious direct economic and operational benefits to all groundfish trawl sectors that result from continuing to allow PSC to be reallocated from one trawl fishery group to another. Amendment 85 does not contain any options to explicitly prohibit this practice; thus, it is expected that inseason managers would continue to have the flexibility to shift PSC from within one trawl sector fishery group, to another fishery group within the same sector, if possible and necessary.

The total amount of non-trawl halibut PSC for the non-CDQ fisheries is 833 mt. The 833 mt is apportioned between cod hook-and-line sectors and other non-trawl fisheries during the annual specifications process. Generally, 775 mt is apportioned to hook-and-line cod fisheries and 58 mt to other non-trawl. This component would divide the halibut PSC amount apportioned to non-trawl cod between the hook-and-line CP sector and hook-and-line CV sector (for CVs  $\geq 60'$  and CVs  $< 60'$  combined):

- Option 8.1      In proportion to the BSAI Pacific cod TAC allocated to the sectors
- Option 8.2      10 mt for CVs, remainder for CPs

### 3.4.2.8 Component 8: Apportionment of cod non-trawl halibut PSC

Component 8 under Alternative 2 proposes to establish separate halibut PSC limits for the hook-and-line CP and hook-and-line CV sectors. Recall from Section 3.4.2.7 under Alternative 1, current Federal regulations establish a BSAI non-trawl halibut PSC limit for these sectors combined of about 833 mt, 775 mt of which is allocated to the BSAI Pacific cod hook-and-line fisheries and 58 mt of which is allocated to other non-trawl fisheries (primarily used in the target Greenland turbot fishery). The groundfish pot and jig gear fisheries are exempt from the halibut bycatch allowances. In effect, the hook-and-line sectors fishing BSAI Pacific cod share an annual halibut bycatch allowance of 775 mt. Recall that this limit is apportioned among three seasons as shown in the table below.

**Table 3-115 2005 and 2006 non-trawl halibut PSC allowances**

Non-trawl Fisheries	BSAI Halibut mortality (mt)
Pacific cod – Total	775
January 1 – June 10	320
June 10 – August 15	0
August 15 – December 31	455
Other non-trawl – Total	58
May 1 – December 31	58
Groundfish pot and jig	exempt
Sablefish hook-and-line	exempt
Total non-trawl PSC	833

If a seasonal apportionment of halibut PSC is reached, both hook-and-line CP and CV sectors are closed to directed BSAI Pacific cod fishing for the remainder of the season. Thus, because there is no halibut PSC allowance from June 10 to August 15, the hook-and-line Pacific cod fishery essentially cannot operate during the summer. Anecdotal evidence and public testimony indicate that the hook-and-line CP sector generally supports this management system, given that halibut bycatch rates increase substantially in the summer months and may risk closing the directed Pacific cod fishery prior to the allocation being fully harvested.

However, the hook-and-line CV sector, which is also constrained by the lack of halibut bycatch allowance in the summer months, is comprised of smaller vessels with slower catch rates and a relatively small Pacific cod allocation. Note that the general hook-and-line CV sector currently receives an allocation equal to 0.15% of the BSAI Pacific cod ITAC.<sup>112</sup> Under Alternative 2, the  $\geq 60'$  hook-and-line CV sector could receive an allocation in the range of 0.1% - 0.4% of the BSAI Pacific cod ITAC. Recall that nine hook-and-line CVs  $\geq 60'$  comprise this sector and could fish the sector's BSAI Pacific cod allocation as proposed under Alternative 2. These vessels range from about 80' - 166' length overall. Under Alternative 2, the hook-and-line CV sector will continue to receive a relatively small portion of the BSAI Pacific cod ITAC, representing a few, to several hundred metric tons under recent TAC levels.

In addition, the  $< 60'$  hook-and-line (and pot) CVs currently receive a separate Pacific cod allocation of 0.7% of the BSAI Pacific cod TAC. Under Alternative 2, the range of potential allocations to this sector is 0.1%–2.0% of the BSAI Pacific cod ITAC. While 116 non-trawl vessels  $< 60'$  have the necessary Federal license to fish in the Federal BSAI Pacific cod fisheries, since 2001, a range of 2–24 hook-and-line vessels  $< 60'$  have been fishing off the BSAI Pacific cod allocation to the  $< 60'$  fixed gear sector. The top three  $< 60'$  hook-and-line vessel harvests comprised 100%, 73%, 85%, and 96% of the total  $< 60'$  hook-and-line sector harvest during 2001–2004, respectively. Thus, a few vessels have been dominating the overall catch by this sector to date. Note also that in recent years, about 20% of the total  $< 60'$  fixed gear harvest was taken by  $< 60'$  hook-and-line vessels, and 80% taken by  $< 60'$  pot vessels. Under Alternative 2, the  $< 60'$  hook-and-line CV sector will likely continue to harvest a relatively small portion of the BSAI Pacific cod ITAC, representing a few, to several hundred metric tons under recent TACs.

The hook-and-line CV sectors, regardless of vessel length, may benefit from a halibut PSC limit separate from the hook-and-line CP sector and, potentially, the ability to fish Pacific cod in the summer months. While the halibut bycatch allowance has not been constraining to the BSAI hook-and-line fisheries in recent years, if it did become constraining in the future, the hook-and-line CV sector would likely benefit from having a separate allowance. This is consistent with the concept of establishing separate Pacific cod allocations and separate PSC limits for each trawl and non-trawl sector, such that no sector can impede another sector's Pacific cod fishery. Note that under Component 8, while the hook-and-line CV and CP sectors would receive separate halibut bycatch allowances, all hook-and-line CVs, regardless of length, would be subject to the same halibut bycatch limit.

The Pacific cod hook-and-line CP and CV sectors have varying amounts of halibut PSC. Table 3-116 provides a summary of that data for 1999 – 2003.

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<sup>112</sup>Note that under Alternative 1, the  $< 60'$  hook-and-line vessels would continue to be able to fish off the general hook-and-line CV allocation when that directed fishery is open.

**Table 3-116 Halibut mortality in the BSAI Pacific cod hook-and-line sectors, 1999 - 2003**

Year	H&L CP halibut mortality (mt)	H&L CP retained BSAI cod (mt)	H&L CP halibut mortality (mt) per mt retained P. cod	H&L CV halibut mortality (mt)	H&L CV retained BSAI cod (mt)	H&L CV halibut mortality rate per mt P. cod
1999	496	68,271	.0073	3.7	223	.0166
2000	706	75,181	.0094	5.2	443	.0117
2001	762	86,436	.0088	14.3	1,777	.0080
2002	577	79,269	.0076	8.2	375	.0218
2003	487	89,580	.0054	3.0	482	.0062
<b>Average 1999–2003</b>	<b>606</b>	<b>79,747</b>	<b>.0076</b>	<b>6.9</b>	<b>660</b>	<b>.0129</b>

Source: Harvest data (retained legal catch, excluding meal) are from weekly production reports and ADF&G fishtickets, 1999 – 2003. Note that the halibut mortality limit for the BSAI Pacific cod hook-and-line fishery in 1999 and 2000 was reapportioned mid-season to 598 mt and 673 mt, respectively. In 2001 – 2003, it was 775 mt.

The hook-and-line CV sector shows a slightly higher halibut mortality rate per metric ton of retained BSAI Pacific cod than the hook-and-line CP sector. On average (1999–2003), the rate of halibut mortality per metric ton of retained BSAI Pacific cod was 0.0076 for the hook-and-line CP sector. During the same time period, the rate of halibut mortality per metric ton of retained BSAI Pacific cod for the hook-and-line CV sector was 0.0129. Note that the CV sector includes vessels of any length (<60' and ≥60'). In addition, halibut mortality data are based on observer reports, and extrapolated to total groundfish harvest. While all hook-and-line CPs have either 30% or 100% observer coverage, based on vessel length, the hook-and-line CV sector has minimal coverage by comparison. The majority of these vessels are <60' and, thus, are not subject to observer requirements. Extrapolation from the ≥60' CV sector and all CPs are used to estimate the halibut mortality attributed to the hook-and-line CV sector overall.

Combined, the hook-and-line sectors did not exceed the halibut bycatch allowance during 1999–2003, averaging about 85% taken. Note that during 1999 and 2000, the halibut bycatch allowance to the BSAI hook-and-line Pacific cod fishery group was reduced mid-season by 20% and 10%, respectively, to allow for an increase in the halibut allowance to the BSAI non-trawl fisheries other than Pacific cod. This action was taken primarily to allow further prosecution of the BSAI non-trawl Greenland turbot fishery.

### *Effects of Option 8.1 and Option 8.2*

**Option 8.1** would establish halibut limits for each hook-and-line CP sector and CV sector in proportion to the BSAI Pacific cod ITAC allocated to the sectors. For example, if the hook-and-line CP sector received 99% of the total BSAI Pacific cod ITAC allocated to the hook-and-line sectors, this sector would also receive 99% of the total halibut allowance apportioned to the non-trawl BSAI Pacific cod sectors.

Because the <60' hook-and-line CV sector would continue to receive a separate Pacific cod allocation from the ≥60' hook-and-line CV sector under Alternative 2, both hook-and-line CV sectors' allocations need to be taken into account under Option 8.1. To complicate the issue, the <60' hook-and-line CV sector shares an allocation with the <60' pot CV sector. Thus, only a portion of the allocation to the <60' fixed gear sector is harvested by vessels using hook-and-line gear that would be subject to the halibut bycatch limit. As mentioned previously, on average during 1999–2003, about 33% of the total <60' fixed gear harvest was taken by <60' hook-and-line vessels, and 67% was taken by <60' pot vessels. This apportionment is used as a proxy in this analysis to determine what portion of the <60' fixed gear allocation should be attributed to the <60' hook-and-line sector in order to provide a better estimate of the halibut bycatch needs in the hook-and-line CV sectors overall.

Table 3-117 below provides the resulting halibut PSC allowances to each sector under Options 8.1 and 8.2. This table provides the range of BSAI Pacific cod allocations proposed to each hook-and-line sector

under Component 2, in both percentage of the ITAC and metric tons using the 2006 ITAC. This table also provides the average halibut mortality rate by sector during 1999 - 2003, as estimated in Section 3.4.1.7. Note that the last row of the table provides the hook-and-line sector allocations ‘adjusted’ to account for the fact that only about one-third of the <60’ pot/hook-and-line sector allocation has been harvested with hook-and-line gear on average during 1999–2003. Thus, these data likely represents better estimates of the actual halibut bycatch needs in the hook-and-line CV cod fishery than the estimates without the adjustment.

**Table 3-117 Estimated projections of halibut bycatch needs in the BSAI Pacific cod hook-and-line CP and CV sectors, based on proposed allocations in Alternative 2, Component 2**

Hook-and-line CP sector					
% of P. cod ITAC (allocation range proposed under Component 2)	P. cod allocation (mt) using 2006 ITAC	Average halibut mortality rate, 1999 - 2003	Estimate of halibut mortality (mt) needed to prosecute proposed Pacific cod allocation	Halibut mortality (mt) proposed under <b>Option 8.1</b>	Halibut mortality (mt) proposed under <b>Option 8.2</b>
45.8% - 50.3%	82,188 – 90,263	.0076	625 – 686	741 - 772	765
Hook-and-line CV sector <sup>1</sup>					
0.2 % - 2.3%	359 – 4,127	.0129	5 - 53	3 - 34	10
Hook-and-line CV sector with adjustment <sup>2</sup>					
0.12% - 0.7%	215 – 1,256	.0129	3 - 16	3 - 34	10

<sup>1</sup>Under Component 2, 0.2% is the minimum combined allocation to the >60’ hook-and-line CV sector (0.1%) and <60’ fixed gear sector (0.1%). (These allocations result from Component 2, Option 2.2.) By contrast, 2.3% is the maximum combined allocation to the >60’ hook-and-line CV sector (0.3%) and <60’ fixed gear sector (2%). (These allocations result from Component 2, Option 2.8 and Option 2.4 drop year. Option 2.8 with Option 2.5 drop year or Option 2.6 produces the same result).

<sup>2</sup>As noted previously, the <60’ hook-and-line CV sector shares an allocation with the <60’ pot CV sector. Thus, only a portion of the allocation to the <60’ fixed gear sector is harvested by vessels using hook-and-line gear that would be subject to the halibut bycatch limit. In recent years, about 33% of the total <60’ fixed gear harvest was taken by <60’ hook-and-line vessels and 67% taken by <60’ pot vessels. This apportionment is used as a proxy to determine what portion of the <60’ fixed gear allocation should be attributed to the <60’ hook-and-line CV sector in order to provide a better estimate of the halibut bycatch needs in the hook-and-line CV sectors overall. The result is that the minimum and maximum Pacific cod allocations for the <60’ fixed gear sector in the above row are adjusted to 33% of the allocation for which PSC is needed.

Note that the halibut bycatch allowances under Option 8.1 are based on each sector’s proposed BSAI Pacific cod allocation, and Option 8.2 establishes a set amount similar to that under Option 8.1. It is important, however, to consider each sector’s historical use of halibut bycatch and whether the apportionments proposed in Options 8.1 and 8.2 would likely allow each sector to fully harvest its range of proposed cod allocations, including reallocated quota.

While Option 8.1 cannot be definitively determined until a preferred alternative is selected under Component 2, in general, the CV sector could receive about 0.4% – 4.4% of the total BSAI Pacific cod allocation established for hook-and-line gear, and the CP sector could receive 95.6% - 99.6%. This includes the adjustment made for the <60’ hook-and-line sector as described above (ascribing 33% of the <60’ hook-and-line/pot allocation to the <60’ hook-and-line vessels).<sup>113</sup> **Therefore, the resulting**

<sup>113</sup>Alternatively, if this adjustment was not made, and one wanted to ascribe the entire potential <60’ fixed gear allocation to the <60’ hook-and-line CV sector, the overall hook-and-line CV sector could be apportioned up to 4% of the total

**apportionment of halibut PSC to the hook-and-line sectors under Option 8.1 would be in the range of 3 mt - 34 mt to the hook-and-line CV sector and 741 mt – 772 mt to the hook-and-line CP sector, using the current halibut PSC limit to the non-trawl cod fishery of 775 mt.**

**Option 8.2 would allocate 10 mt to the hook-and-line CV sector, with the remaining 765 mt allocated to the hook-and-line CP sector, using the current halibut PSC limit to the non-trawl cod fishery of 775 mt.** Given the discussion above, the allocations under Option 8.2 are in the middle of the range established under Option 8.1. Ten metric tons represents about 1.3% of the current 775 mt halibut limit.

Given the halibut mortality rates per metric ton of BSAI Pacific cod estimated for each hook-and-line sector, the range of proposed allocations under Component 2, and recent TAC levels, **the halibut PSC apportionment under Option 8.1 or Option 8.2 appears sufficient for the hook-and-line CP sector to prosecute its entire initial BSAI Pacific cod allocation.** Note that this conclusion is dependent on maintaining the halibut bycatch allowance for the non-trawl BSAI Pacific cod fishery near the current level of 775 mt.

**Given the same factors, the range of halibut PSC apportioned to the hook-and-line CV sector under Option 8.1 also appears sufficient for this sector to fully prosecute its proposed range of cod allocations, if the <60' hook-and-line sector continues to harvest about one-third (or less) of the total <60' fixed gear allocation.** If the <60' hook-and-line sector harvested the entire <60' fixed gear allocation and the hook-and-line CV sector received the upper end of the potential cod allocations proposed under this amendment, the amount of halibut PSC allowance established under Option 8.1 would likely not be sufficient.

Option 8.2 does not appear sufficient for the hook-and-line CV sector to fully prosecute **the upper end of the range** of its potential BSAI Pacific cod allocations under Component 2. If the hook-and-line CV sector (with adjustment for <60' CVs) received the upper end of its cod allocation, and “assuming” for the sake of this calculation, the sector experiences the estimated halibut mortality rate, this sector is projected to use a total of 16 mt of PSC halibut mortality. Option 8.2 would establish a limit of 10 mt. Note, however, that in the past five years, which includes 2003 (the first year in which the <60' fixed gear sector received jig reallocations), the halibut mortality actually attributed to the hook-and-line CV sector averaged 7 mt overall. In 2003 specifically, it was 3 mt. Thus, it is not possible to definitively conclude that the hook-and-line CV sector would, in fact, be constrained in its cod harvest by the range of halibut bycatch apportioned under Options 8.1 and 8.2.

Note also that the table above uses the potential BSAI Pacific cod allocations to each hook-and-line sector to project halibut bycatch needs, which by definition does not include any quota that may be reallocated from other sectors mid-season. If the <60' fixed gear sector continues to receive reallocations from the jig sector on a seasonal basis, this could potentially double the amount of Pacific cod quota that the <60' fixed gear sector is allowed to harvest annually. Therefore, basing the halibut bycatch apportioned to the hook-and-line sectors solely on the initial allocation received under Component 2 may not allocate sufficient halibut for the <60' hook-and-line CV sector to harvest reallocated jig quota in the spring and summer. As noted above, in the past five years, which includes 2003 (the first year in which the <60' fixed gear sector received jig reallocations), the halibut mortality attributed to the hook-and-line CV sector overall averaged 7 mt. In 2003, it was 3 mt. Thus, it is not possible to definitively conclude that the

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BSAI Pacific cod allocation established for hook-and-line gear. The hook-and-line CP sector would receive about 96% of the total.

hook-and-line CV sector would need more than the range of halibut bycatch apportioned under Options 8.1 and 8.2.

The same issue exists for the CP sector, as this sector harvests the majority of reallocated quota each year, and it will need halibut bycatch to continue to prosecute the reallocated quota. This issue has not been of concern in the past, as the hook-and-line sectors as a whole have not reached the halibut bycatch limit in recent years, even with trawl reallocations. However, the great majority of the halibut bycatch allowance would continue to be apportioned to the CP sector. According to the data above, it appears that the rate of halibut per mt of Pacific cod harvest is almost double in the hook-and-line CV sector compared to the CP sector. In other words, the CP sector is more efficient with its use of halibut – for every unit of halibut mortality, the Nation gains nearly twice the Pacific cod harvest in the CP sector compared to the CV sector. In addition, reallocations from the trawl sector to the hook-and-line CP sector are expected to decrease under Alternative 2, under the revised allocations, while reallocations from the jig sector to the <60' hook-and-line CV sector are expected to be similar to the past few years.

**In sum**, if there exists a concern that the hook-and-line CV sector will be constrained by the halibut allowance under Option 8.1 or Option 8.2 due to the potential for jig reallocations to the <60' fixed gear sector, it may be prudent to retain the ability to adjust the halibut allowance annually. Recall that both the hook-and-line CV and hook-and-line CP sectors will likely continue to receive reallocated quota from other gear sectors. Whether the halibut bycatch allowance is sufficient for both sectors to prosecute their cod allocations is dependent on halibut bycatch rates, BSAI Pacific cod TAC levels, and reallocations from other sectors in the future. The uncertainty associated with this process may influence the mechanism by which the Council chooses to establish the halibut PSC apportionments.

**One approach to establishing the halibut bycatch apportionment between the hook-and-line CP and CV sectors is through the Federal regulations to implement Amendment 85.** Note that if the apportionment is implemented through this rulemaking, it will be even more important to select the apportionment necessary for each sector to prosecute its Pacific cod fishery, as the apportionments would only be changed through subsequent analysis and rulemaking.

**Another approach is through the annual specifications process.** The halibut PSC apportionment could thus be adjusted annually as necessary, based upon recent performance of the fishery. In this case, NMFS and the Council would have more flexibility to modify the apportionments, if they proved severely constraining for one sector compared to another.

The regulations currently identify two targets to which NMFS allocates halibut mortality in the non-trawl fisheries during the annual specifications process: one for 'non-trawl Pacific cod' and one for 'other non-trawl.' (The non-trawl Pacific cod allowance is only for hook-and-line gear, as the pot and jig gear sectors are exempt.) The 'other non-trawl' category of PSC is typically used for targeting Greenland turbot. **If the Council wanted to set the hook-and-line CP and CV sectors' halibut PSC allowances annually in the specifications process, the action under Component 8 could be limited to replacing the current 'non-trawl Pacific cod' category in the regulations with the two new categories for which halibut PSC would be apportioned ('non-trawl Pacific cod CP' and 'non-trawl Pacific cod CV').** The analysis provided under Component 8 for Options 8.1 and 8.2 could serve to guide the amounts established in a future specifications process.

### **3.4.2.9 Inseason Management System**

The current management system for the CDQ and non-CDQ sectors is described in Section 3.4.1.8, and the management system recommended under the Council's preferred alternative is provided in Section 3.4.3.8. In general, NMFS currently credits both directed harvest of Pacific cod and the incidental harvest

of Pacific cod against the Pacific cod TAC to ensure that Pacific cod are not overharvested. The overfishing level is the critical harvest point when determining whether directed fisheries for other target species will be closed due to incidentally caught fish. Thus, the OFL currently functions as a hard cap, and leading up to the OFL closures are two soft caps: directed fishing closures and prohibiting retention.

In June 2005, as part of the motion on the BSAI Pacific cod allocation amendment, the Council requested that the analysis include a discussion of management measures that could be used to manage the (non-CDQ) Pacific cod sector allocations. The following priorities and potential management tools were identified (June 6, 2005 Council motion):

Priorities:

1. Avoid exceeding the Pacific cod overfishing level (OFL)
2. Avoid exceeding the Pacific cod Allowable Biological Catch (ABC)
3. Avoid closure of the non-Pacific cod fisheries as the result of ‘hard cap’ closures
4. Avoid erosion of one sector’s Pacific cod allocation as the result of another sector exceeding its allocation
5. Avoid foregone harvest

Management Tools:

- Cooperatives – Highlight the benefits of cooperative management to keep harvest levels at or below associated allocations.
- Incidental Catch Allowance (ICAs) – An ICA for non-Pacific cod fisheries is a useful tool for achieving these objectives. In order to ensure that one sector does not erode another sector’s allocations, however, ICAs should be established only at the sector level. For instance, there would be a separate ICA for each trawl sector rather than an overall ‘trawl ICA’.
- MRA Limits – Maximum retainable amounts serve to constrain harvest levels and would be useful in addressing priorities 3 and 4.
- PSC Status – This would further constrain Pacific cod bycatch and would be useful in addressing priorities 2, 3, and 4.
- Closure of non-Pacific Cod Fisheries – In order to avoid exceeding the Pacific cod OFL, NMFS may close any fishery that has a reasonable likelihood of Pacific cod bycatch.

Like Alternative 1, under Alternative 2, the **fixed gear** cod sectors will continue to be managed using an ICA established at the beginning of the year during the annual specifications process. Currently, an annual ICA for the fixed gear Pacific cod sectors is deducted off the top of the aggregate amount of the BSAI Pacific cod TAC allocated to all of the fixed gear sectors combined (51%). Since 2000, an ICA of 500 mt<sup>114</sup> has been deducted from the fixed gear sector’s overall allocation (51%) before the allocation is apportioned to the separate fixed gear sectors. The fixed gear fisheries (primarily the hook-and-line CP sector) fish almost entirely Pacific cod, and thus they finish their season in the directed cod fishery. In addition, their other target species (Greenland turbot, IFQ halibut/sablefish) have relatively low incidental catches of Pacific cod, and this sector has been fairly predictable over the years. Because there are not subsequent fixed gear target fisheries that need cod for incidental catch later in the year, the hook-and-line CP sector has typically harvested its directed fishing allowance into December and the fixed gear sector does not harvest its entire ICA (M. Furuness, 3/9/05). The non-trawl component has been managed for several years with a directed fishing allowance for the several fisheries and a single, small ICA that covers incidental catch in the few alternate fisheries in which they participate. With a few exceptions, the

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<sup>114</sup>The 500 mt ICA was initially derived from estimates of incidental catch of Pacific cod in other groundfish fisheries from 1996 – 1999. NMFS determines the ICA on an annual basis in rulemaking (679.20(a)(7)(i)(C)(1)).

non-trawl directed fisheries are managed by NMFS without seasonal apportionments being exceeded significantly (A. Smoker, 5/18/05).

Modifications to the management of the **trawl gear** Pacific cod sector allocations could be made under Alternative 2. While the trawl sectors do not currently have an ICA established at the beginning of the year, NMFS has the ability to establish a directed fishing allowance (DFA) for the cod target trawl fisheries and an ICA for cod caught incidentally in the non-cod target trawl fisheries during the fishing year, should NMFS determine that any allocation or apportionment of Pacific cod has been or will be reached during the season.<sup>115</sup> This system allows NMFS to close the directed fishery for cod, and allow other directed trawl fisheries to continue fishing (using the ICA). The current management system is commonly referred to as a ‘soft cap’ system, because incidental catch of cod would not shut down other non-cod target fisheries unless the overall catch of cod approached the overfishing level.

NMFS has not typically put trawl Pacific cod on bycatch status in the recent past, due to both the seasonal apportionments and the fact that the trawl sectors are not currently constrained by their Pacific cod allocations.<sup>116</sup> Other than the amount of TAC that is apportioned to the trawl gear sectors, those fisheries are confined by both the Steller sea lion restrictions and PSC caps. The way the fishery is currently allocated essentially results in a large portion of the overall Pacific cod TAC from the trawl CP sector and some from the trawl CV sector acting as a ‘slush fund’ that is not taken until the end of the year when it is reallocated primarily to the hook-and-line CP sector.<sup>117</sup> The seasonal allocations to the trawl sectors have ensured that a sufficient amount of Pacific cod is left for incidental catch in the other non-cod target trawl fisheries later in the year, specifically, a few thousand tons for the AFA trawl catcher vessel sector participating in the B season pollock fishery, and several thousand tons for the trawl catcher processor sector participating in the flatfish, rockfish, and B season Atka mackerel fisheries (A. Smoker, 2/24/05). In effect, exceeding ABC and incurring an OFL closure have not been a past concern.

However, under Alternative 2, if the BSAI Pacific cod allocations among the trawl, jig, and fixed gear sectors are revised, such that they reflect actual recent historical catch by sector and the overall trawl allocations are reduced, the trawl sectors will be more constrained by their Pacific cod allocations, in both their target cod fishery and in their late season non-cod target fisheries. This concern would be exacerbated by further splitting the two existing trawl allocations (CP and CV) into separate trawl sectors for AFA and non-AFA. Because of the lack of ‘extra’ in the proposed trawl allocations, NMFS would have the difficult task of determining how much cod should be made available for the directed fishery and how much should be left to accommodate incidental catch of cod, on an individual trawl sector basis. As stated previously, this determination has not been necessary in the past, due to the fact that cod has not been the primary constraining factor to these sectors.

The remainder of this discussion outlines the potential management measures that could be used in managing the BSAI Pacific cod trawl sector allocations under Alternative 2, per the priorities listed above. Note that the terms ‘hard cap’ and ‘soft cap’ often have a variety of meanings. In this discussion, a **hard cap** is a limit that stops any fishing that takes a species when its catch limit is taken. The intention is to prevent any further mortality of the species. A **soft cap** implies that retention of the species is restricted (either discards are required, or it may be retained as a proportion of another target fishery under the MRA), but continued mortality is accepted.

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<sup>115</sup>See 50 CFR 679.20(d)(1)(i).

<sup>116</sup>Establishing an ICA inseason for the trawl sectors has not usually been necessary; however, NMFS did close the BSAI Pacific cod trawl CP fishery on 3/14/04, and set aside 500 mt for an ICA until 3/28 (the next seasonal apportionment started 4/1).

<sup>117</sup> A large portion of the 2% jig allocation (and in some years a portion of the pot allocation) is also typically reallocated.

## *Hard caps*

One management approach is to establish each trawl sector's allocation as a hard cap, meaning that when an individual sector's allocation of BSAI Pacific cod is fully harvested, all directed fishing for BSAI Pacific cod closes for that sector, as well as any fisheries in which Pacific cod would be caught incidentally by that sector. In effect, reaching an allocation for a species (whether targeted or taken incidentally) under a hard cap system is like approaching the overfishing level under the current management system. Within the context of the Pacific cod apportionments, hard and soft caps can play a variety of roles. Hard caps are seen as a way to prevent one component of the fishery from impacting another. Once the sector has taken its allocation, it stops fishing. Hard caps have the best chance of succeeding without large disruptions to the fishing industry when fishing is conducted in a controlled cooperative manner, rather than in a competitive environment.

Managing sector allocations (especially small ones) as a hard cap is more feasible if a sector is organized under a cooperative system. The individual sector should be better able to manage its allocation, such that it can be used in a manner that will most benefit its participants (whether in the directed fishery or as incidental catch in other trawl fisheries). Under a system of self-management, members of the sector are responsible for staying within their allotments through internal controls, which are verified by NMFS. If the collective membership of the sector cannot control the actions of individual members within the sector, it is unlikely that the sector will be able to stay within its catch limit. Therefore, a hard cap is typically considered an appropriate tool to manage a rationalized sector.

Alternatively, if NMFS was to manage the allocations, it would need to establish directed fishing allowances (DFAs) and incidental catch allowances (ICAs) for each trawl sector. This approach would be relatively difficult, given that the agency would need to determine exactly when to close the directed cod fishery and the amount of cod quota needed to be held back for incidental catch needs in the other trawl fisheries during the year. NMFS would need to be relatively conservative in establishing the ICA, given the more refined, smaller allocations to each sector and the annual variability of Pacific cod required for incidental catch in the trawl fisheries. In addition, it is possible that some small allocations may not be opened to directed fishing, unless the sectors themselves are responsible for staying within their allotments. The problem statement for this amendment emphasizes that the Pacific cod allocations should be adjusted in order to reduce uncertainty in, and provide stability to, the sectors. Allocating appropriate amounts of incidentally caught cod, so that each sector's directed fisheries can be harvested, is an important concern when creating stability.

Thus, a hard cap system may be more feasible if each sector can potentially manage the use of its Pacific cod (whether for directed catch or incidental use) on its own. The notion that the trawl sector allocations can be managed using hard caps is at least partly fueled by the fact that three of those sectors are either already operating under, or have the potential to operate under, a cooperative system. The effectiveness of this management system will depend on whether each trawl sector can successfully manage its Pacific cod allocation between its directed cod fishery and other fisheries, so that no fishery unfairly 'pre-empts' another for lack of cod. Without cooperatives, or similar internal controls at the sector level, it is unlikely that the aggregate sector participants will be able to control the actions of individuals within the sector. However, whether NMFS is managing the fishery and setting a DFA and ICA for each sector, or the sector manages its own allocation through a cooperative structure, a hard cap means that it would be up to each sector to operate within that allocation. The remainder of this section considers whether each of the four trawl sectors is structured such that managing their own allocations is a feasible option.

The **AFA trawl sectors** have relatively predictable incidental Pacific cod catch needs for their directed pollock fishery and currently closely regulate both directed and incidental catch through legal agreements.

Both the AFA trawl CV sector and AFA trawl CP sector are defined under the AFA, and thus the number of eligible participants has been determined and is relatively constant. These vessels currently operate in a cooperative system established through the AFA for BSAI pollock, and manage their Pacific cod sideboards through the cooperative as well. It is expected that these sectors' existing structure could continue to manage their Pacific cod if it represented a direct allocation.

However, if the AFA trawl CV sector continued to have a combined Pacific cod allocation with the non-AFA trawl CV sector (an option under Alternative 2), it is not feasible for the combined trawl CV sector to manage its own allocation. This is because the number of participants and level of effort in the non-AFA trawl CV sector can vary substantially each year, and this sector does not operate under contracts in a cooperative system. A similar, but possibly lesser, complication to self-management would ensue for the AFA trawl CV sector under Option 1.1, proposed under Component 1, discussed previously. If selected, this option would allow three non-AFA trawl CVs that meet a specified threshold (100 mt of Pacific cod landings in each of the years 1995, 1996, and 1997) to be part of the AFA trawl CV sector for purposes of the cod allocations. The level of complexity this option introduces depends on the ability of those three vessels to work or contract with the current AFA trawl CV cooperatives. Public testimony has asserted that these three vessels and the AFA CV sector are very likely to work cooperatively under private contract, if this option is selected, although this is not guaranteed.<sup>118</sup>

The most complex fishery within the trawl component is the **non-AFA trawl CP sector**. Pacific cod is taken in all of their groundfish target fisheries. Incidental catch of Pacific cod averages about 13% in the non-Pacific cod targets, ranging from 3% in the Atka mackerel target, to 12% in rock sole (A. Smoker, 5/18/05).

Under the 2005 Consolidated Appropriations Act, the non-AFA CP sector is defined by sector eligibility requirements,<sup>119</sup> and under Amendment 80 (final action June 2006) this sector is proposed to receive sector allocations of five target flatfish species and associated PSC. At the same time, Amendment 80 recommends establishing a cooperative structure for this sector. Given that the expectation is that Amendment 80 will be implemented soon after the BSAI Pacific cod allocation amendment in 2008, it is assumed that the non-AFA trawl CP sector will also be in position to cooperatively manage a Pacific cod allocation under a hard cap.

One issue that would detract from the non-AFA trawl CP sector's ability to manage a direct Pacific cod allocation through cooperatives is the potential that not all of the non-AFA trawl CPs will join a cooperative. It is uncertain whether any eligible non-AFA trawl CPs would opt not to join a cooperative, however, Amendment 80 allows for this possibility, and recommends a methodology for allocating both groundfish (including Pacific cod) and PSC between the cooperative(s) and eligible non-AFA trawl CPs who elect not to join a cooperative on an annual basis. Including this intent in Amendment 80 ensures that Pacific cod, one of several target species for this sector, is treated the same as the other target fisheries by extending the cooperative management system to this species. Sector members that join cooperatives will have the added advantage of exclusive cooperative allocations of BSAI Pacific cod that can be harvested to maximize returns.

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<sup>118</sup> Absent a binding requirement that each of these three operators fully participate in a "cooperative" management structure along with the balance of this fleet, there are clear economic incentives for one or more of the three not to participate. If all other operators are bound by rules that limit fishing behavior, or impose other operating "costs", a vessel operator who is able to avoid these constraint and costs (i.e., refuses to be bound by cooperative management rules) will realize economic advantages over the balance of the fleet. This will destabilize the cooperative and lead to further defections, or covert violations of the cooperative management rules. This is a well known result associated with voluntary cartels.

<sup>119</sup> The Consolidated Appropriations Act of 2005 (P.L. 108-447) establishes catcher processor sector definitions for participation in the non-pollock groundfish fisheries. BSAI Amendment 80 will be consistent with those definitions.

Note that if the non-AFA trawl CP Pacific cod allocation is further subdivided into separate cooperative and limited access cod allocations, the limited access allocation could be so small that most of the allocation would need to be set aside as an ICA. This is partially due to the reduced size of the allocation and also due to the variability and unpredictability in the catch of the non-cooperative vessels. NMFS would need a sufficiently large ICA to manage the non-cooperative vessels (the vessels in the cooperative would manage their own allocation).

If the **non-AFA trawl CV** sector received a separate Pacific cod allocation, it is still not likely to operate under a cooperative structure in the near future (see Section 3.3.14). The non-AFA trawl CV sector is the only trawl sector whose eligibility is not fixed in a manner that lends itself to cooperative management. Table 3-7 shows that while 14 non-AFA trawl CVs landed Pacific cod on average during 1995 – 2003, there are 50 valid LLPs qualified for use on a non-AFA trawl CV in the Federal groundfish fisheries. Because it is the only trawl sector that is not either currently under a cooperative structure or being proposed to be under a cooperative structure, it is assumed that NMFS will need to continue to manage this fishery through Federal Register notice.

If the non-AFA trawl CV sector received a distinct cod allocation, this fishery would likely continue to be managed such that NMFS would establish a DFA and ICA, if necessary. NMFS would close the directed fishery once the DFA is caught, reserving the remainder of the allocation for incidental catch in other groundfish fisheries. NMFS then would allow vessels to retain incidental catches of Pacific cod taken in other directed fisheries that are open, up to the maximum retainable amount (MRA). If the fishery is closed to directed fishing and the allocation (including ICA) is reached, NMFS would issue a prohibition of retention of cod. In practice, however, it is not likely that an ICA would need to be created for this sector, since this sector does not generally have any other BSAI target fishery at this time. If it became a concern at some point in the future and an ICA was necessary in order to ensure the allocation is not exceeded, the fishery would have to be managed relatively conservatively. This could result in a reduced directed fishing allowance and the potential for some amount of foregone catch. The degree to which that occurs depends on the number of vessels fishing and whether they can work effectively with inseason management to ensure the limit is not exceeded.

Note also that the allocation to the non-AFA trawl CV sector would be substantially affected by Component 1, Option 1.1. Under this option, the non-AFA trawl CV sector allocation would be significantly reduced, due to three vessels with the most Pacific cod history in this sector moving that history to the AFA CV sector. Without accounting for this option, Table 3.52 indicates that the non-AFA trawl CV sector would receive an allocation in the range of 1.3%–3.1% of the BSAI Pacific cod ITAC. This allocation could be reduced to 0.5%–1.8% under Option 1.1, making it more difficult to manage this sector's fishery within its allocation.<sup>120</sup> While this sector does not generally participate in any other target fishery, the small allocation and uncertain number of participants mean that NMFS would likely set a conservative harvest limit, so as to avoid exceeding the allocation.

In sum, the AFA trawl CP sector has a definitive set of participants that would potentially allow for self-management of its Pacific cod allocation under a hard cap, by establishing an arrangement within the existing cooperative structure to apportion a sufficient amount of cod for directed fishing and a sufficient amount of cod to support incidental catch in other target fisheries. The AFA trawl CV sector may also be in a position to manage its allocation as a hard cap, depending on the ability of the various cooperatives to

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<sup>120</sup>Note that 0.5% - 1.8% of the 2006 BSAI Pacific cod ITAC represents about 902 mt – 3,247 mt. Note also that the 3 vessels that qualify under Component 1, Option 1.1 have signed a confidentiality waiver for public use of their harvest data in this analysis. The waiver is on file with NOAA Fisheries.

work together, as well as with potentially three non-AFA trawl catcher vessels that would qualify to participate in that sector for Pacific cod. If the AFA trawl CV and non-AFA trawl CV sectors continued to share a Pacific cod allocation, the combined trawl CV allocation would need to continue to be managed by NMFS. The non-AFA trawl CP sector's ability to manage a hard cap allocation is improved with the formation of a cooperative(s) under Amendment 80, which would apportion the Pacific cod allocation to the non-AFA trawl CP sector between cooperatives and the remaining limited access fishery. If the non-AFA trawl CV sector received a separate cod allocation, it would need to continue to be managed by NMFS inseason.

### *Soft caps*

Another management approach is to manage the trawl allocations under soft caps, but have the sectors manage their own harvests under a cooperative system where possible (e.g., in the AFA CP, AFA CV, and non-AFA CP sectors). This system would operate the same as the current soft cap approach, but without NMFS designating the DFA and ICA. As stated previously, NMFS has rarely had to establish an ICA inseason for the trawl sectors, to date, because the current allocations of cod have not been the constraining factor for the trawl fisheries. However, with more refined (smaller) allocations to each trawl sector that reflect actual retained harvest history of cod, there will no longer be as much flexibility in the allocations later in the year. Because the trawl fisheries are more unpredictable, and these sectors participate in other fisheries that have a high incidental catch of cod, they have a greater potential for exceeding their allocations. Thus, if NMFS was setting the ICA, it would have to be set fairly conservatively to account for these factors. Cooperatives are expected to more effectively determine how to apportion between the sector's directed fishery needs and incidental catch needs.

The same advantages and disadvantages generally related to a soft cap system apply to this approach; the difference is that the cooperative would better determine how to apportion between the sector's directed fishery needs and incidental catch needs. The primary advantage overall to the soft cap approach is that if a trawl sector harvests its ICA, that sector's other directed fisheries that catch cod incidentally are not immediately closed. In addition, harvest of a sector's ICA would trigger management actions for that sector only. However, the primary disadvantage to this approach is the potential consequence of exceeding the ABC. For the past few years, and in 2006 and potentially 2007, the BSAI Pacific cod TAC is set equal to ABC. If one sector harvests its entire cod ICA early in the year, and cod is placed on prohibited species status for that sector, that sector can continue to fish in its directed non-cod fisheries and harvest (and discard) additional cod. There then exists the potential for this sector of the fishery to push the overall Pacific cod catch over the ABC. If the overall harvest approached the OFL, then all groundfish sectors that catch cod (whether directed or incidental) would be closed. In effect, this would allow one sector of the fishery to pre-empt all other sectors, which is the fundamental concern that direct sector allocations are intended to help prevent.

While a quantitative assessment is not possible, the types of economic impacts that could result from exceeding the Pacific cod ABC and approaching the overfishing level include foregone ex-vessel and first wholesale revenues from other directed groundfish fisheries; loss of crew and shoreplant jobs; reduced related economic activity in communities in which the shoreplants receiving groundfish deliveries, fishermen, and crew are located; loss of tax revenue to fishing communities; and disruption of product supplies to domestic and foreign markets.

The approach in this section follows the earlier discussion that some sectors are, or are proposed to be, structured under a cooperative system with limited participants. The status of each sector with regard to cooperatives and its ability to manage participants is discussed in an earlier part of this section. As stated previously, this approach is likely not feasible for sectors that do not have a cooperative structure (e.g., the non-AFA CV sector, or combined trawl CV sector).

## Summary

Upon deciding the structure of the allocation system under the BSAI Pacific cod apportionments, a fundamental question that affects the amount of catch allowed in the directed fishery is whether catch management can be deferred to the industry sectors (i.e., whether they are capable of managing their allocations). If the industry can control and limit its catch, it can best decide how much of its allocation is necessary to apply to a directed fishery and how much is needed for incidental catch in other target fisheries. In effect, this allows industry to realize more of the benefits of a slower paced, more controlled fishery.

The sectors identified for analysis that continue to operate in a competitive (not cooperative) system, specifically the non-trawl sectors, are relatively simple for the agency to manage. Many have little incidental catch and catch rates are slow enough to allow the agency to consistently monitor and close the fishery accurately (A. Smoker, 5/18/05). [Note that a large share of the fixed gear catcher vessel fleet is either unobserved (if <60' LOA) or 30% observed (if between 60' and 125' or fishing using pot gear). Although not an issue affected by this amendment, the limitations for monitoring retained catch, discards, and PSC catch should be recognized. This reflects a cost to society, and a tradeoff made to allow 'small' vessels to harvest the groundfish resource (including Pacific cod) either unobserved or with less than 100% coverage.]

The intent under Alternative 2 is for NMFS to continue to manage the non-trawl sectors using an ICA established at the beginning of the year during the annual specifications process. In addition, if the non-AFA trawl CV sector received a separate cod allocation, it would continue to be managed by NMFS through Federal Register notice. If the non-AFA trawl CV sector started targeting fisheries other than Pacific cod, NMFS could establish a DFA and ICA inseason at such time that the sector started to reach its allocation. The same approach applies to a combined trawl CV allocation.

The AFA CP sector and non-AFA trawl CP sector could potentially manage their own Pacific cod allocations under a hard cap. The same holds true for the AFA CV sector, if it receives its own separate allocation of BSAI Pacific cod. The AFA trawl sectors currently operate in a cooperative system established through the AFA for BSAI pollock, and manage their Pacific cod sideboards through the cooperative as well. The AFA trawl sectors have relatively predictable incidental Pacific cod catch needs for their directed pollock fishery, and currently closely regulate both directed and incidental catch through legal agreements. It is expected that these sectors' existing structure could continue to manage Pacific cod if it represented a direct allocation. In the non-AFA trawl CP sector, there is increased variability in the amount of incidental catch of Pacific cod in their other target fisheries, and catch rates are frequently higher. A cooperative structure is being recommended for the non-AFA trawl CP sector under Amendment 80. Should the cod allocation to this sector be divided among cooperatives and the limited access fishery (if not all participants join a cooperative) as proposed, the non-AFA trawl CP sector should also have all of the tools necessary to manage its own Pacific cod allocation.

The management system recommended under the Council's preferred alternative is provided in Section 3.4.3.8.

### **3.4.3 Council Preferred Alternative**

The Council's preferred alternative is a derivation of Alternative 2, as the Council selected a specific option under each component of Alternative 2. Sections 3.4.1 and 3.4.2 evaluate the expected effects of the range of possible actions under consideration in Alternatives 1 and 2, respectively. Refer to these

sections for the comprehensive analysis of the effects of Alternative 2. The effects of the suite of options under Alternative 2 that comprise the preferred alternative are specified in this section.

In general, this alternative modifies the current BSAI Pacific cod allocations among the jig, trawl, and fixed gear (hook-and-line and pot) sectors according to catch history and other socio-economic and community considerations. Table 3-118 summarizes the various components and options that comprise the preferred alternative, and the following sections detail the exact provisions and effects of the alternative. The Council's final motion from April 2006 is **Appendix E** to this analysis.

**Table 3-118 Summary of the Council's preferred alternative**

<b>Council preferred alternative: Alternative 2</b>				
<b>Components</b>	<b>Alternative 2</b>			
<b>1. Sectors for which allocations are established</b>	AFA Trawl CP – 2.3% Non-AFA Trawl CP – 13.4% Trawl CV – 22.1% Pot CV $\geq$ 60' – 8.4%	Pot CP – 1.5% Hook-and-line CP – 48.7% Hook-and-line CV $\geq$ 60' – 0.2% H&L/pot CV <60' – 2.0% Jig CV – 1.4%		
<b>3. Sector allocations (as % of BSAI Pacific cod ITAC)</b>				
<b>3. Seasonal apportionments</b>	<p>Maintain the current percentage of the ITAC allocated to the A and B seasons for trawl gear and the A season for fixed gear. The reduction in the overall trawl allocation is applied in the C season; if necessary, remaining reductions are taken from the trawl B season. The increase in the overall fixed gear allocation is applied to the B season for fixed gear. Combined with Components 1 and 2, this component results in seasonal apportionments of each sector's <u>allocation</u> as shown below. The &lt;60' fixed gear sector is not affected by this component. The jig gear sector apportionments are also modified as shown below.</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><u>Trawl CV:</u> 74% (Jan. 20 - Apr. 1) 11% (Apr. 1 - June 10) 15% (June 10 - Nov. 1)</p> <p><u>Trawl CP:</u> 75% (Jan. 20 - Apr. 1) 25% (Apr. 1 - June 10) 0.0% (June 10 - Nov. 1)</p> <p><u>H&amp;L CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (June 10 - Dec. 31)</p> </td> <td style="width: 50%; vertical-align: top;"> <p><u>Pot CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (Sept. 1 - Dec. 31)</p> <p><u>Fixed gear &lt;60':</u> no seasonal apportionments</p> <p><u>Jig gear:</u> 60% (Jan. 1 - Apr. 30) 20% (Apr. 30 - Aug. 31) 20% (Aug. 31 - Dec. 31)</p> </td> </tr> </table>		<p><u>Trawl CV:</u> 74% (Jan. 20 - Apr. 1) 11% (Apr. 1 - June 10) 15% (June 10 - Nov. 1)</p> <p><u>Trawl CP:</u> 75% (Jan. 20 - Apr. 1) 25% (Apr. 1 - June 10) 0.0% (June 10 - Nov. 1)</p> <p><u>H&amp;L CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (June 10 - Dec. 31)</p>	<p><u>Pot CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (Sept. 1 - Dec. 31)</p> <p><u>Fixed gear &lt;60':</u> no seasonal apportionments</p> <p><u>Jig gear:</u> 60% (Jan. 1 - Apr. 30) 20% (Apr. 30 - Aug. 31) 20% (Aug. 31 - Dec. 31)</p>
<p><u>Trawl CV:</u> 74% (Jan. 20 - Apr. 1) 11% (Apr. 1 - June 10) 15% (June 10 - Nov. 1)</p> <p><u>Trawl CP:</u> 75% (Jan. 20 - Apr. 1) 25% (Apr. 1 - June 10) 0.0% (June 10 - Nov. 1)</p> <p><u>H&amp;L CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (June 10 - Dec. 31)</p>	<p><u>Pot CP and &gt;60' CV:</u> 51% (Jan. 1 - June 10) 49% (Sept. 1 - Dec. 31)</p> <p><u>Fixed gear &lt;60':</u> no seasonal apportionments</p> <p><u>Jig gear:</u> 60% (Jan. 1 - Apr. 30) 20% (Apr. 30 - Aug. 31) 20% (Aug. 31 - Dec. 31)</p>			

<b>Council preferred alternative: Alternative 2</b>	
<b>Components</b>	<b>Alternative 2</b>
<b>4. Rollovers</b>	<p>Projected unused allocation in the <b>jig</b> sector is considered for reallocation to the &lt;60' fixed gear CV sector on a seasonal basis. The third trimester jig rollover should be available to the &lt;60' fixed gear CV sector on September 1.</p> <p>Any unused allocation from an <b>inshore</b> sector will first be considered for reallocation to the jig sector and/or &lt;60' fixed gear CV sector; then to the hook-and-line CV ≥60' or pot CV ≥60' sector; then to the trawl CV sectors. Any CV allocation that is not likely to be harvested through this hierarchy will be reallocated as outlined below.</p> <p>Projected unused <b>trawl</b> sector allocations are considered for reallocation to other trawl sectors (AFA trawl CP; non-AFA trawl CP; trawl CV) before being reallocated to the fixed gear sectors (hook-and-line CP; pot CP; pot CV ≥60').</p> <p>Reallocation of TAC from the <b>trawl</b> sectors to the pot CP, ≥60' pot CV, and hook-and-line CP sectors will be proportional to the new fixed gear allocations: 83.1% to the hook-and-line CP sector, 14.3% to the ≥60' pot CV sector, and 2.6% to the pot CP sector.</p> <p>Projected unused <b>pot</b> sector allocations (CPs and ≥60' CVs) are considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.</p> <p>Projected unused allocations in the <b>&lt;60' fixed gear CV</b> sector, both <b>pot</b> sectors (CP and ≥60' CV), and <b>hook-and-line CV ≥60'</b> are reallocated to the hook-and-line CP sector.</p>
<b>5. CDQ allocation</b>	10% of the BSAI Pacific cod TAC as a directed fishing allocation <sup>1</sup>
<b>6. Apportionment of trawl halibut and crab PSC to cod trawl fishery group</b>	The total amount of trawl halibut and crab PSC for the non-CDQ fisheries is determined in the annual specifications process (same as status quo).
<b>7. Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors</b>	The annual halibut and crab PSC allocation to the trawl cod fishery group will be apportioned to the cod trawl sectors (AFA CP; non-AFA CP; AFA CV) based on the sectors' directed cod harvests. To determine PSC, the percent of cod harvested in the cod target fishery by the trawl sectors is calculated on the basis of all cod catch during 1999 – 2003, including that designated for fishmeal production. <b>Result:</b> staff calculated each sector's percentage of the PSC allowance to the <i>trawl cod fishery group</i> as: AFA trawl CP (4.4%), trawl CV (70.7%), and non-AFA trawl CP (25.1%). <sup>121</sup>
<b>8. Apportionment of cod non-trawl halibut PSC</b>	The halibut PSC allocated to the hook-and-line cod trawl fishery group will be apportioned: 10 mt for CVs and the remainder for CPs. The halibut PSC amount for each category shall be set in the annual specifications process.
<b>Other provisions</b>	<p>Trawl sector allocations of Pacific cod will be managed as currently, with a soft cap with a directed fishing allowance and incidental catch allowance for each trawl sector, determined by NMFS inseason management. When BSAI Amendment 80 is implemented, the Pacific cod sector allocation for the non-AFA trawl CP sector will be divided between cooperative and non-cooperative vessels using the same formula as other allocated species in Amendment 80, and operate as a hard cap.</p> <p>AFA trawl catcher vessel cod sideboards would be maintained.</p> <p>A review of the effects of BSAI Amendment 85 on the &lt;60' hook-and-line and pot catcher vessel sectors will be conducted when the combined harvest of those sectors (including parallel, Federal and State fishery harvests) reaches a total of 3% of the BSAI Pacific cod ITAC.</p>

<sup>121</sup>Note that BSAI Amendment 80 (final Council action taken in June 2006) includes flatfish species allocations and halibut and crab PSC allocations to the non-AFA trawl CP sector, which supercedes the PSC methodology in Amendment 85 for only that sector. Upon implementation of Am. 80, the remaining PSC allowance to the *trawl cod fishery group* will only be apportioned between the trawl CV sector and the AFA trawl CP sector. In that event, the percentages in Component 7 would be refined as follows: trawl CV sector (94.1%) and AFA trawl CP sector (5.9%).

<sup>1</sup>While the Council ultimately selected the option under Alternative 2 to maintain the current 7.5% CDQ cod allocation, it recognized that Congressional action was imminent to increase this allocation. The Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) was signed into law on July 11, 2006. This Act effectively increases the CDQ Program Pacific cod allocation to 10% as a directed fishing allocation (DFA) upon effectiveness of new Pacific cod sector allocations. Thus, this amendment package includes FMP and regulatory amendments to increase the CDQ Pacific cod allocation (as a DFA) to 10% per the statute. An additional amount of BSAI Pacific cod will be annually reserved for the CDQ Program to provide for the incidental catch of Pacific cod in other CDQ groundfish fisheries.

### 3.4.3.1 Component 1 and Component 2: Sector Allocations

Under Components 1 and 2, the Council selected the individual (non-CDQ) sectors for which BSAI Pacific cod allocations would be established, and the allocations to those sectors. Each allocation is represented as a percentage of the BSAI Pacific cod ITAC (i.e., TAC less CDQ reserve).<sup>122</sup> The Council motion relevant to Components 1 and 2 is provided below:

#### **Component 1: Sectors for which allocations will be established**

- *AFA Trawl CPs (AFA 20)*<sup>1</sup>  
*Suboption b: Exclude catch history of the nine trawl catcher processors whose claims to catch history have been extinguished by Section 209 of the AFA*
- *Non-AFA Trawl CPs*
- *Trawl CVs*
- *Hook-and-line CPs*
- *Hook-and-line CVs  $\geq 60'$*
- *Pot CPs*
- *Pot CVs  $\geq 60'$*
- *Hook-and-line and pot CVs  $< 60'$*
- *Jig CVs*

#### **Component 2: Sector Allocations**

*The  $< 60'$  hook-and-line/pot CV sector will only fish from the direct allocation to that sector.*

*The BSAI Pacific cod TAC that is allocated to the above sectors (as defined in Component 1) is TAC less the CDQ Program reserve. In addition, the annual incidental catch allowance (ICA) for fixed gear is deducted off the top from the aggregate amount of the BSAI Pacific cod TAC allocated to the fixed gear sectors combined. Pacific cod harvested incidentally in non-Pacific cod directed BSAI fixed gear fisheries are attributed to the ICA. The ICA is determined annually by the NMFS Regional Administrator in the annual specifications process and has typically been 500 mt.*

*Option 2.7: The Council can select percentages for cod allocated to each sector that fall within the range of percentages analyzed.*

SECTOR	Percent allocation
<i><math>&lt; 60'</math> Hook-and-line/Pot CV</i>	<i>2.0</i>
<i>AFA Trawl CP</i>	<i>2.3</i>
<i>Trawl CV</i>	<i>22.1</i>
<i>Jig CV</i>	<i>1.4</i>
<i>Hook-and-line CP</i>	<i>48.7</i>
<i>Hook-and-line CV <math>\geq 60'</math></i>	<i>0.2</i>

<sup>122</sup>In addition to the CDQ Program allocation, the State AI Pacific cod fishery is deducted from the TAC prior to establishing the ITAC. To date, the State AI fishery is only established for 2006 and 2007.

<i>Non-AFA Trawl CP</i>	<i>13.4</i>
<i>Pot CP</i>	<i>1.5</i>
<i>Pot CV ≥60'</i>	<i>8.4</i>
<i>Total</i>	<i>100.0</i>

The Council selected nine individual (non-CDQ) sectors to receive separate BSAI Pacific cod allocations (represented as percentages of the BSAI Pacific cod ITAC), and the allocations were selected using catch history during 1995 – 2003 and other socio-economic considerations. The primary objective in revising the BSAI Pacific cod allocations to each sector was to reduce the level and frequency of quota that must be annually reallocated among sectors, in order for each sector to better plan its fishing year and operate more efficiently. The allocations thus better reflect actual retained BSAI Pacific cod catch by sector, with specific consideration to allow for additional growth in the small boat, entry-level sectors.

**Note that the allocations at issue under this component represent shares of the ITAC.** The TAC is first reduced by 3% (in 2006 and 2007) for the State water AI cod fishery, and the resulting amount (97% of the TAC) is reduced by 10% in accordance with the Coast Guard Act, plus some additional percentage for incidental catch in other directed CDQ fisheries. NMFS has estimated that the CDQ ICA for Pacific cod would be 0.5% - 1.0% of the TAC in the first years of implementation. **Thus, if the current State water AI fishery is extended beyond 2007, the ITAC would represent about 86.0 % - 86.5% of the BSAI Pacific cod TAC, depending upon the amount specified for the incidental catch allowance in the CDQ Program.**<sup>123</sup> Under the status quo, which includes the 3% State water fishery and the 7.5% CDQ allocation, the ITAC represents 89.5% of the BSAI Pacific cod TAC. Thus, because the establishment of new sector allocations under Amendment 85 triggers the increase in the CDQ allocation to a 10% directed fishing allocation, the result is that the ITAC is reduced from 89.5% of the BSAI Pacific cod TAC to an estimated 86.0% - 86.5% of the TAC in the first year of implementation.

The Council did not choose a specific year, or set of years, on which to base the allocations under Component 2, but instead selected Option 2.7, which allows the Council to select percentages for cod allocated to each sector that fall within the range of percentages analyzed. The motion also specified that the ≥60' hook-and-line and pot CV sector will only fish from the direct allocation to that sector, and that the annual ICA for fixed gear would continue to be deducted off the aggregate amount of the BSAI Pacific cod TAC allocated to the fixed gear sectors combined. The ICA is established to account for BSAI Pacific cod harvested incidentally in non-Pacific cod directed BSAI fixed gear fisheries. This is discussed in more detail in the last portion of the preferred alternative (Other Provisions).

The allocations selected under Components 1 and 2 are within the range analyzed under the alternatives, and more closely represent an average of harvest share over several years among the sectors as opposed to one or two recent years. The analysis provided retained harvest history from 1995 – 2005, although the specific options were based on various series of years during 1995 – 2003. In addition, while the options were calculated based on retained legal harvest (and excluding Pacific cod that was turned into meal as the primary product) from weekly production reports and ADF&G fishtickets, total harvest (retained and discarded cod, and including meal) from NMFS blend data, and the catch accounting database was provided in Section 3.3.5 (Table 3-24). Total harvest (including meal) attributed to the AFA sectors is also provided specifically in Table 3-28 relevant to the cod sideboards (note that this table does not include harvest by AFA CVs that are exempt from the BSAI cod sideboards). The NMFS blend data, and data from the catch accounting database which was implemented in 2004, utilizes observer data, shoreside processor landings data, and fishtickets. The Council intent was to calculate the allocation options using retained harvest of cod, since cod is required to be retained (in both the directed fishery, and up to the maximum retainable allowance when the directed cod fishery is closed) and it was not the intent to

<sup>123</sup>This also assumes that the BSAI Pacific cod TAC = ABC, as the State water AI cod fishery is currently specified as 3% of the BSAI Pacific cod ABC. For the past several years, the Pacific cod TAC has been set equal to ABC.

‘reward’ sectors that have higher discards of cod. All of the harvest data provided were considered in the allocation decision under the preferred alternative.

Providing Pacific cod harvest data both excluding and including cod that was turned into meal as the primary product is relevant primarily to the AFA trawl CP sector, as about half of the Pacific cod harvested by this sector is taken incidentally when these vessels are targeting BSAI pollock. The AFA CPs, unlike the non-AFA trawl CPs, have meal plants onboard and, thus, cod meal is a primary product for this sector. Only one AFA CP has targeted BSAI Pacific cod in the recent past. (Incidental versus targeted catch of trawl cod is discussed further in Component 7.) The Council was provided public testimony on the issue of meal product, such that the differences among sectors, specifically trawl, were considered. The Council also received two additional handouts (Appendix I) from the analysts prior to the selection of the preferred alternative, highlighting a comparison of BSAI Pacific cod harvest share of total retained catch by the AFA trawl CP sector, both including and excluding meal, and comparing weekly production report data and the NMFS blend/catch accounting data. The retained harvest by sector including meal, for each of the years 1995 – 2003, is provided in Appendix G. In sum, as stated previously, all of the harvest data provided was considered in the allocation decision under the preferred alternative. The Council did not select a specific series of years under the options in Component 2, but instead selected direct allocation percentages.

The following table summarizes the BSAI Pacific cod allocations selected in the preferred alternative, compared to historical catch, status quo allocations, and the range of allocation percentages under the options, by sector. The primary impact of this action is the change, if any, in BSAI Pacific cod allocation to each sector, which could result in a change in the ex-vessel and first wholesale revenues attributed to Pacific cod by sector. The allocations, however, with the exception of the <60’ fixed gear and jig sectors, are based on actual historical catch by sector, and thus ex-vessel and first wholesale revenues are not expected to change significantly due to this action. For the most part, changes in allocation represent changes in a sector’s ‘opportunity’ to harvest. One of the fundamental issues identified in the problem statement is to revise the existing allocations such that they better reflect actual historical catch by sector, thus, negating the need for frequent and significant reallocations of quota toward the end of the year from sectors that are not able to (or desirous of) harvest(ing) their entire allocation. The decision to reallocate the Pacific cod TAC formally institutionalizes the present pattern of utilization of this resource. This decision has implications for the future direction of growth, as well as the distributional of wealth deriving from these fisheries. Implicitly, the “loss” of the opportunity for a sector that historically has not taken its entire allocation, to respond to economic forces and factors and expand effort to more fully utilize its allowance represents a welfare reduction. The sectors that are formally awarded these allocations experience a welfare gain. Whether there is a “net” benefit to the Nation attributable to this transference cannot be readily assessed, depending, as it does, on a variety of biologic, economic, market, and public policy factors. It does bear watching, however, as these policy changes are translated into empirical experience.

Recall that Section 3.4 provides estimated ex-vessel and first wholesale prices and revenues for the fixed gear and trawl fleets. Cost data are not available, and thus only estimated price and revenue data are provided. One percent of the 2006 BSAI Pacific cod ITAC of 179,450 mt equals 1,795 mt (or about 4 million pounds). Using the most recently available (2004) ex-vessel price reported in the 2005 Economic SAFE for the fixed gear CV sectors (\$0.254/round pound), 1% of the BSAI Pacific cod ITAC to the fixed gear CV sectors could be roughly estimated as representing \$1 million in ex-vessel revenues. A 1% change in allocation to the trawl CV sectors (using estimated 2004 ex-vessel prices of \$0.219/round pound) is roughly estimated as representing \$866,000 in ex-vessel revenues.<sup>124</sup>

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<sup>124</sup>Note that public testimony in February and April 2006 reported that the 2006 ex-vessel price for BSAI Pacific cod delivered by both fixed and trawl gear has been upwards of \$0.40 per round pound in the A season. Thus, at \$.40 per round pound, 1% of the BSAI Pacific cod ITAC could be roughly estimated as representing \$1.6 million in ex-vessel revenues to the

In the processing sectors, the 2004 first wholesale prices are estimated in the 2005 Economic SAFE report as follows: \$1,132 per round mt of retained BSAI Pacific cod for catcher processors and \$959 per round mt of retained BSAI Pacific cod for shoreside processors. Thus, 1% of the 2006 BSAI Pacific cod ITAC could be roughly estimated as representing \$2 million in first wholesale revenue for the CP sectors, and \$1.7 million in first wholesale revenue for the shoreside processors. Note that these estimates do not take into account price differences between gear types, as the prices ultimately come from product-value reports in the COAR data, which are not broken down by gear type (Hiatt, pers. comm., 1/11/06). In general, both ex-vessel and first wholesale prices for BSAI Pacific cod increased in 2005 compared to 2004.

**Table 3-119 BSAI Pacific cod sector allocations (as % of BSAI Pacific cod ITAC) in the Council's preferred alternative, compared to historical catch and status quo allocations**

Sectors	Current allocation under Alt. 1	Allocation range considered under Alt. 2	Annual share of retained cod harvests, average 1995–2003 <sup>1</sup>	Annual share of retained cod harvests, ave 1995–2003, in mt using 2006 ITAC & 7.5% CDQ reserve <sup>2</sup>	Am. 85 allocation (preferred alternative)	Am. 85 allocation example (mt) using 2006 ITAC & 11% CDQ reserve <sup>3</sup>
<60' hook-and-line/pot CV	0.7%	0.1% – 2.0%	0.4%	696	<b>2.0%</b>	<b>3,350</b>
AFA trawl CP	23.5% (AFA CP sector is subject to sideboard of 6.1%)	0.9% – 3.7%	2.2%	3,829	<b>2.3%</b>	<b>3,852</b>
Non-AFA trawl CP		12.7% – 16.2%	13.4%	23,325	<b>13.4%</b>	<b>22,442</b>
Jig	2%	0.1% – 2%	0.1%	174	<b>1.4%</b>	<b>2,345</b>
Hook-and-line CP	40.8%	45.8% – 50.3%	49.1%	85,467	<b>48.7%</b>	<b>81,563</b>
Hook-and-line CV ≥60'	0.2%	0.1% – 0.4%	0.1%	174	<b>0.2%</b>	<b>335</b>
AFA trawl CV	23.5% (non-exempt AFA CV sector is subject to sideboard of 20.2%)	17.8% – 24.4%	21.9%	38,121	<b>22.1%</b>	<b>37,103</b>
Non-AFA trawl CV		0.5% – 3.1%	2.1%			
Pot CP	1.7%	1.4% – 2.3%	2.1%	3,655	<b>1.5%</b>	<b>2,512</b>
Pot CV ≥60'	7.6%	7.3% – 9.2%	8.6%	14,970	<b>8.4%</b>	<b>14,068</b>

<sup>1</sup>Source: Weekly production reports and ADF&G fishtickets, 1995 – 2003. Retained harvest data excludes harvest by the AFA 9 and includes meal. Each sector's harvest percentage is calculated as the sector's average of the annual harvest share. If meal was excluded in the above table (1995 – 2003), the AFA trawl CP sector share would be reduced to 1.7% and the trawl CV sector share reduced to 23.8%; the non-AFA trawl CP share would increase to 13.6% and the hook-and-line CP sector to 49.6%. All other sectors remain the same.

<sup>2</sup>The 2006 TAC is 194,000 mt, and the ITAC is 174,067 mt. [194,000 mt – 5,820 mt (3% for the State water AI fishery) – 14,113 mt (7.5% for the CDQ Program).]

<sup>3</sup>The 2006 TAC is 194,000 mt. The example ITAC under Am. 85 would be 167,480 mt. [194,000 mt – 5,820 mt (3% for State water AI fishery) – 20,700 mt (10% CDQ directed fishing allocation plus 1% estimated for ICA).]

catcher vessel sectors. Note also that the Draft 2006 Economic SAFE reports a 2005 ex-vessel price for the fixed gear and trawl gear CV sectors of \$0.294/round pound and \$0.232/round pound, respectively. This report should be finalized in November 2006.

Note: The <60' fixed gear sector is currently allocated 0.7% of the BSAI Pacific cod ITAC. However, this sector can currently fish off the general hook-and-line CV and pot CV Pacific cod allocations when those directed fisheries are open, respectively, by gear type. Am. 85 allows the <60' fixed gear sector to only fish off its direct allocation.

Overall, the **<60' hook-and-line/pot CV sector** received an allocation increase from 0.7% of the BSAI Pacific cod ITAC to 2.0% under the Council's preferred alternative. This sector has been harvesting its entire allocation for several years and starting receiving reallocations from the jig sector starting in 2004. In recent years, this sector has been harvesting a little more than 1.0% of the non-CDQ BSAI Pacific cod, and has testified that additional cod could be harvested if more quota was available earlier in the year. In 2004 and 2005, the <60' hook-and-line and pot CV sector harvested about 1.7% of the retained harvest share each year (see Table 3-12). This sector is primarily comprised of an Alaskan resident fleet, with delivery patterns in several ports in coastal Alaska, as detailed in Section 4.1. This sector is also considered a more entry-level sector than the larger fixed gear sectors, in part because a valid LLP to fish cod in this sector is not required to have a Pacific cod endorsement. Note also that while the status quo allocation is 0.7%, this sector's harvest is currently attributed to the general hook-and-line and pot CV allocations, respectively by gear type, when those directed cod fisheries are open. Thus, the proposed 2.0% allocation to this sector does not exactly represent an increase of 1.3% of the ITAC to this sector, as this sector has been allowed in the past to harvest a portion of the general fixed gear CV allocations. Under the Council's preferred alternative, each sector can only fish off its own distinct allocation. The Council accommodated for this change by increasing the <60' fixed gear sector allocation to more than its historical catch.

The increase to the <60' hook-and-line/pot CV sector is related in part to the slight reduction in the **jig sector** allocation to 1.4%. The jig sector's allocation has been 2.0% of the BSAI Pacific cod ITAC since 1994. The jig sector represents an entry-level opportunity for small boat fishermen, and the Council consistently receives public testimony on the importance of continuing a significant BSAI Pacific cod allocation to this fleet. However, the jig sector has harvested about 0.1% of the total BSAI Pacific cod harvest on average during 1995 - 2003, which represents about 5% of its total allocation. This same trend has continued in 2004 and 2005. Thus, the allocation to the jig sector under Amendment 85 continues to be much higher than its actual historical catch. The majority of the jig sector's BSAI Pacific cod allocation has thus been reallocated inseason to other sectors that can harvest it, most recently to the <60' hook-and-line and pot CV sector at the end of each jig season (starting in 2004). Generally, the <60' fixed gear sector receives reallocated jig quota at the end of each of the first two seasons, and then the third reallocation is made to the hook-and-line CP sector, as it is typically the only sector fishing late in the year. While the reallocations are intended such that a sector does not have to start and stop fishing intermittently while waiting for reallocated quota, it is not always possible. The level and frequency of reallocations exacerbates the level of uncertainty about the amount of quota that will be available at the start of the year, thus making it more difficult to plan and fish more efficiently.

The Council evaluated the above factors in making revised allocations to these two small boat sectors and determined that it would be beneficial to provide a larger allocation upfront for the <60' fixed gear CV sector, which has been harvesting its entire initial allocation and a portion of the reallocated jig quota in the recent past. At the same time, a 30% reduction in allocation to the jig sector would appear to have a negligible impact on the current jig sector, as this sector has been harvesting only about 5% of its total allocation on average since 1994. Both of these small boat sectors depend upon a multitude of fisheries to make up their total annual revenues, of which Pacific cod is a part.

**Finally, note that the Council's preferred alternative designates the jig sector as 'jig CV sector' under Component 1.** The intent, however, is that this sector includes all vessels using jig gear to harvest BSAI Pacific cod, whether catcher vessels or catcher processors, similar to the current Federal regulations (50 CFR 679.20(a)(7)(i)(A)). While the jig sector is typically comprised only of catcher vessels, one jig vessel has operated as a catcher processor in the BSAI Pacific cod fishery in some of the years under consideration. All harvest by jig vessels (CP and CV) currently accrues to the existing BSAI Pacific cod

jig sector allocation; and all harvest by jig vessels (CP and CV) was included in the jig sector harvest history provided in this amendment. There was no explicit intent provided to exclude any jig vessels from this sector that either currently operate as CPs or may operate as such in the future. Thus, it is expected that the proposed rule for this amendment may clarify that the ‘jig sector’ would continue to be identified as such in the regulations implementing this action.

The allocation of 0.2% of the BSAI Pacific cod ITAC to the **≥60’ hook-and-line CV sector** did not change. This sector has slowly increased its harvest of BSAI Pacific cod starting in 2000, when the BSAI Pacific cod allocation to the fixed gear sector was first split among the various fixed gear sectors and the hook-and-line CV sector received a separate allocation. Note that since 2000, harvest by the <60’ hook-and-line CV fleet has accrued toward the general hook-and-line CV allocation of 0.2% of the BSAI Pacific cod ITAC, when that directed fishery is open. In the past, the majority of the general hook-and-line CV allocation has been harvested by <60’ hook-and-line CVs. Thus, while the allocation of 0.2% stays the same, the sector is defined differently, such that only ≥60’ hook-and-line CVs can fish off the allocation. (Under the preferred alternative, the <60’ hook-and-line sector harvest accrues only to the <60’ hook-and-line/pot gear CV allocation.) The ≥60’ hook-and-line CV sector is primarily dependent on halibut for the majority of its ex-vessel revenues, with Pacific cod a smaller part of this sector’s overall ex-vessel revenues.

The same situation applies to the **≥60’ pot CV sector**, in that harvest by the <60’ pot CV fleet accrues toward the general pot CV allocation of 7.6% of the BSAI Pacific cod ITAC, when that directed fishery is open. When it is closed, harvest by the <60’ pot fleet accrues toward the <60’ hook-and-line/pot gear CV allocation. In the past, very little (<1%) of the general pot CV allocation has been harvested by <60’ pot CVs. This is due primarily to: 1) the larger relative size of the general pot CV allocation, 2) the number of ≥60’ pot CVs typically fishing BSAI Pacific cod is much larger than the number of <60’ pot CVs, and 3) the A season for the pot CV cod fishery typically closes in mid-February or early March, before many of the smaller pot CVs have started fishing in the BSAI. The <60’ pot CVs harvest the majority of the <60’ fixed gear allocation between March and June. (Under the preferred alternative, the <60’ pot CV sector harvest accrues only to the <60’ hook-and-line/pot gear CV allocation.)

Under the Council’s preferred alternative, the ≥60’ pot CV sector would receive its own allocation of 8.4% of the BSAI Pacific cod ITAC, an increase of 9%. This sector has harvested an average of almost 8.6% of the total non-CDQ cod harvest during 1995 – 2003, but has not been able to harvest its entire allocation in the past couple of years (2004 and 2005). Note that 2004 was the first year in which the pot CV and pot CP sectors received separate BSAI Pacific cod allocations under BSAI Amendment 77. The 8.4% allocation to the ≥60’ pot CV sector thus represents a slight increase to a sector which depends on Pacific cod second only to the crab fishery (see Table 3-34). This sector has very low bycatch compared to other sectors, and typically receives a higher ex-vessel price per round pound than trawl-caught cod.

The **hook-and-line CP sector** harvests the majority of the BSAI Pacific cod ITAC, including the majority of the quota that is reallocated from other gear sectors towards the end of the year. This sector is typically the only sector left on the fishing grounds and targeting cod late in November and December. The great majority (82%) of this sector’s total estimated first wholesale value is generated from BSAI Pacific cod, with much lesser amounts from Gulf groundfish, crab, or halibut. Thus, of all sectors, this sector is most dependent on the cod fishery in terms of relative value compared to other fisheries. While this sector is currently allocated 40.8% of the BSAI Pacific cod ITAC, its average retained catch has exceeded 49% of the total BSAI Pacific cod harvest since 1995, due to the harvest of reallocated quota. In moving this quota into the sector’s initial allocation, it is expected that the sector will be better able to plan its fishing year, as well as fish more of the cod quota earlier in the B season. Eliminating the high level of uncertainty associated with reallocating quota late in the fishing year should benefit this and all sectors.

The **pot CP sector** is the only fixed gear sector that received a slight reduction in its BSAI Pacific cod allocation, from 1.7% to 1.5% of the BSAI Pacific cod ITAC. The 1.5% allocation is within the range of allocations analyzed using catch history during 1995 – 2003. While Pacific cod is the primary groundfish target for this sector, this sector also relies heavily on the crab fishery and other Gulf groundfish. The number of vessels participating in this sector has declined over the past several years, from 13 in 1999 to 10 in 2000, 5 in 2001 and 2002, and 3 in 2003 and 2004. As of July 2006, only two pot CPs have participated. While the decline in participants is due in part to the implementation of the Pacific cod endorsement requirement for  $\geq 60'$  fixed gear vessels under Amendment 67 (effective in 2003), it is not the sole factor. Amendment 67 resulted in eight valid BS/AI LLPs for the pot cod CP sector, only two of which are designated interim licenses, and yet very few have been fishing in this sector in recent years. Anecdotal evidence and public testimony suggest that some vessels have focused their efforts in the crab fisheries in recent years, and some vessels have not found it economically viable to fish cod. In addition, a couple vessels may be considering fishing as pot CVs with the recent rise in shoreside ex-vessel cod prices.

The **AFA trawl CP sector and non-AFA trawl CP sector** have utilized a combined BSAI Pacific cod allocation of 23.5% of the ITAC since 1997, and the AFA trawl CP sector has been subject to limits (sideboards) on how much of the trawl CP Pacific cod allocation it can harvest since 1999. The Council's preferred alternative under Amendment 85 recommends separate BSAI Pacific cod allocations to the AFA trawl CP and non-AFA trawl CP sectors of 2.3% and 13.4% of the BSAI Pacific cod ITAC, respectively. The intent was that each trawl CP sector could better manage its own exclusive cod allocation under the cooperative systems either in place (for the AFA CP sector) or proposed (for the non-AFA trawl CP sector). Establishing separate allocations to each of these sectors negates the need for the BSAI Pacific cod sideboard in place to protect the historic share of the non-AFA trawl CP sector from being eroded by AFA vessels. Thus, upon implementation of Amendment 85, the BSAI Pacific cod sideboard (25.8% of the ITAC available to trawl CPs, see Table 12 to the Final 2006 - 2007 Alaska Groundfish Harvest Specifications) for the AFA CP sector would be removed.

The AFA trawl CP sector receives a 2.3% allocation of the BSAI Pacific cod ITAC under the Council's preferred alternative, which represents about its average share of the retained BSAI Pacific cod harvest by all (non-CDQ) sectors during 1995 – 2003, including cod destined for meal production (see Table 3-119 and Appendix G). The trawl CP sectors are the only sectors at issue that harvest a significant portion of their BSAI Pacific cod as incidental catch in a non-Pacific cod target fishery. Table 3-101 shows that the AFA CP sector harvested about 56% of its total retained cod harvest in the target cod fishery on average during 1999 – 2003, the remaining 44% was harvested as incidental to other target fisheries, primarily pollock. The majority of the incidentally caught cod is turned into meal as the primary product, in contrast to the other CP sectors. Only one AFA CP harvests cod in the target cod fishery; the remaining vessels use the cod allocation to support the directed pollock fishery. As cod is required to be retained by all sectors when the directed fishery is open and up to the maximum retainable amount when the directed cod fishery is closed, it is necessary for this sector to have a sufficient cod allocation in order to fully prosecute its pollock fishery. Thus, the preferred alternative is intended to represent historical retained catch of cod by this sector, understanding that the allocation is used to support a directed cod fishery as well as incidental catch needs in the pollock fishery.

The non-AFA trawl CP sector receives a 13.4% allocation of the BSAI Pacific cod ITAC under the Council's preferred alternative, which represents about its average share of the retained BSAI Pacific cod harvest by all (non-CDQ) sectors during 1995 – 2003 (see Table 3-119). However, while the allocation is consistent with this sector's harvest over a broad series of years, it represents about 2.6 percentage points less than the sector's average share (16% of the harvest) during the most recent years (1999 – 2003). Table 3-12 also provides information on 2004 and 2005 harvests; this table shows that the non-AFA trawl CP sector harvested about 19.4% and 16.0% of the retained harvest by all sectors during 2004 and 2005, respectively.

As mentioned above, the non-AFA trawl CP sector harvests a significant portion of its BSAI Pacific cod as incidental catch in a non-Pacific cod target fishery. Table 3-101 shows that the non-AFA trawl CP sector harvested about 54% of its total retained cod harvest in the target cod fishery on average during 1999 – 2003; the remaining 46% was harvested as incidental to all other target fisheries, primarily the flatfish fisheries (yellowfin sole, rock sole, flathead sole, Atka mackerel, and Pacific Ocean perch). With a lower potential allocation compared to recent years, this sector will likely need to determine how much of its cod allocation will be used as incidental catch to other target fisheries versus to fund the directed cod fishery.

The Council recently took action on BSAI Amendment 80, to establish a cooperative system for this sector, which includes establishing allocations of both target flatfish and PSC on both the sector and cooperative level. If approved by the Secretary, this amendment is intended to be implemented in 2008, the same year as Amendment 85. Amendment 80 is intended to provide the tools necessary for this sector to negotiate the use of the allocations exclusive to this sector, including Pacific cod, in the most efficient and valuable way possible. Similar to the AFA CP sector, if the Pacific cod TAC is reduced such that it becomes constraining in the future, the directed cod fishery for the non-AFA trawl CP sector will likely be reduced or managed increasingly conservatively such that cod remains available for incidental catch in other directed fisheries for this sector. The industry has noted that the smaller vessels in this sector are more dependent on the directed cod fishery and would be most affected by foregone revenues in this sector. As Pacific cod is highly retained, this species also important to the non-AFA trawl CP sector in order to meet the groundfish retention standard that will be effective under Amendment 79 in 2008. The intent is to implement the groundfish retention standard, the cooperative structure under Amendment 80, and the Pacific cod allocations, in 2008. This is intended to allow the non-AFA trawl CP sector the management tools to manage its fisheries to reduce bycatch and increase the value of its target species. Absent a cooperative structure as approved in Amendment 80, it is expected that compliance with the groundfish retention standards and management of a lower Pacific cod allocation to serve both directed and incidental catch needs, will be substantially more difficult.

Finally, the **trawl CV sector** receives a 22.1% allocation of the BSAI Pacific cod ITAC under the Council's preferred alternative, which represents less than its current allocation of 23.5%, and less than its average share of the retained BSAI Pacific cod harvest by all (non-CDQ) sectors during a broad timeframe (1995 – 2003). While the Council considered an option under Alternative 2 to establish separate AFA trawl CV and non-AFA trawl CV cod allocations, the preferred alternative maintains the combined allocation to the trawl CV sector overall. Similar to the AFA CP sector, the majority of the AFA trawl CV sector is subject to a BSAI Pacific cod sideboard (86.1% of the trawl CV ITAC) which limits the amount of the trawl CV cod allocation it can harvest. As the trawl CV cod allocation would continue to be harvested by both AFA and non-AFA trawl catcher vessels, the current AFA CV BSAI Pacific cod sideboard, including the sideboard exemption, would remain in place under the preferred alternative. This is explicitly provided for in the Council motion.

The Council decided to maintain the combined trawl CV cod allocation, in part because elimination of the sideboard would result in termination of the Cod Allocation Agreement (2000) between the AFA CV cooperatives (see Section 3.4.2.1), which would significantly disrupt the current internal cooperative management system for this sector. In addition, had the Council created separate trawl CV allocations for the AFA and non-AFA sectors, an option existed to allow non-AFA trawl catcher vessels which met a specified landings and participation threshold (see Alternative 2, Component 1, Option 1.1) to be part of the AFA trawl CV sector for purposes of BSAI Pacific cod allocations only. In effect, harvest of the three non-AFA trawl catcher vessels with the most cod history (in excess of 54% of the sector's harvest during 1995 – 2003) would accrue toward the AFA trawl CV sector cod allocation, and these vessels' history would have been considered to establish the allocation level to the AFA trawl CV sector. As a result, the cod allocation to the remaining non-AFA trawl CV sector may have been sufficiently small to warrant

management concerns. It would be difficult for NMFS to manage a very small allocation, on a seasonal basis, for a sector whose annual number of participants and effort level vary relatively significantly. Both of these factors, combined with public testimony, led the Council to recommend maintaining a combined trawl CV allocation at this time.

In sum, the advantages of a separate allocation to the AFA trawl CV sector, linked primarily to the ability of the sector to manage the allocation under its cooperative system with a finite number of participants, appeared to be outweighed by the negative impacts on both the AFA and non-AFA trawl CV sectors discussed above. The AFA CVs that are not exempt from the sideboard have not harvested the entire sideboard since the AFA was implemented (average is about 65% of the sideboard), thus, neither sector may be substantially affected at this time by maintaining the combined trawl CV allocation. Note that both sectors primarily prosecute the directed cod fishery, with relatively little cod taken as incidental catch in other target fisheries. The non-AFA trawl CV sector, with about 35% of its ex-vessel revenues attributed to BSAI Pacific cod (average 1999 – 2003), does not target other groundfish fisheries in the BSAI; however, it does participate in Gulf groundfish, crab, and halibut fisheries to a significant extent. The AFA trawl CV sector is most dependent on BSAI pollock, with about 10% of its ex-vessel revenues attributed to Pacific cod.

Finally, note that the Alaska Board of Fisheries established a **State AI Pacific cod fishery** for a two-year time period, which reserves 3% of the BSAI Pacific cod TAC for 2006 and 2007. Legal fishing gear for this fishery is currently pot, jig, hand troll, non-pelagic trawl, and longline (hook-and-line). Non-pelagic trawl and longline gear may not be used during May 1 through September 15, unless these vessels are operating in the <60' vessel size limitation areas near Adak Island. The stated objective of the State's action to establish this fishery was to provide for additional fishing opportunity in State waters, including a small boat fleet that operates or could operate out of Adak.

Thus, while the overall economic effect of this fishery on the sectors is uncertain at present, it is anticipated that the general effect will be a redistribution of cod harvests and associated revenues from vessels of all gear types that fish in Federal waters in the Aleutian Islands or in the Bering Sea (within Federal or State waters) and from ports east of 170° W. Thus, there will likely be a disproportionate negative effect on those sectors that do not desire to fish (or are not capable of fishing) in State waters in the Aleutian Islands, compared to those sectors that have harvested and want to continue to harvest Pacific cod in the Aleutians within State waters. NMFS reported, prior to the State's decision to establish this fishery, that, in 2005, only a trace amount of Pacific cod was landed with pot gear and very small relative amounts were landed with hook-and-line or jig gear. NMFS also reported that acceptable catch rates of Pacific cod in the AI trawl fishery occur in relatively narrow windows of time and typically later than that experienced in the BS subarea fishery in the spring.<sup>125</sup> In general, the fixed gear and jig gear sectors have reduced the AI share of their total BSAI Pacific cod harvest in recent years; while the trawl sectors have generally increased the AI share of their total BSAI Pacific cod harvest (see Appendix F for details on AI harvest by sector).

In the first season of the State AI fishery, the majority of the GHL was harvested by trawl catcher vessels <125' LOA. Of the 26 total vessels that participated, the average fishing vessel size was 115' LOA. This fishery started on March 15 and concluded in ten days. The 2006 B season started on June 10 and was closed on September 1 with less than 10% of the quota harvested (Bowers, pers.comm.). At this point, with a single year concluded, it is difficult to speculate as to which sectors will benefit from the redistribution of 3% of the Federal BSAI Pacific cod TAC to the State water AI Pacific cod fishery in the future. To date however, very few vessels <60' LOA participated and the majority of the vessels used trawl gear.

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<sup>125</sup>Letter from Robert Mecum, Acting Regional Administrator, NMFS, to Art Nelson, Chair, Alaska Board of Fisheries, January 17, 2006, p. 2.

Note also that the Alaska Board of Fisheries will review a proposal in October 2006 to modify the existing State water Pacific cod AI fishery such that it: 1) clarifies the opening of the A and B seasons; 2) extends the fishery beyond 2007 for any year in which the Council has not subdivided the BSAI Pacific cod ABC and TAC between the BS and AI subareas; and 3) modifies the eligible vessel gear types to those <60' using longline, pot, jig, and handtroll gear and those <125' using trawl gear. The proposal also divides the State guideline harvest levels between these two components.

Note that all sectors will be impacted if the Pacific cod ABC/TAC is reduced in the future, especially those sectors which are highly dependent on Pacific cod and are managed under the limited access system, as opposed to a cooperative system. A reduced TAC will cause the sectors' seasons to close earlier, which may result in sectors moving into alternate fisheries earlier in the year and/or foregoing cod revenues. Reduction in the ABC/TAC, while the apparent short-term trend, typically results from the stock assessment evaluation in the annual specifications process. While not an effect of any action proposed in this amendment, the types of economic impacts that could result include reduced ex-vessel and first wholesale revenues from the Pacific cod fishery, fewer crew and shoreplant jobs, reduced related economic activity in communities in which the shoreplants receiving Pacific cod deliveries are located, reduced tax revenue to those communities, and disruption to the fishing fleets as they enter alternative fisheries earlier in the year in order to make up for reduced cod revenues.

### **3.4.3.2 Component 3: Seasonal apportionments**

Under the Council's preferred alternative (Alternative 2), the Council selected Option 3.2 and 3.4 to address seasonal apportionments of each sector's BSAI Pacific cod allocation. These options are in the Council motion as follows:

*Option 3.2 Upon determination of the new overall allocations to the trawl and fixed gear sectors, maintain the current percentage of the ITAC allocated to the A and B seasons for trawl gear and the A season for fixed gear. Provide that any reduction in the overall trawl allocation resulting from the options would be applied only in the C season for trawl gear. If necessary, remaining reductions will be taken from the trawl B season. Provide that any increase in the overall fixed gear allocation resulting from the options would be applied only in the B season for fixed gear.*

*Option 3.4 Apportion the BSAI Pacific cod jig allocation on a trimester basis as follows:*  
60% (Jan. 1 – April 30)  
20% (April 30 – August 31)  
20% (August 31 – December 31)

The description and intent of the approach, and the effect of each of these options, is analyzed in detail in Section 3.4.2.3. In general, the approach is such that the amount of the allowable ITAC that can be harvested in the first half of the year by the overall trawl sector and fixed gear sector does not change from status quo. Any increase or decrease in the overall BSAI Pacific cod allocation to each sector is only applied the second half of the year. This approach was intended to satisfy the current Steller sea lion temporal dispersion measures resulting from the 2001 Biological Opinion, under which the overall BSAI Pacific cod fishery is apportioned about 70% in the first half of the year (Jan. 1 - June 10) and 30% in the second half (June 10 – Dec. 31). While these percentages only represent a general target, each sector's allocation is currently seasonally apportioned to meet this guideline. The preferred alternatives also recognizes and maintains that the <60' fixed gear sector is the only sector that is not subject to seasonal apportionments under the mitigation measures. This approach was intended to mirror the fishery as it is conducted today, and as it was evaluated in the 2001 Biological Opinion. Currently, each sector receives its initial allocation at the beginning of the year, and any reallocations among sectors occur in the second half of the year (with the exception of the jig sector), to prevent foregone cod harvest. The preferred

alternative modifies the allocations to each sector such that they better reflect actual harvest by sector, but also mirrors when that harvest has been occurring.

See Table 3-70 and Table 3-71 for the current seasonal apportionments for the (non-CDQ) trawl CP, trawl CV, fixed, and jig gear sectors. The overall result under the *status quo* is that the trawl sectors receive 37.6% of the ITAC in the first half of the year (28.2% in the A season; 9.4% in the B season); the fixed gear sectors receive 30.2% of the ITAC in the first half of the year, and the jig sector receives about 1.2%. In sum, about 69% of the ITAC is allowed to be harvested in the first half of the year (not including the <60' fixed gear sector).

Table 3-120 below incorporates the new allocations and the seasonal apportionment approach under the preferred alternative to show: 1) each overall sector will maintain the same amount of the BSAI Pacific cod ITAC in the first half of the year as under the status quo, and 2) how each sector's allocation must be apportioned as a result. **The resulting apportionment changes the allowable harvest to about 65.8% and 32.2% of the ITAC in the first and second halves of the year, respectively.** Note that this table excludes the <60' fixed gear sector, recognizing that it is not subject to seasonal apportionments. If the <60' fixed gear sector allocation of 2.0% was folded into this table and one assumed that its entire harvest was taken in the first half of the year, the overall apportionments of the ITAC would be 67.8% and 32.2% in the first and second halves of the year, respectively.

**Table 3-120 Seasonal apportionments resulting from Council preferred alternative**

Date	TRAWL CP				TRAWL CV			TOTAL
	% of ITAC	Season	Trawl CP Seasonal % of Allocation	Trawl CP Seasonal % of ITAC	% of ITAC	Trawl CV Seasonal % of Allocation	Trawl CV Seasonal % of ITAC	Total Trawl % of ITAC
	<b>15.7%</b>				<b>22.1%</b>			<b>37.8%</b>
1-Jan	(no fishing allowed with trawl gear 1/1-1/20)							
20-Jan		A	75%	11.8%		74%	16.5%	28.2%
1-Apr								
1-Apr		B	25%	4.0%		11%	2.4%	6.3%
10-Jun								
10-Jun		C	0%	0.0%		15%	3.3%	3.3%
1-Nov								
31-Dec	(no cod target allowed with trawl gear after 11/1)							
<b>TOTAL</b>			<b>100%</b>	<b>15.7%</b>		<b>100%</b>	<b>22.1%</b>	<b>37.8%</b>

Date	>60' FIXED				JIG				>60' Fixed & Jig % of ITAC	<60' Fixed % of ITAC	Total trawl, fixed and jig % of ITAC*
	Percent of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC	Percent of ITAC	Season	Seasonal % of Allocation	Seasonal % of ITAC			
	<b>58.8%</b>				<b>1.4%</b>				<b>60.2%</b>	<b>2.0%</b>	<b>100.0%</b>
1-Jan						A	60%	0.8%			
20-Jan											
1-Apr		A	51%	30.2%					31.3%	no seasonal allocations*	65.8%
1-Apr											
10-Jun						B	20%	0.3%			
10-Jun											
1-Nov		B	49%	28.6%					28.9%		32.2%
31-Dec						C	20%	0.3%			
<b>TOTAL</b>			<b>100%</b>	<b>58.8%</b>			<b>100%</b>	<b>1.4%</b>	<b>60.2%</b>		<b>98.0%</b>

\*The <60' fixed gear sector is not included in this column, as it does not currently have seasonal apportionments. If one assumed that the <60' fixed gear sector harvested its entire allocation of 2% in the first half of the year (prior to June 10), the final

apportionments would be 67.8% and 32.2% of the ITAC harvested in the first and second halves of the year, respectively. This table also assumes that the first two seasons of the jig allocation are taken in first half of year.

The reason the overall apportionment is a little less than the current allowable 69% is because of two issues. First, the trawl CP sector does not have a sufficiently large Pacific cod allocation, based on catch history, to maintain its status quo percentage of the ITAC in both the A and B seasons. While the A season percentage of the ITAC is the same as status quo at 11.8% of the ITAC, the B season is only 4.0% (compared to status quo of 7.1%). This continues to mirror how the fishery is actually conducted, as a portion of the trawl CP sectors' B season is left unharvested and rolls to their C season (see Table 3-20). **Thus, slightly less cod quota is typically harvested in the first half of the year than is allowable under the status quo. This is also expected under the preferred alternative,** as it is expected that while unused quota from the trawl sector will decrease substantially under this action, some portion of the trawl quota may continue to be rolled over from the A or B seasons (first half of the year) to the C season (second half of the year). This would certainly be the case if the trawl sectors plan to use some of their cod allocation to prosecute the B season directed pollock and flatfish fisheries, which occur after June 10. NMFS will need to establish a cod ICA for each trawl sector, to allow for incidental catch of cod during these other directed fisheries. The preferred alternative specifies that a directed fishing allowance and incidental catch allowance would be established for each trawl sector, as determined by NMFS inseason management. Both the directed and incidental catch needs are intended to come out of each sector's cod allocation proposed in this amendment. This is discussed in more detail in Section 3.4.3.8.

Second, the jig sector received a slightly lower allocation compared to the status quo (1.4% compared to status quo 2.0%). Thus, even though the jig seasons were modified to a 60% - 20% - 20% allocation split, about 0.1% less of the ITAC is allowed to be taken in the first half of the year, due to the reduced jig allocation. Note that the intent in changing the jig seasons is to provide additional Pacific cod quota to the <60' fixed gear catcher vessel sector earlier in the year, through the rollover provisions. Thus, even though a higher percentage of the jig allocation is available earlier in the year, the jig allocation is reduced such that there is a negligible effect on the amount of actual cod that are available in the first half of the year compared to the status quo. Recall that the <60' fixed gear sector received a higher cod allocation under the preferred alternative, in part as a result of a lower jig allocation. The jig sector has only harvested about 5% of its entire allocation since 1994, resulting in consistent annual reallocations from this sector. The effect of this option is shown in the table above and described in detail in Section 3.4.2.3

In sum, the status quo apportionment of the BSAI Pacific cod ITAC is 69% - 31%, excluding the <60' fixed gear sector. Under the preferred alternative, the reduced trawl CP allocation and jig allocation results in 3.2% less of the BSAI Pacific cod ITAC allowable in the first half of the year. This 3.2% accounts for the difference from the status quo in the amount of the BSAI Pacific cod ITAC that may be harvested in the first half of the year:  $69\% \text{ (status quo)} - 3.2\% = 65.8\% \text{ (preferred alternative)}$ .<sup>126</sup>

Note that the apportionment was limited to the ITAC, which does not include CDQ or the current State water AI fishery. The CDQ fishery is typically prosecuted by hook-and-line catcher processors and is currently subject to the same seasonal apportionments as the hook-and-line CP sector fishing non-CDQ. However, because the preferred alternative specifies changes to the seasonal apportionments of the ITAC only, it is assumed that the current seasonal apportionments to the CDQ allocation do not change (i.e., 60% in the A season and 40% in the B season). In addition, If CDQ was accounted for in Table 3-120, using the intent of the Council's action on Component 3 was to allow each overall gear sector to take the same amount of the ITAC as it is allowed currently in the *first half of the year*, understanding that the

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<sup>126</sup>Recall that the preferred alternative results in 65.8% of the BSAI Pacific cod ITAC allowed in the first half of the year if the <60' fixed gear sector (with no seasonal apportionments) is not included. If one wanted to include the <60' fixed gear sector and assume its entire harvest was taken in the first half of the year, the preferred alternative results in 67.8% of the BSAI Pacific cod ITAC allowed in the first half of the year.

overall gear *allocations* were changing. The CDQ allocation was not increased under the Council's motion on Amendment 85, thus, the seasonal apportionments would not need modification to ensure that the CDQ sector could continue to harvest the same amount of the TAC in the first half of the year as is allowed under status quo. Note, however, that subsequent to the Council's final action on this amendment package, the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) was signed into law (July 11, 2006). Among other actions, this Act amends Section 305(i) of the Magnuson Stevens Act, including a change to make the CDQ Program Pacific cod allocation a directed fishing allocation of 10% upon establishment of new Pacific cod sector allocations. This means that the CDQ allocation would be 10% for the *directed* Pacific cod fishery, with an additional amount of cod reserved for incidental catch needs in the other CDQ groundfish fisheries. NMFS proposes that the CDQ incidental catch allowance for cod would likely be 0.5% to 1.0% of the BSAI Pacific cod TAC at the beginning of implementation. (This issue is discussed in more detail in Section 3.4.3.4.)

In sum, adjustment of the CDQ seasonal apportionments, if desired, would likely have to be addressed in a subsequent action by the Council, given that this issue is not addressed in either the Council's motion on Amendment 85 or the Coast Guard and Maritime Transportation Act of 2006.

However, if CDQ was accounted for in Table 3-120, using an 11.0% CDQ allocation (directed fishing allowance and incidental catch allowance combined) and the 60% - 40% seasonal apportionments, the overall apportionments of the entire BSAI Pacific cod TAC would be about 65% and 33% in the first and second halves of the year, respectively. Again, this calculation excludes the <60' fixed gear CV sector, recognizing that it is not subject to seasonal apportionments. (If the <60' fixed gear CV allocation was folded into the calculation, and one assumed its entire harvest was taken in the first half of the year, the apportionments would change to about 67% and 33%.)

The ITAC also does not include the 3% reserved for the current State water Pacific cod Aleutian Islands fishery. Thus, the apportionment of the ITAC resulting from the Council's preferred alternative (65.8% in the first half of the year) does not include the State water AI cod fishery. The State AI cod fishery is seasonally apportioned such that it is consistent with the temporal dispersion measures in place to protect Steller sea lions in the overall Federal BSAI cod fishery: a maximum of 70% of the GHL may be harvested prior to June 10. Any unharvested GHL during the first season can be rolled into the second season such that not more than 70% of the total annual GHL can be harvested in the first season. **Thus, total removals of the TAC, under the Council's preferred alternative and including CDQ and the existing State water AI fishery, are still limited to about 65% in the first half of the year and 33% in the second half of the year.** This is because the State water AI fishery mirrors the current temporal dispersion measures for Steller sea lions (70% - 30%). Again, this calculation excludes the 2% allocation to the <60' fixed gear CV sector, recognizing that it is not subject to seasonal apportionments.

The expected effect of the seasonal apportionments is that it would reflect the status quo for the overall fixed gear and trawl gear sectors. This results in the non-CDQ trawl CV sector subject to an allocation apportionment of 74% - 11% - 15%, and each trawl CP sector subject to an allocation apportionment of 75% - 25% - 0%. This also results in each non-CDQ  $\geq 60'$  fixed gear sector subject to an allocation apportionment of 51% - 49%, in order to maintain the same amount of the ITAC taken in the first half of the year by the fixed gear sector overall. However, not every individual fixed gear sector received the same proportionate increase in its allocation as did the hook-and-line CP sector. For example, the combination of the pot sectors' new allocations with the new overall fixed gear allocation split of 51% - 49%, results in a very slight reduction in the amount of the ITAC that the pot CP and pot CV sectors can harvest in the A season (less 0.2% and 0.3%, respectively). But the percentage of the ITAC allowed to be harvested in the A season overall by the fixed gear sectors remains status quo. The impacts from this action are related primarily to the future opportunity to harvest cod in each sector's B and/or C seasons, in that the overall  $\geq 60'$  fixed gear sector received about an additional 8% of the ITAC in the second half of

the year, and the overall trawl sector received an allocation reduction of about 3% and 6% of the ITAC in the B and C seasons, respectively. The jig sector also received an allocation reduction of about 0.1% of the ITAC in the B season and about 0.5% in the C season. While the redistribution of the ITAC in this manner reflects actual harvest patterns, it certainly precludes the jig and trawl sectors from harvesting an increased amount of ITAC in the future should the sectors have the desire and capability to do so.

### 3.4.3.3 Component 4: Rollover Provisions

Under the Council's preferred alternative (Alternative 2), the Council selected Option 4.2 to address potential rollovers of each sector's BSAI Pacific cod allocation. The option is comprised of the series of provisions below:

*Inseason management would retain flexibility to determine how to reallocate projected unused sector allocations (rollovers), taking into consideration the hierarchy below. NMFS takes into account the intent of the rollover hierarchy and the likelihood of a sector's capability to harvest reallocated quota.*

**Option 4.2** *Projected unused allocations to any sector delivering inshore must be considered for reallocation to other inshore sectors before being considered for reallocation to any offshore sector. The suite of provisions below comprises Option 4.2.*

- *Projected unused allocation in the jig sector is considered for reallocation to the <60' fixed gear CV sector on a seasonal basis. The third trimester jig rollover should be available to the <60' fixed gear CV sector on September 1.*
- *Any unused allocation from any inshore sector will first be considered for reallocation to the jig sector and/or <60' fixed gear CV sector; then to the hook-and-line CV  $\geq 60'$  or pot CV  $\geq 60'$  sector; then to the trawl CV sectors. Any CV allocation that is not likely to be harvested through this hierarchy will be reallocated as per components 4.2.3–4.2.6 below.*
- *Projected unused trawl sector allocations are considered for reallocation to other trawl sectors (AFA trawl CP; non-AFA trawl CP; trawl CV) before being reallocated to the fixed gear sectors (hook-and-line CP; pot CP; pot CV  $\geq 60'$ ).*
- *Reallocation of TAC from the trawl sectors to the pot CP,  $\geq 60'$  pot CV, and hook-and-line CP sectors will be proportional to the new fixed gear allocations.*
- *Projected unused pot sector allocations (CPs and  $\geq 60'$  CVs) are considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.*
- *Projected unused allocations in the <60' fixed gear CV sector, both pot sectors (CP and  $\geq 60'$  CV), and hook-and-line CV  $\geq 60'$  are reallocated to the hook-and-line CP sector.*

The effect of Option 4.2 is described in detail in Section 3.4.2.4. These provisions are intended as a hierarchy from which to manage quota that is projected to remain unused by a particular gear sector on an annual basis. While the intent of this amendment package is to revise sector allocations to better reflect actual catch history and thus reduce the frequency and amount of reallocated quota, the Council and the public noted that some reallocations are likely to continue. Note that the preferred alternative does not change the fact that any unused quota by a sector at the end of a *season* is rolled to that sector's subsequent season within that year. The only sector to which this does not currently apply is the jig sector – unused quota is rolled to another gear sector at the end of each season. This practice would also continue under the preferred alternative.

The primary differences in the preferred alternative compared to the status quo are: **1)** projected unused allocations from any sector delivering inshore must be considered for reallocation to other inshore sectors before being considered for reallocation to any offshore sector; **2)** reallocating quota from the trawl sectors to the fixed gear sectors proportional to the new fixed gear allocations; and **3)** the timing of the third trimester jig reallocation to the <60' fixed gear sector. In addition, note that reallocation of cod between pot sectors is addressed explicitly in the preferred alternative, while it is not explicitly mandated in current Federal regulations. Currently, NMFS has broad authority at 50 CFR 679.20(a)(7)(ii)(C) to reallocate Pacific cod that is projected to remain unused from either the trawl or non-trawl sectors through Federal Register notice, subject to specific provisions. Thus, while unnecessary in the past, NMFS could reallocate unused pot CP or pot CV quota to the other pot sector before it is reallocated to other gear sectors under its existing authority. The preferred alternative would thus make this approach explicit in regulation for the pot sectors, but does not represent a practical difference in NMFS's current authority to reallocate pot quota in this manner. This approach is consistent with the way the trawl sectors are addressed, in that cod is reallocated within the gear type before being reallocated to a different gear type. The remainder of this section focuses on the three primary differences from the status quo.

The first difference under the preferred alternative is that NMFS would be required to consider reallocating within the inshore sectors before reallocating from the inshore to the offshore sectors. This approach is consistent with the Council's decision to increase the opportunity to harvest reallocations for the fleets delivering shoreside, which include some of the small boat sectors. As noted in Section 3.4.2.4, it is difficult to predict whether reallocations within the inshore sectors would actually occur, given the dynamics of the fishery each year. Note, however, that with the exception of the jig sector, this reallocation scheme is still only applicable to the last season for each sector. Thus, at that point in the year, NMFS has some knowledge as to which sectors are still fishing and plan to remain fishing for the rest of the year. The inshore sectors at issue are the <60' fixed gear sector, ≥60' pot CV sector, ≥60' hook-and-line sector, non-AFA trawl CV sector, and AFA trawl CV sector. Reallocations from these inshore sectors typically occur in October or November, and less frequently in December. The discussion in Section 3.4.2.4 considers whether any of the inshore sectors would be expected to have unused quota toward the end of the year.

In brief, the effect of the preferred alternative on reallocations cannot be easily quantified, due to annual changes in the fishery and the variability in each sector's ability to harvest its entire allocation each year. The minimum effect would be the same as status quo, in the case that NMFS determines toward the end of the year that no other inshore sector is likely capable of fishing reallocated quota and/or no inshore sector is projected to leave quota unused. A reasonable outcome may be, however, that the trawl CV sector(s) are projected to leave a portion of their allocation unused, which is then reallocated to the ≥60' pot CV or ≥60' hook-and-line CV sectors, prior to being considered for reallocation to the other trawl sectors, and prior to being considered for reallocation to the hook-and-line CP and pot CP sectors. The amount of this potential reallocation is unknown, but likely less than the historical amount of reallocated quota from the trawl CV sector, which is about 11% of the trawl CV sector's initial allocation on average during 2000 – 2004 or nearly 3% of the BSAI Pacific cod ITAC. As any reallocated trawl quota will likely continue to be reallocated late in the year (October – November), it is likely that the hook-and-line CP sector will continue to be the only sector left on the fishing grounds and capable of harvesting the reallocation at that time. This practice and harvest pattern is similar to the status quo; the primary difference is that the amount of reallocated trawl quota is expected to be substantially less than previous years.

The other effect to highlight in this portion of the preferred alternative is that the reallocation of TAC from the trawl sectors to the pot CP, ≥60' pot CV, and hook-and-line CP sectors is proportional to the new fixed gear allocations (see table below).

**Table 3-121 Distribution of reallocated trawl quota among the hook-and-line CP and pot sectors under the Council's preferred alternative (compared to status quo)**

<b>Allocation</b>	<b>H&amp;L CP % of ITAC</b>	<b>Pot CP % of ITAC</b>	<b>≥60 Pot CV % of ITAC</b>	<b>H&amp;L CP % of trawl reallocations</b>	<b>Pot CP % of trawl reallocations</b>	<b>≥60 Pot CV % of trawl reallocations</b>
Status quo	40.8%	1.7%	7.6%	95%	0.9%	4.1%
<b>Preferred Alternative</b>	48.7%	1.5%	8.4%	<b>83.1%</b>	<b>2.6%</b>	<b>14.3%</b>

The relative reduction in the hook-and-line CP sector's share of the trawl reallocations compared to the status quo is due to the fact that the status quo is based on this sector's share of the actual harvest of trawl reallocations during 1996 – 1998, and the preferred alternative is based on this sector's share of the overall BSAI Pacific cod ITAC among these three fixed gear sectors recommended under this amendment. Changing the reallocations to be proportional to the new fixed gear allocations is consistent with the problem statement, which states that allocations should be adjusted to better reflect historic use by sector. Because the new fixed gear allocations are based on catch history, with consideration for socio-economic and community factors, basing reallocations on the same relative allocation among the specified fixed gear sectors is consistent with this objective.

Note that in the past four years (2001 – 2004), the hook-and-line CP sector has been allocated about 97% of reallocated trawl quota on average, and harvested nearly all of that quota (see Table 3-86). In 2004, the percentage harvested is lower than the average (86%) because half of the jig reallocation was reallocated to the <60' fixed gear sector under Amendment 77. In recent years, the pot sector has both received reallocated quota and had quota reallocated from it. On average over the past four years, the pot sector has contributed about 8% of the reallocated quota. In 2004, the first year in which the pot CP and pot CV sectors received separate BSAI Pacific cod allocations, the pot CP sector harvested nearly (97%) its entire initial allocation (and received 114 mt in reallocated quota). The pot CV sector harvested about 81% of its initial allocation and had 3,439 mt reallocated from it to the hook-and-line CP sector.

Thus, regardless of the new distribution under the preferred alternative, this action may continue to result in a very similar allocation of reallocated trawl quota to the hook-and-line CP sector that it has realized in the past several years, as NMFS will consider both the hierarchy provided and a sector's harvest capability prior to reallocating quota. Under the status quo allocations, the pot sectors, specifically the pot CV sector, do not currently appear capable of harvesting a substantial amount of reallocated quota late in the year. In some years, the pot sectors have had quota reallocated from them, and thus clearly have not been capable of harvesting the 5% of trawl reallocations that they could potentially receive under current regulations. Since the pot CV allocation is slightly higher than its current allocation, it is unlikely that this will change. Since the pot CP sector received a slightly lower cod allocation compared to status quo, it may be capable of harvesting more reallocated quota than in previous years. However, the ability of a sector to harvest reallocated quota late in the year is likely more dependent on whether the sector is still on the fishing grounds late in November and December.

Note that, like status quo, the hierarchy under the preferred alternative is intended only for consideration by NMFS inseason managers. NMFS managers would take into account the intent of the rollover hierarchy, and the likelihood of a sector's capability to harvest reallocated quota prior to making the reallocation. It is important that inseason managers retain this flexibility to determine how to reallocate projected unused sector allocations, in order to avoid intermittent starting and stopping of the fishery and to reduce the risk of foregone harvest.

Finally, the preferred alternative also states that the third trimester jig rollover should be made available to the <60' fixed gear CV sector on September 1. Note that both the jig seasons are comprised of three trimester seasons, the last of which starts on August 31 and ends December 31. As shown in Table 3-23, unused jig quota from the last trimester is typically reallocated in late September to mid-October. The intent of this provision is to provide the last rollover from the jig sector as early as possible in the last trimester, such that the <60' fixed gear sector would still be on the fishing grounds. The later in the year, the less likely the <60' fixed gear sector would be able to continue fishing due to weather. Thus, the unused jig quota from the last trimester is typically reallocated to the hook-and-line CP sector.

In effect, under this provision, NMFS would reallocate quota that is *projected to remain unused* by the jig sector in the third trimester the day after the third jig season starts. Recall that NMFS has the discretion to decide what portion of the seasonal apportionment would be left unharvested by the jig sector at that point in time, thus, this provision does not mean that all of the jig allocation that is unharvested by September 1 must be reallocated to the <60' fixed gear sector. This provision only requires that NMFS consider whether there will be any unused allocation by the jig sector, and if so, use its discretion to make quota available to the <60' fixed gear sector by September 1 if possible. If NMFS is uncertain of the level of effort that may participate in the jig fishery in the last trimester, NMFS may be more conservative as to how much jig quota would be made available on September 1. If NMFS is confident that very little additional effort will be entering the jig fishery in the last trimester, it may be less conservative in its reallocation.

Because the jig sector has harvested very little (about 5%) of its total allocation on average during 1995–2003, and only about 1% of its annual Pacific cod catch in the last trimester,<sup>127</sup> it is reasonable to assume that the majority of the jig apportionment in the last trimester would continue to be made available for reallocation in the future. Under the preferred alternative, the majority of the jig apportionment from the last trimester would likely be made available to the <60' fixed gear sector on or around September 1. This equates to a maximum of 0.28% of the BSAI Pacific cod ITAC under the preferred alternative (20% C season allocation x 1.4% total jig allocation = 0.28%). The portion that is not made available but that is left unused later in the third trimester would likely be reallocated to the hook-and-line CP sector.

#### **3.4.3.4 Component 5: CDQ Allocation**

The Council chose to maintain the current CDQ Pacific cod allocation of 7.5% of the BSAI Pacific cod TAC in its preferred alternative. This was an option evaluated under Alternative 1 (no action) and Alternative 2, and the impacts of this option are discussed in Sections 3.4.1.4 and 3.4.2.5, respectively. While the CDQ Program operates under a fully rationalized system, the majority of the non-CDQ sectors (including all of the non-trawl sectors), operate under a limited access system. This means that while each non-CDQ sector receives a Pacific cod allocation, and there may be a limited number of eligible vessels that may fish that allocation, there still exists a 'race for fish' within the sector. Members supporting this option noted that it was more appropriate to consider an increase to the Pacific cod CDQ reserve at such time that the non-CDQ Pacific cod fisheries were also modified to a rationalization system.

While the Council ultimately selected Option 5.1 under Alternative 2 to maintain the current 7.5% cod allocation to the CDQ Program, it recognized that Congressional action was imminent to increase this allocation. Thus, the Council recognized that should the statute at issue be approved, the CDQ provisions in the Magnuson Stevens Act would be modified such that an increase to the CDQ Program Pacific cod

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<sup>127</sup>This represents about 0.00001% of the BSAI Pacific cod ITAC being harvested by jig gear in the last trimester (5% x 2% x 1% = 0.00001%). Using the 2006 ITAC, this represents about 1.8 mt of BSAI Pacific cod.

reserve would be included. The President signed the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) into law on July 11, 2006. Among other actions, this statute effectively changes the CDQ Program Pacific cod allocation to a directed fishing allocation of 10% upon establishment of new Pacific cod sector allocations (see Section 305(i)(1)(B)(ii)(1)). As Amendment 85 proposes new Pacific cod sector allocations, the FMP and regulatory amendments to implement the CDQ Pacific cod increase mandated by statute are included in this amendment package. **These changes are necessary to include in order for the Council's proposed action on Amendment 85 to be consistent with the MSA when the Secretary considers approval.** Analysis and legal interpretation of remaining requirements to implement the Coast Guard Act are ongoing by NMFS.

Note, however, that the Coast Guard and Maritime Transportation Act also mandates that the 10% CDQ Pacific cod allocation will be a directed fishing allowance. In brief, NOAA General Counsel has interpreted this requirement to mean that 10% of the BSAI Pacific cod TAC must be provided to the CDQ Program for directed fishing by vessels fishing on behalf of the CDQ groups, and an amount of Pacific cod in addition to the 10% must be provided to the CDQ Program to provide for Pacific cod caught incidentally (whether retained or discarded) in other CDQ fisheries. These deductions would **follow** the (3% of ABC) reduction in TAC that must be made to accommodate the AI State waters P. cod fishery, should it continue after 2007. This changes not only the amount of the overall BSAI Pacific cod TAC that is allocated to the CDQ Program, but also the way in which that allocation is managed. NOAA GC's legal opinion on the provisions in the Coast Guard Act that are proposed to be implemented through Amendment 85 is provided as **Appendix H**.

**The increase to the CDQ allocation of Pacific cod to 10% is relatively straightforward and analyzed in Section 3.4.2.5. The change to a directed fishing allocation, and how that allocation will be managed, is more complex. The remainder of this section describes NMFS' approach to implementing Section 305(i)(1)(B)(ii)(1) of the Magnuson Act, as supported by the legal opinion in Appendix H and proposed in Amendment 85.**

NMFS interprets the term "directed fishing allocation" in section 305(i)(1)(B)(ii)(I) to mean the same as a "directed fishing allowance." The term "directed fishing allowance," as applied in the BSAI groundfish fisheries, means that a specific amount of quota is made available either to all authorized fishing vessels, or to a specific category of fishing vessels, if a TAC is allocated among sectors or gear types, until the amount of the directed fishing allowance is harvested. While the directed fishing allowance is available and the species is open to directed fishing, all catch of that species by the vessels authorized to participate in the directed fishery accrues toward the directed fishing allowance. In the case of Pacific cod, Federal regulations require that all vessels that catch Pacific cod while the directed fishery is open must retain 100% of their catch.

Incidental catch of a species occurs when a species is not open to directed fishing, but that species is caught in other groundfish fisheries. Once a directed fishing allowance is reached and a species is closed to directed fishing, any catch and retention of that species must comply with maximum retainable amounts (see 50 CFR 679.20(e)), or must be discarded, depending on the status of the TAC for that species. When a species is closed to directed fishing, catch of that species accrues either against the TAC or against an ICA, if a specific ICA has been established. Currently, NMFS establishes and specifies ICAs in the BSAI groundfish fisheries for pollock and fixed gear Pacific cod. In effect, the incidental catch of the species does not limit the catch of other species in directed fisheries, unless catch of a species is approaching overfishing.

The requirement to allocate 10% of the Pacific cod TAC to the CDQ Program as a directed fishing allocation means that 10% of the Pacific cod TAC must be made available for directed fishing by vessels fishing on behalf of CDQ groups. Because cod also will be caught incidentally by CDQ vessels in other

target fisheries, an amount of Pacific cod in addition to the 10% allocation must be reserved for the CDQ Program to provide for the incidental catch of Pacific cod (whether retained or discarded) in other CDQ fisheries. This is necessary to allow the groups to harvest their entire directed fishing allocations in *other* target fisheries. In addition, because the Pacific cod TAC is fully allocated among the CDQ Program and the nine non-CDQ harvesting sectors, the amount of cod reserved annually for the CDQ ICA must be subtracted from the Pacific cod TAC, **before** allocations among the non-CDQ harvesting sectors can be made. Any cod reserved for the CDQ ICA cannot be made available to the non-CDQ harvesting sectors and no catch by vessels fishing in the non-CDQ harvesting sectors may accrue against the CDQ directed fishing allowance or CDQ ICA. **The amount of cod reserved for the CDQ ICA is thus very significant in determining the effects on all sectors.**

Historically, Pacific cod has been caught primarily in the CDQ fisheries for pollock, Atka mackerel, and flatfish. Some incidental catch of Pacific cod also has been reported by observers on vessels halibut CDQ fishing. The total incidental catch of Pacific cod in the CDQ fisheries has ranged from about 750 mt to 1,700 mt, between 1999 and 2005, with an average of 946 mt. In 2004 and 2005, when the CDQ groups harvested the highest proportions to date of their flatfish CDQ allocations, the incidental catch of cod was about 1,100 mt, or about 0.5% of the Pacific cod TACs.

The incidental catch of Pacific cod in the non-cod groundfish CDQ fisheries is expected to vary each year, based primarily on the abundance of Pacific cod relative to other species for which the CDQ groups have directed fisheries, the TACs, and the CDQ allocation amounts of Pacific cod relative to other groundfish. If the abundance of Pacific cod increases relative to the abundance of other groundfish species, then the incidental catch of Pacific cod in these other groundfish fisheries may be expected to increase. Conversely, if the abundance of Pacific cod decreases relative to the abundance of other groundfish species, the incidental catch of Pacific cod in these other groundfish fisheries may be expected to decrease. If the TACs or CDQ allocations of the other groundfish species increase, even if the TACs of Pacific cod remain relatively the same, the incidental catch of cod in these other groundfish CDQ fisheries may be expected to increase.

The total incidental catch of Pacific cod in the CDQ fisheries also will depend on the proportion of the other groundfish CDQ allocations that are harvested. The CDQ groups fully harvest their CDQ allocations of pollock, Atka mackerel in the Western and Central Aleutian Islands, and yellowfin sole, which are among the fisheries with the highest rates of Pacific cod incidental catch. However, in 2005, the CDQ groups only harvested about 60% of their allocations of rock sole, flathead sole, and arrowtooth flounder, and about 20% of their allocations of Alaska plaice and other flatfish. A directed fishery for any one of these species could be expected to include incidental catch of Pacific cod. These were the highest percentages of these allocations harvested by the CDQ groups since these species have been allocated to the program. Note that increases in CDQ flatfish allocations to 10% under Amendment 80 and harvest of a larger percent of their flatfish allocations in the future likely would result in an increase in the incidental catch of Pacific cod compared to past years. Other factors that might affect the incidental catch of Pacific cod in the other groundfish CDQ fisheries include the area, season, or gear type the CDQ groups choose for their other groundfish CDQ directed fisheries.

**Because expected incidental catch is related to annual amounts of ABC, TAC, and CDQ allocations of all of the groundfish species allocated to the CDQ Program, NMFS proposes to determine and specify the amount of the CDQ incidental catch allowance of Pacific cod as part of the annual groundfish specifications process.** Establishing the amount of Pacific cod incidental catch in regulation would preclude annual adjustments that may be necessary due to fluctuations in stock abundance and quotas, and risks over or underestimating annual incidental catch needs in the CDQ fisheries. Based on the historical incidental catch of Pacific cod in the CDQ fisheries, expectations about future increases in CDQ allocations, and the possibility that some of the flatfish CDQ allocations may be more fully

harvested in the future, NMFS estimates that it would likely propose a Pacific cod CDQ incidental catch allowance of between 0.5% and 1% of the Pacific cod TAC for the first year of implementation of Amendment 85.

Each year, information about catch of Pacific cod in the previous year's CDQ fisheries would be added to the information used by NMFS to project the Pacific cod CDQ ICA for the upcoming year. **This approach, while advantageous in terms of being able to react to stock abundance and TAC changes, provides uncertainty to the non-CDQ sectors in terms of the ITAC.** If the CDQ groups exceed their cod ICA in the previous year, the ICA could be increased annually to accommodate a perceived need in the CDQ fisheries. The Council expressed concern with the potential for annual increases in the CDQ cod ICA, as it would necessarily reduce the amount of the ITAC remaining for the non-CDQ sectors. The Council was extremely concerned with the creation of a scenario in which the CDQ groups may have little incentive to stay within their total allocation (directed fishing allocation plus incidental catch allowance). Thus, while the ITAC is estimated as 86.0% to 86.5% of the BSAI Pacific cod TAC under the first year of implementation (including the 3% for the State water AI fishery), it is not possible to estimate changes to the ITAC in the long-term.

In addition, if more Pacific cod is caught in the groundfish CDQ fisheries than is allocated to the CDQ Program each year, the TAC of Pacific cod could be exceeded. Under Amendment 85, the Pacific cod TAC would be fully allocated among the CDQ and non-CDQ sectors. If the catch of Pacific cod by any one of these sectors exceeds the amount allocated to it, and if the other sectors catch exactly the amount of Pacific cod allocated to them, the TAC of Pacific cod would be exceeded. In recent years, the Pacific cod TAC is set equal to the ABC; thus, if the TAC is exceeded, the ABC will be exceeded. Note that the overfishing limit for Pacific cod is significantly higher than the ABC and TAC. Therefore, if the Pacific cod TAC and ABC are exceeded due to incidental catch, it is unlikely that this circumstance would cause overfishing of Pacific cod. The Council has expressed significant concern with this potential, however, as practices to date have effectively managed the harvest of Pacific cod to stay within the TAC. If the Pacific cod TAC and ABC is exceeded, management of the directed fishing allowances and incidental catch allowances in each harvesting sector would need to be re-evaluated in the next annual specifications process. Should the AI State waters directed cod fishery continue beyond 2007, that additional removal would also have to be monitored, accounted for, and reflected in the annual groundfish TAC setting process.

**Under the MSA as it applies to Amendment 85, NMFS has determined that it may no longer manage the catch of Pacific cod in the CDQ fisheries such that it would require a CDQ group to stop fishing for other groundfish CDQ species if it reached its Pacific cod allocation.** The MSA requires that NMFS allocate 10% of the Pacific cod TAC as a directed fishing allocation. As described above, the result of that requirement is that NMFS also must reserve for the CDQ Program an amount of Pacific cod for incidental catch in other groundfish CDQ fisheries. Therefore, the total amount of Pacific cod reserved for the exclusive use of the CDQ Program will be the sum of 10% of the annual Pacific cod TAC and the amount specified by NMFS for the Pacific cod CDQ incidental catch allowance. With the removal of "hard cap" management, the only action that NMFS would take when a CDQ group reaches its allocation of Pacific cod is to limit or prohibit further *retention* of Pacific cod by any vessel fishing for the CDQ group, in order to minimize the additional accrual of incidental catch of cod in the other groundfish CDQ fisheries.

NMFS considered several options for management of the Pacific cod directed fishing allowance and incidental catch allowance under Amendment 85, as modified by the MSA requirements. NMFS also considered several factors in evaluating alternative quota management procedures. The appropriate catch accounting procedures must be consistent with the intent of the MSA to allow the CDQ groups to fully harvest their directed fishing allowances. NMFS determined that the procedures must provide the CDQ

groups with an incidental catch allowance so that they have the opportunity to harvest the full amount of their directed fishing allowance in directed fisheries for that species. The procedures must not allow or encourage the CDQ groups to catch or retain an unnecessarily large amount of a target species as incidental catch in other groundfish CDQ fisheries. It is particularly important to minimize the incidental catch in the CDQ fisheries for valuable target species such as Pacific cod, because these TACs are fully allocated among the CDQ and non-CDQ fishing sectors, and any amount of Pacific cod reserved to support incidental catch in the CDQ fisheries reduces the allocations of Pacific cod to the non-CDQ sectors. **In addition, in the case of Pacific cod, the regulations must provide a means to hold the CDQ groups accountable to maintain total incidental catch within the specified incidental catch allowance as much as possible; TAC and ABC overages could occur if any sector harvests more Pacific cod than it is allocated.**

In addition, if the catch accounting procedures involve the application of maximum retainable amounts or prohibitions on retention, the procedures must allow NMFS Enforcement and the U.S. Coast Guard to evaluate whether vessel operators are complying with retention requirements, maximum retainable amounts, and requirements that prohibit any retention of a species. NMFS has related that an additional goal is to integrate the catch accounting procedures for the CDQ Program into the catch accounting system for the non-CDQ groundfish fisheries, in order to reduce the costs of developing and maintaining separate catch accounting systems and to reduce reporting costs of the CDQ groups and their industry partners.

Note that in the near future, the combination of the recent MSA amendments, Amendment 85, and Amendment 80 will likely require that the CDQ allocations of *all* groundfish species with directed fisheries in the BSAI (except sablefish) will be 10% of the TAC, as a directed fishing allocation. Therefore, a consistent and integrated approach to managing CDQ allocations as directed fishing allocations must be developed. In the past, management of a CDQ allocation as a directed fishing allocation was the exception (pollock), but it will now become the method used for all groundfish CDQ allocations, except sablefish.

**In sum,** NMFS proposes a new method for managing the CDQ Pacific cod directed fishing allocation and ICA that will be created under Amendment 85:

- NMFS would determine the BSAI Pacific cod ICA to the CDQ Program in the annual specifications process.
- The 10% directed fishing allocation for Pacific cod would be combined with the specified incidental catch allowance for the year.
- This total allocation to the CDQ Program of Pacific cod would be divided among the CDQ groups based on the percentage allocations in effect under section 305(i)(1)(C) of the MSA.
- All catch of cod by any vessel fishing for that CDQ group would accrue against the CDQ group's allocation of Pacific cod until that allocation was reached. All cod must be retained while a CDQ group has an available allocation.

In effect, each CDQ group would receive one allocation of Pacific cod that would include its directed fishing allowance and its share of the Pacific cod incidental catch allowance. For example, if these regulations would have been applied to the 2006 TAC<sup>128</sup>, the CDQ directed fishing allowance would have been 18,818 mt of Pacific cod. If the CDQ ICA was specified as 0.5% of the TAC, it would have been 941 mt. The total CDQ allocation of Pacific cod would have been 19,759 mt, which would have been

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<sup>128</sup>This estimate accounts for the 3% State water AI fishery in 2006. The 2006 ABC/TAC of 194,000 mt for BSAI Pacific cod was reduced by 3%, for a TAC of 188,180 mt.

allocated among the CDQ groups as one Pacific cod allocation per CDQ group. (It is likely that the same approach will be proposed under Amendment 80.)

When this CDQ combined cod allocation to a group is reached, all vessels fishing on behalf of that CDQ group would be prohibited from further retention of Pacific cod. Further catch of Pacific cod by vessels fishing on behalf of that CDQ group would be expected to continue to occur in other directed groundfish fisheries available to that CDQ group. However, NMFS believes the prohibition on retention would remove economic incentives associated with additional cod catch. The intent is that each CDQ group would decide how to manage its fisheries (i.e., how to allocate their portion of the Pacific cod ICA among vessels and target fisheries). In addition, allocations made to each CDQ group would continue to be transferable among the groups, but not outside of the CDQ Program. Transferability of the portion of the allocations from the directed fishing allowance and the incidental catch allowance is necessary to provide the CDQ groups with the flexibility to manage the combination of the directed fishing allowance and incidental catch allowance within annual limits.

In October 2006, the Council expressed considerable concern with the management approach proposed by NMFS, including uncertainty as to whether the Act required that the CDQ allocations no longer be managed as a 'hard cap.' The Council was concerned that discards would increase if a group harvested its total allocation for a species but continued to catch the species as bycatch in other directed fisheries for which it had quota. While the Council recognized that the CDQ groups have proven effective fisheries management to-date, some members conveyed concern that limiting the management measures to a prohibition on retention would not remove economic incentives associated with additional cod catch. This is primarily due to the fact that a group could choose to harvest cod as bycatch in excess of its total allocation, in the event that it is necessary in order to fully harvest its other directed fishery allocations (e.g., flatfish).

NMFS notes that the proposed method for CDQ catch accounting would provide the CDQ groups the opportunity to fully harvest their Pacific cod directed fishing allocation in the directed cod fishery, with an adequate incidental catch allowance the MSA requires be allocated to the program. It would continue the allocation of quota among the CDQ groups using the percentage allocations established by the MSA. It also would provide some assurances to NMFS and the non-CDQ sectors that the incidental catch in the CDQ fisheries can be managed within the incidental catch allowance and that excessive incidental catch in the CDQ fisheries will not result in exceeding the TAC or ABC. Finally, this approach allows NMFS to phase out the use of the CDQ catch report and integrate CDQ quota monitoring into the regional catch accounting system used for the non-CDQ fisheries, as the catch accounting for CDQ would not be dependent on the CDQ groups' identifying the target fishery.

Note that combining the CDQ ICA with the directed fishing allocation and allocating both among the CDQ groups will require the CDQ groups to retain 100% of the Pacific cod caught while they have available allocations. These regulations are as a result of retention requirements under 50 CFR 679.27. Therefore, this approach would allow the CDQ groups to harvest and retain Pacific cod in amounts greater than 10% of the Pacific cod TAC. However, NMFS believes that this result is consistent with the MSA, as the MSA: 1) established CDQ allocations that clearly intended that the CDQ groups could harvest an amount of Pacific cod in excess of 10% of the TAC, and 2) does not require that this incidental catch be discarded. The proposed method of catch accounting is expected to minimize the total amount of incidental catch of Pacific cod that will occur in the CDQ fisheries, in part, because the CDQ groups would not be designating target fisheries on a haul, set, or delivery basis and would be unable to retain potentially large amounts of incidental catch from the beginning of the year under regulations governing maximum retainable amounts.

Overall, the increased allocation to the CDQ Program from 7.5% to 10.5% - 11.0% (in the first year of implementation) represents a redistribution of 3.0% - 3.5% of the BSAI Pacific cod TAC from the non-CDQ sectors. An allocation of 11% of the 2006 BSAI Pacific cod TAC equates to 20,700 mt, or an additional 6,586 mt in 2006.<sup>129</sup> If one assumes that 10% of the TAC would be used for the CDQ directed fishing allocation, that equates to 18,818 mt. Using 2006 as a baseline TAC and the average 2001 – 2003 Pacific cod royalty payment of \$232 per mt, the increase to the directed fishing allocation could represent an additional \$1.1 million in revenues to the CDQ groups combined. The remainder of the allocation (1% of the TAC) would be used for incidentally caught cod in the other directed CDQ groundfish fisheries. Production efficiency could also be increased with this action, as a larger proportion of the overall Pacific cod TAC would be managed under a rationalized system.

The redistribution of 3.0% - 3.5% of the TAC under this action to the CDQ Program results in each non-CDQ sector realizing a 3.0% - 3.5% proportional **reduction** in its Pacific cod allocation. This would come on top of the ‘3% of ABC’ deduction made to accommodate the State waters fishery in the AI, if it were to continue beyond 2007. However, many of the same hook-and-line CPs that fish the non-CDQ BSAI Pacific cod fishery, partner with the CDQ groups to prosecute the BSAI Pacific cod CDQ fishery. Thus, whether these vessels are operating in the CDQ or non-CDQ BSAI Pacific cod fishery, past performance indicates that they are capable of harvesting Pacific cod at the levels under consideration in this amendment. While some participants in the hook-and-line CP sector will have access to the increased CDQ cod quota and receive some benefit from the harvest of CDQ cod, the cost of the royalty payment to the CDQ groups, as well as other program requirements, such as 200% observer coverage, reduces the benefit to the non-CDQ hook-and-line CP sector.

#### **3.4.3.5 Component 6: Apportionment of halibut and crab PSC to the trawl cod fishery group**

Component 6 outlines the method for determining the amount of halibut and crab PSC allocated to the trawl cod fishery group as a whole, and Component 7 determines the approach to apportion halibut and crab PSC among the various trawl sectors in that group. Under the Council’s preferred alternative, Component 6 would remain the same as status quo, as provided below:

##### ***Component 6: Apportionment of trawl halibut and crab PSC to the cod fishery group***

*The total amount of trawl halibut PSC for the non-CDQ fisheries is 3,400 mt, which is apportioned between Pacific cod, yellowfin sole, rocksole/other flatfish/flathead sole, pollock/Atka mackerel/other. Generally, 1,400 mt is apportioned to the cod trawl fishery group, but this amount and actual use can vary annually. A significant amount of Pacific cod is taken incidentally in other trawl fisheries so the PSC use associated with that Pacific cod harvest would be attributed to a fishery group other than cod trawl. Amendment 80 will also allocate halibut PSC to the H&G trawl sector so that the amount of halibut PSC available to the remaining trawl sectors will be reduced. (Status quo)*

**The Council’s preferred alternative under this component is the status quo.** The intent under Component 6 is that NMFS and the Council would continue to use the annual specifications process to determine the trawl halibut and crab PSC allowance to the cod fishery group. This issue was described under Component 6 under both Alternative 1 and 2 (see Sections 3.4.1.5 and 3.4.2.6), in order to be explicit that no changes were considered to this process.

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<sup>129</sup>This estimate includes the two-year (2006 – 07) Aleutian Islands Pacific cod GHF of 3% of the ABC implemented by the State of Alaska.

Note, however, that the Council recently took final action on BSAI Amendment 80 in June 2006. If the Secretary approves Amendment 80, the non-AFA trawl CP sector will receive separate halibut and crab PSC to cover all of its fisheries under the methodology selected in the Council's preferred alternative for Amendment 80. Thus, the amount of halibut and crab PSC allocated to the limited access trawl cod fishery group in the specifications process would only be for the AFA trawl CP and trawl CV sectors.

The Council's preferred alternative under Amendment 80 apportions crab and halibut PSC to the non-AFA trawl CP sector, based on use in all of the sector's fisheries, including Pacific cod. The total amount of halibut PSC allowance for the BSAI trawl fisheries remains at 3,400 mt. **The Council's preferred alternative under Amendment 80 allocates 2,525 mt of halibut PSC to the non-AFA trawl CP sector and the remaining 875 mt to the remaining 'limited access' trawl sectors, to support all of their target fisheries.** Some portion of this 875 mt, likely the majority, would be allocated to the trawl cod fishery group in the annual specifications process. (A reasonable estimate based on historical use might be 775 mt allocated to the trawl cod fishery group and 100 mt allocated to the other trawl target fisheries.) The halibut PSC allocated to the Pacific cod trawl fishery group is reduced from 1,434 metric tons, since the non-AFA trawl CP sector would no longer be using that PSC allocation for its target cod fishery. Thus, while Amendment 85 did not provide options to modify the amount of halibut PSC allocated to the trawl cod fishery group, the halibut allowance will be 875 mt or lower in the future, at such time that Amendment 80 is effective. This will be discussed further under the Council's preferred alternative in Component 7 below.

A similar approach was selected for crab PSC under Amendment 80, to the extent that the non-AFA trawl CP sector receives its own separate crab PSC allocations under Amendment 80. The current crab PSC allowances for the BSAI trawl fisheries (all target species groups) are provided in the first row of the table below. **The percentages of the crab PSC allowances allocated to the non-AFA trawl CP sector and the combined limited access trawl sector, as recommended under Amendment 80, are also provided below.** Similar to halibut, some portion of each crab allowance to the limited access trawl sector would be allocated to the trawl cod fishery group in the annual specifications process.

**Table 3-122 Percent of crab PSC allowances allocated to the non-AFA trawl CP and limited access trawl sectors under Amendment 80**

	Red King Crab	<i>C.Opilio</i>	Zone 1 <i>C.Bairdi</i>	Zone 2 <i>C.Bairdi</i>
Current BSAI trawl crab allowance (# crab)	182,225	4,494,569	906,500	2,747,250
Non-AFA trawl CP	62.48%	61.44%	52.64%	29.59%
Limited access sectors (AFA CP & trawl CV)	30.58%	32.14%	46.90%	23.60%

Both Amendment 85 and Amendment 80 are clear that the PSC allocations established under Amendment 80 will take priority for the non-AFA trawl CP sector, when implemented. **Since the Amendment 80 PSC allocations are intended to support all catch (including Pacific cod) by the non-AFA trawl CP sector, if that amendment is approved by the Secretary, no additional halibut and crab PSC would be allocated to that sector under Amendment 85.**<sup>130</sup> Thus, if Amendment 80 is approved, the annual

<sup>130</sup>This is the assumption regardless of the timing of implementation of the two amendments. If Am. 80 is implemented simultaneously with Am. 85, the non-AFA trawl CP sector will receive its PSC per Am. 80 and the remaining trawl sectors will receive their PSC per Am. 85. If Amendment 85 is implemented before Amendment 80, it could apportion the halibut and crab trawl PSC allowances among all trawl sectors (including the non-AFA trawl CP sector) according to the Council's preferred alternative under Am. 85, until such time that Amendment 80 is effective.

specifications process should clearly provide that the halibut and crab PSC allocation to the Pacific cod trawl fishery group would be divided among the remaining trawl sectors (e.g., trawl CV and AFA CP).

The economic impacts of the action described above, resulting from Amendment 80, are evaluated in the public review draft analysis for BSAI Amendment 80 (NPFMC 2006a). Crab PSC does not typically constrain the trawl cod sectors, and, unlike halibut PSC, reaching a crab PSC limit does not result in a closure of the directed cod fishery. While a quantitative assessment of the effect of the action is not possible, if the amount of halibut PSC constrains the AFA trawl CP and trawl CV sectors' directed Pacific cod fisheries, this would result in potential costs to these sectors in the form of foregone revenues from cod. Potential for binding operational constraints are higher for the trawl CV fishery, as its historical catch of Pacific cod in the directed cod fishery, its significantly higher rate of halibut bycatch mortality, and thus, the halibut PSC needed to prosecute cod, is much greater than the AFA trawl CP sector. In addition to foregone cod revenues, the types of economic impacts that could result include loss of crew and shoreplant jobs, reduced related economic activity in communities in which the shoreplants receiving groundfish deliveries are located, loss of tax revenue to those communities, and disruption of product supplies to domestic and foreign markets. Estimating the magnitude of these economic effects must await empirical experience under the modified management scheme.

#### **3.4.3.6 Component 7: Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors**

The preferred alternative for Component 7 is provided below:

##### ***Component 7: Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors***

*Option 7.2: The annual PSC allocation to the trawl Pacific cod fishery will be apportioned to the cod trawl sectors based on the sector's directed cod fishery harvests during the qualifying period under Component 2.*

*To determine PSC, the percentage of Pacific cod harvested in the Pacific cod target fishery by the trawl sectors should be calculated on the basis of all Pacific cod catch (1999 – 2003), including that which is designated for fishmeal production.*

*The intent is that NMFS inseason management will retain flexibility to move PSC among trawl fishery categories if necessary.*

The effect of the Council's preferred alternative is described under Alternative 2 in Section 3.4.2.7. This component apportions the annual crab and halibut PSC allocations to the trawl Pacific cod fishery to the cod trawl sectors based on each sector's directed (targeted) cod harvests during 1999 – 2003. Targeting was determined by computing total retained harvests (including cod destined for meal production) for each vessel by sector, NMFS week-ending date, area, and BSAI TAC species group, as well as the total retained harvests for the entire week, all species combined. The target is assigned as the dominant (largest retained mt) BSAI TAC species group by week.

On average during 1999 - 2003, the **non-AFA trawl CV sector** and **AFA trawl CV sector** harvested about **99.8%** and **92.2%** of their total retained Pacific cod catch in the Pacific cod target fishery, respectively. The non-AFA trawl CV sector does not have any other target fisheries in the BSAI, and the remainder of the AFA CV sector's retained cod was taken in the directed pollock fishery. (Refer back to Table 3-100.) Combined, the trawl CV sector harvested **93.1%** of its total retained Pacific cod catch in the Pacific cod target fishery.

Also on average during 1999 – 2003, the **non-AFA trawl CP sector** harvested about **54.1%** of its total retained Pacific cod catch in the Pacific cod target fishery. The remainder of the Pacific cod harvested by this sector was taken primarily in the directed yellowfin sole, rock sole, flathead sole, and Atka mackerel fisheries. In the **AFA trawl CP sector**, about **55.8%** of the total retained Pacific cod catch by this sector was harvested in the directed Pacific cod fishery. The remaining 41.8% and 2.3% of this sector’s total retained cod was taken in the directed pollock fishery and flatfish fisheries, respectively. (Refer to Table 3-101.)

The following table shows the resulting percentage of the trawl cod PSC allowance (applicable to both halibut and each crab species) that is allocated to each trawl sector under the Council’s preferred alternative (see Column 5 of Table 3-123 below). **These percentages would be established in the Federal regulations implementing Amendment 85.**

**Table 3-123 Percent of trawl cod PSC allowance allocated to each trawl sector under the Council’s preferred alternative**

Column number	1	2	3	4	5
Trawl Sector	Sector Allocation* (% of ITAC)	Percent of total BSAI trawl cod allocation	Percent of cod harvested in target cod fishery**	Product of Column 2 x Column 3	<b>Percent of trawl cod PSC allocation (adjusted to 100% of total)</b>
AFA Trawl CP	2.3%	6.1%	55.8%	3.4%	<b>4.4%</b>
Trawl CV	22.1%	58.5%	92.2%	53.9%	<b>70.5%</b>
Non-AFA Trawl CP	13.4%	35.4%	54.1%	19.2%	<b>25.1%</b>
Total	37.8%	100.0%	n/a	76.5%	<b>100.0%</b>

\*Percentage of BSAI Pacific cod ITAC resulting from Council’s preferred alternative.

\*\*Average percentage of BSAI Pacific cod harvested in the directed BSAI Pacific cod fishery by sector, 1999 – 2003.

**Note that the primary effect is to allow each separate trawl cod sector a separate PSC allowance to use in prosecuting its cod allocation.** Because the (AFA and non-AFA) trawl CV sector remains combined for the purposes of the cod allocations, this sector also receives a combined PSC amount. The primary advantage of this approach is that it should allow each sector to better plan its operations during the fishing year, by being able to manage its PSC use without another sector eroding it.

The effect of using this approach to determine PSC allowances to each trawl sector is that those sectors which catch the great majority of their Pacific cod in the target cod fishery (e.g., the trawl CV sectors) will realize a higher relative PSC allowance. The intent is such that because the PSC being allocated is for the trawl cod fishery group, each sector should receive the necessary PSC for the target cod fishery. PSC necessary to prosecute other target trawl fisheries would be allocated under a different trawl fishery group. In effect, this option would not provide additional PSC for other target trawl fisheries that catch cod incidentally. The following table provides the resulting halibut and crab PSC allocations from the Council’s preferred alternative, based on the current (2006) total PSC allowances to the trawl cod fishery group. Note that the PSC allocations would result in allocating the entire halibut and crab PSC limit available to the BSAI Pacific cod trawl sectors. The average PSC use combined for all trawl sectors (1995 – 2003) is provided in the last row of the table.

**Table 3-124 Trawl cod PSC allowances for each trawl sector under the Council's preferred alternative, using 2006 total trawl cod fishery group PSC allowances**

Trawl Sector	% of trawl cod PSC allocation (adjusted to 100% of total)	Halibut PSC allocation (mt halibut mortality)	Red king crab PSC allocation (# of crab)	C. Opilio PSC allocation (# of crab)	Bairdi Zone 1 PSC allocation (# of crab)	Bairdi Zone 2 PSC allocation (# of crab)
AFA Trawl CP	4.4%	63	1,169	6,131	8,057	14,264
Trawl CV	70.7%	1,014	18,780	98,507	129,460	229,192
Non-AFA Trawl CP	24.9%	357	6,614	34,693	45,595	80,720
Total 2006 PSC to trawl cod fishery group	100.0%	1,434.0	26,563	139,331	183,112	324,176
Ave. annual mortality for all trawl cod sectors combined (1995 – 2003)	n/a	1,216	6,010	41,602	132,670	46,607

The resulting halibut PSC allocations to each trawl sector, with the exception of the non-AFA trawl CP sector, are higher than the average amount of halibut PSC used by each sector during 1995 – 2003 (refer to Table 3-49). The AFA CP and trawl CV sectors' average halibut mortality from 1995 to 2003 is about 21 mt and 737 mt, respectively. Under Amendment 85, their halibut PSC allocations under the current 1,434 mt halibut PSC allowance to the Pacific cod trawl fishery would be about 63 mt and 1,014 mt, respectively. By contrast, the non-AFA trawl CP sector had an average halibut mortality of about 459 mt during 1995 – 2003, and the Council's preferred alternative would allocate 357 mt under the current trawl cod halibut bycatch allowance. This is because the approach for allocating halibut PSC is based on each sector's Pacific cod allocation and the percentage of cod harvested in the target cod fishery during recent years. The non-AFA trawl CP sector received a lower cod allocation compared to status quo, and a relatively high percentage of the Pacific cod caught by this sector was in a different species target.

The halibut allocation to the non-AFA trawl CP sector may potentially constrain its Pacific cod fishery, if no other PSC was available. The Economic SAFE report (November 2005) reports that the average 2003 and 2004 halibut bycatch rate in the BSAI trawl cod fisheries is 0.014 mt of halibut per mt of Pacific cod. The target data are based on processor, week, processing mode, NMFS area and gear, and the estimates of halibut bycatch mortality are based on the International Pacific Halibut Commission discard mortality rates that were used for in-season management. Note that this report does not differentiate between the various trawl sectors (AFA versus non-AFA or CV versus CP), and thus may not accurately reflect the rate for each separate trawl sector. However, as an example, if the non-AFA trawl CP sector harvested its entire allocation of 13.4% of the BSAI Pacific cod ITAC (about 24,000 mt of Pacific cod based on the 2006 ITAC), it would need approximately 337 mt of halibut based on the rough estimate of the halibut bycatch rate. This is very close to the halibut PSC allocation established under the Council's preferred alternative of 357 mt of halibut mortality.

Similar to halibut, the approach under the preferred alternative would result in allocating the entire crab PSC limit available to the BSAI Pacific cod trawl sectors. The historical use of crab PSC has been less than the crab PSC limit available in most years. Table 3-124 shows the range of PSC apportionments for red king crab, C. opilio, Zone 1 bairdi and Zone 2 bairdi that result from the preferred alternative. These ranges can be compared with the historic levels of crab taken in each trawl sector (refer back to Table 3-50 through Table 3-52).

In most cases, crab PSC harvest for the various trawl sectors is substantially less than the allocations under the Council's preferred alternative. The only exceptions are the *C. opilio* and *bairdi* Zone 1 PSC allowances to the non-AFA trawl CP sector. The annual average PSC harvest of *C. opilio* Tanner crab within the COBLZ zone during 1995 - 2002 for the non-AFA trawl CP sector was 34,645 crab. This sector would be limited to an amount very close to that average under the Council's preferred alternative and the 2006 allowance (34,693 crab). For the same period, the annual average PSC harvest of *bairdi* Tanner crab in Zone 1 for the non-AFA trawl CP sector was 72,391 crab. Under the Council's preferred alternative and the 2006 crab allowance, this sector would be limited to 45,595 crab. Thus, if future harvests for *opilio* and Zone 1 *bairdi* follow the average use during 1995 - 2002, these two crab species could potentially constrain the non-AFA trawl CP sector in the prosecution of their cod fishery. Recall that reaching a crab limit, however, does not close a directed cod fishery for any sector; it results in closing the specified area to fishing by the fleet.

Note that the Council's preferred alternative does not affect the AFA CV or CP PSC sideboard limits for the BSAI. The Council deliberations addressed this issue, and no intent was expressed to eliminate the current AFA BSAI PSC sideboards, nor were options included in the analysis to do so. The intent under Amendment 85 is to retain the PSC sideboards as they are currently calculated. See Tables 13 and 15 in the Final 2006 - 2007 Alaska Groundfish Harvest Specifications (71 FR 10894, 3/3/06).

#### *Council preferred alternative on PSC combined with Amendment 80*

As mentioned previously, a cooperative structure is being recommended for the non-AFA trawl CP sector under BSAI Amendment 80. This amendment would provide the non-AFA trawl CP sector with flatfish allocations, as well as halibut and crab PSC allocations for all of its target fisheries, including PSC associated with Pacific cod. Under this management structure, the non-AFA trawl CP sector is expected to be able to better manage its PSC use internally. The Council selected a preferred alternative under Amendment 80 in June 2006. Both amendments are clear that upon implementation of Amendment 80, only the remaining trawl sectors (trawl CV and AFA trawl CP) will receive PSC apportionments as determined in Amendment 85. The non-AFA trawl CP sector would receive PSC apportionments as determined in Amendment 80, based on historical use of PSC.

Because Amendment 80 affects the amount of PSC remaining for the other trawl sectors (i.e., the trawl CV and AFA CP sectors) after the non-AFA trawl CP sector's portion has been removed, it is important to understand how these amendments would work together if both are approved. In the case that Amendment 80 is approved by the Secretary, Table 3-125 shows the resulting percentages of the limited access trawl cod PSC allowances (applicable to both halibut and each crab species) allocated to the trawl CV sector and AFA trawl CP sectors under the Council's preferred alternative. **Upon implementation of Amendment 80, these percentages (Column 5 of Table 3-125) would be established in Federal regulations to apportion the halibut and crab PSC allowance to the trawl cod fishery group between the AFA trawl CP sector and trawl CV sector under the approach in Amendment 85, instead of the percentages provided in Table 3-123.**

**Table 3-125 Percent of trawl cod PSC allowance allocated to the trawl CV and AFA CP sectors under the Council's preferred alternative in Am. 85, combined with Am. 80**

Column number	1	2	3	4	5
Trawl Sector	Sector Allocation* (% of ITAC)	Percent of total BSAI trawl cod allocation to the 3 trawl sectors	Percent of cod harvested in target cod fishery**	Product of Column 2 x Column 3	<b>Percent of trawl cod PSC allocation (adjusted to 100% of total)</b>
AFA Trawl CP	2.3%	9.4%	55.8%	5.3%	<b>5.9%</b>
Trawl CV	22.1%	90.6%	92.2%	83.5%	<b>94.1%</b>
Non-AFA Trawl CP	n/a	n/a	n/a	n/a	<b>n/a</b>
Total	24.4%	100.0%	n/a	88.8%	<b>100.0%</b>

\*Percentage of BSAI Pacific cod ITAC resulting from Council's preferred alternative.

\*\*Average percentage of BSAI Pacific cod harvested in the directed BSAI Pacific cod fishery by sector, 1999 – 2003.

**Note that the PSC allowances to the trawl cod fishery group would be reduced from current levels, to accommodate for PSC to the non-AFA trawl CP sector.** Thus, this modification to the percentages under Amendment 85 is technical in nature. For example, the trawl cod fishery group is currently typically limited to **1,434 mt** of halibut PSC, for shared use by the non-AFA trawl CP sector, AFA trawl CP sector, and trawl CV sectors. Upon implementation of Amendment 80, the non-AFA trawl CP sector would receive 2,525 mt of halibut PSC and the remaining 875 mt would be allocated to the remaining 'limited access' trawl sectors, to support all of their target fisheries. **Some portion of this 875 mt, likely the majority, would be allocated to the trawl cod fishery group in the annual specifications process.** (A reasonable estimate based on historical use might be 775 mt allocated to the trawl cod fishery group and 100 mt allocated to the other trawl target fisheries.) Thus, while Amendment 85 did not provide options to modify the amount of halibut PSC allocated to the trawl cod fishery group, the halibut allowance will be 875 mt or lower, at such time that Amendment 80 is effective. **That amount would be further divided according to the preferred alternative in Amendment 85: 5.9% to the AFA trawl CP sector and 94.1% to the trawl CV sector.**

As an example, if 775 mt of halibut PSC was allocated to the trawl cod fishery group in the annual specifications process, the AFA trawl CP sector would receive 5.9% or 46 mt, and the trawl CV sector would receive 94.1% or 729 mt, in order to support its BSAI Pacific cod fishery. This exceeds the amount the AFA trawl CP sector has used annually, on average, during 1995 – 2003 (21 mt) to prosecute cod, and about equals the amount the trawl CV sector has used annually on average (736 mt). Because the Pacific cod allocations to these sectors under the preferred alternative correspond very closely with each sector's average Pacific cod catch during 1995 – 2003, each sector's historical average of halibut PSC use may be a reasonable estimate of the amount of halibut PSC necessary for these sectors to prosecute their cod allocations in the future.

As discussed in Component 6, this approach also applies to the crab PSC allowances. However, unlike halibut, the Council did not select fixed amounts of crab PSC to allocate to the non-AFA trawl CP sector and other 'limited access' trawl sectors under Amendment 80. In contrast, the amount of total trawl crab PSC in the BSAI can vary each year in the annual specifications process, and the Council chose percentage shares to apply to that amount (see the discussion above and Table 3-122). This allows crab PSC limits to vary with crab abundance. However, because, like halibut, Amendment 85 only apportioned the crab PSC amount allocated to the trawl cod fishery group, it is not possible to state exactly how much of the crab PSC allocated to the trawl CV and AFA CP sectors in Amendment 80 (for use in all of their fisheries), would be allocated to the cod species group.

For example, the Council's motion under Amendment 80 apportions the red king crab PSC allowance as follows: 62.48% to the non-AFA trawl CP sector and 30.58% to the remaining trawl sectors (AFA CP and trawl CV). Using the 2006 red king crab trawl PSC limit of 182,225 crab, this equates to 113,854 crab and 55,724 crab, respectively. (Note that about 7% of the crab limit is not allocated to any trawl group.) Some portion of the 55,724 crab PSC allocated to the AFA CP and trawl CV sectors would be allocated to the trawl cod fishery group during the annual specifications process. Of this portion, it would be further divided between the AFA CP and trawl CV sectors according to the percentages above: AFA CP – 5.9% and trawl CV – 94.1%. This same process would be used for all allocations of crab PSC to the AFA CP and trawl CV sectors. If use of crab PSC is similar to historical levels, the allocations established under Amendment 80 are not expected to constrain the trawl cod sectors from fishing in the crab savings areas at issue.

Note again that the Council's preferred alternative in Amendment 85 does not affect the AFA CV or CP PSC sideboard limits for the BSAI. Implementation of Amendment 80 would also not change the AFA CV and CP halibut PSC sideboard limits; these are fixed at the 2006 – 2007 levels (in mt) under the Council's preferred alternative for Amendment 80. Note that because the halibut PSC allocated to the trawl CV sector is fixed at 875 mt under Amendment 80, no more than 875 mt of halibut mortality can be allocated to the *trawl cod fishery group*. The current Pacific cod AFA trawl CV halibut PSC sideboard is 887 mt. Because this amount is proposed to be fixed, the AFA sideboard would exceed the total halibut PSC allocation to the combined trawl CV sector under all scenarios. Thus, while the sideboard would remain in regulation, it is no longer limiting under Amendment 80.

The same result occurs with the Pacific cod AFA trawl CP halibut PSC sideboard, which is currently 286 mt. The AFA CP sideboard is not further allocated among target fisheries. Under the combined Amendments 80 and 85, the maximum halibut PSC the AFA trawl CP *cod* sector could receive is 52 mt (5.9% x 875 mt). This is likely an over-estimate, as this assumes that the entire 875 mt of halibut mortality for the limited access trawl sectors is apportioned to the trawl cod fishery group, when in fact some portion would likely be allocated to the pollock, flatfish, and Atka mackerel target fisheries. However, under these combined amendments, the 286 mt AFA CP halibut *sideboard* would be maintained at this level in regulation, as would a specific *allocation* of halibut PSC for the AFA trawl CP cod fishery of an estimated 52 mt or less.

### **3.4.3.7 Component 8: Apportionment of the cod non-trawl fishery group halibut PSC**

Component 8 within the preferred alternative is provided below:

#### ***Component 8: Apportionment of cod non-trawl halibut PSC***

*The total amount of non-trawl halibut PSC for the non-CDQ fisheries is 833 mt. The 833 mt is normally apportioned between cod hook-and-line sectors and other non-trawl fisheries during the annual specifications process. Generally, 775 mt is apportioned to hook-and-line cod fisheries and 58 mt to other non-trawl. This component would divide the halibut PSC amount apportioned to non-trawl cod between the hook-and-line CP sector and hook-and-line CV sector (for CVs ≥60' and CVs <60' combined).*

*Option 8.2      10 mt for hook-and-line CV sector, remainder for hook-and-line CP sector  
Set the halibut PSC amount for each category in the specification process.*

The effect of this component of the Council's preferred alternative is described under Alternative 2 in Section 3.4.2.8. This component apportions the annual halibut PSC allowance to the non-trawl Pacific cod fishery between the hook-and-line CV sector and hook-and-line CP sector. The language in the motion describes the current practice of establishing the amount of BSAI halibut mortality allocated to the

non-trawl fisheries in the annual specifications process, which is typically 833 mt. Of this amount, 775 mt is typically allocated to the non-trawl Pacific cod fisheries. Because BSAI groundfish fisheries using pot and jig gear are exempt from the halibut PSC limits, the amount allocated to the non-trawl Pacific cod fishery applies only to hook-and-line gear. The annual halibut PSC limit is apportioned among three seasons: 320 mt (Jan. 1 – June 10); 0 mt (June 10 – Aug. 15); and 455 mt (Aug. 15 – Dec. 31). If a seasonal apportionment of halibut PSC is reached, both hook-and-line sectors (CP and CV) are closed to directed BSAI Pacific cod fishing for the remainder of the season. Because there is no halibut allowance in the second season, this directed fishery essentially cannot operate in the summer months. **This action does not change the total amount of halibut PSC allocated to the hook-and-line cod sectors.**<sup>131</sup>

Anecdotal evidence and public testimony have indicated that the hook-and-line CP sector generally supports not providing a halibut PSC limit in the second season, given that halibut bycatch rates generally increase in the summer months and could risk closing the directed Pacific cod fishery prior to the allocation being fully harvested. However, the hook-and-line CV sector, which is also constrained by the same PSC limit, is comprised of smaller vessels with slower catch rates and a relatively small Pacific cod allocation compared to the hook-and-line CP sector. There are 116 <60' hook-and-line CVs that are eligible to fish off the <60' fixed gear allocation, of which about 20 – 30 will land Pacific cod. There are also nine hook-and-line CVs eligible to fish off the ≥60' hook-and-line CV allocation; these vessels range from about 80' to 166' in length overall.

Combined, both the hook-and-line CP and CV sectors did not exceed the halibut bycatch allowance during 1999 – 2003, averaging about 85% taken. However, while the PSC limit has not been constraining to these sectors in the recent past, the hook-and-line CV sectors may benefit from a halibut PSC limit separate from the CP sector, and potentially, the ability to fish Pacific cod in the summer months when weather is more favorable for smaller vessels. This is consistent with the concept of establishing separate Pacific cod allocations and separate PSC limits for each trawl and non-trawl sector, such that no sector can impede another sector's Pacific cod fishery.

Note that the Council's preferred alternative would not fix the amount of halibut PSC allocated to the non-trawl BSAI Pacific cod fishery, as that determination continues to be made in the annual specifications process. The preferred alternative sets the amount for use by the hook-and-line CV sector at 10 mt, and the remaining amount would be used by the hook-and-line CP sector. The preferred alternative also specifies that the halibut PSC amount for each category (CP and CV) should be established in the annual specifications process. The Council deliberations on this issue clarified that the halibut PSC limit of 10 mt to the hook-and-line CV sector was intended as a starting point to guide the specifications process in this determination. The intent was to allow some flexibility to adjust these amounts if it was necessary in the future. This was the rationale for providing for these amounts in the annual specifications process as opposed to fixing them in Federal regulations.

The analysis noted that the hook-and-line CP and CV sectors have varying amounts of halibut PSC use. On average during 1999 - 2003, the hook-and-line CP sector had 606 mt of halibut mortality associated with its Pacific cod catch, resulting in a rate of 0.0076 mt of halibut mortality per mt of retained Pacific cod. By contrast, the hook-and-line CV sector had 6.9 mt of halibut mortality associated with its Pacific

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<sup>131</sup>Halibut mortality in the Pacific cod fisheries imposes costs on other fisheries that use halibut (for incidental or directed fisheries), as some alternative use of halibut is foregone.

cod catch, resulting in a rate of 0.0129 mt of halibut mortality per mt of retained Pacific cod.<sup>132</sup> Using these estimates of halibut mortality rates for each sector, the 2006 BSAI Pacific cod ITAC of 179,450 mt, and each sector's Pacific cod allocation under the preferred alternative, it is possible to estimate the amount of halibut PSC each sector may need to prosecute its cod allocation (see Table 3-126 below).

**Table 3-126 Estimated projections of halibut bycatch needs in the BSAI Pacific cod hook-and-line CP and CV sectors, based on the Pacific cod allocations in the preferred alternative**

Sector	% of Pacific cod ITAC allocated to sector	Projected Pacific cod allocation (mt) based on 2006 ITAC	Est. average halibut mortality rate, 1999 - 2003	Estimate of halibut mortality (mt) needed to prosecute cod allocation	Halibut mortality (mt) under preferred alt (intended as starting point)
Hook-and-line CP	48.7%	87,392	0.0076	664	765
Hook-and-line CV (<60' and >60')*	0.66% + 0.2% = 0.86%	1,543	0.0129	20	10

\*The 2.0% allocation to the <60' fixed gear sector is reduced to 33% of that allocation (=0.66%) for purposes of these estimates. This adjustment is to account for the fact that the 2.0% allocation to the <60' fixed gear sector is shared by both hook-and-line and pot CVs. On average, hook-and-line CVs harvested about 33% of the total <60' fixed gear retained Pacific cod catch during 1999 – 2003.

\*\*2006 BSAI Pacific cod ITAC = 179,450 mt as of January 2006.

Note that the <60' hook-and-line CV sector continues to share a Pacific cod allocation with the <60' pot CV sector under the preferred alternative (2.0% of the BSAI Pacific cod ITAC). Thus, only a portion of the 2.0% allocation to the <60' fixed gear sector is harvested by vessels using hook-and-line gear that would be subject to the halibut bycatch limit. In recent years, about 33% of the total <60' fixed gear catch was harvested by the <60' hook-and-line catcher vessels and 67% by <60' pot catcher vessels. This apportionment is used as a proxy to estimate what portion of the <60' fixed gear allocation of 2% should be attributed to the <60' hook-and-line CVs in order to better estimate the halibut bycatch needs for the hook-and-line CV sectors overall. The result is that the 2.0% allocation to the <60' fixed gear sector is reduced to 33% of that allocation (or 0.66%), for the purpose of these estimates.

Note that the estimates above use the initial allocations of Pacific cod to each hook-and-line sector to project halibut bycatch needs, which by definition does not include any quota that may be reallocated from other sectors during the year. The <60' fixed gear sector may continue to receive reallocations from the jig sector on a seasonal basis, which could potentially add another several hundred metric tons of cod available to the <60' hook-and-line catcher vessels, creating the need for several additional metric tons of halibut PSC.<sup>133</sup> The same issue exists for the hook-and-line CP sector, as this sector harvests the majority of reallocated quota each year, and it will need halibut PSC to continue to prosecute reallocated cod quota. This issue has not been of concern in the past, as the hook-and-line sectors as a whole have not reached the halibut bycatch limit in recent years, even with significant trawl reallocations. In addition: 1) overall reallocations from the trawl sector are expected to decrease under the revised allocations in the preferred alternative, and 2) the portion of unused trawl quota that is reallocated to the hook-and-line CP

<sup>132</sup> While the CV sector shows a slightly higher halibut mortality rate, these data are based on observer reports and extrapolated to total groundfish harvest. While all hook-and-line CPs have either 30% or 100% observer coverage based on vessel length, the CV sector has minimal coverage by comparison. The majority of these vessels are <60' and thus are not subject to observer requirements. Extrapolation from the ≥60' CV sector and the CP sector are used to estimate the halibut mortality for the CV sector overall.

<sup>133</sup> Assumptions: If the <60' fixed gear sector both received and harvested all of the jig allocation from the first two seasons, and the hook-and-line CVs continue to harvest 33% of the total <60' fixed gear cod harvest, this equates to: (1.4% jig allocation x 80% in first two seasons) x 33% x 179,450 mt 2006 ITAC = 663 mt of cod. Then: 663 mt cod x 0.0129 mt halibut = 8.5 mt halibut mortality.

sector decreases relative to the pot sectors under Component 4 of the preferred alternative (from 95% to 83.1%).

In sum, it is not possible to definitively conclude that either hook-and-line CV or CP sector will need more halibut PSC than is provided for as a starting point in the Council's preferred alternative (765 mt for CPs, 10 mt for CVs). The hook-and-line CP sector would likely have sufficient halibut PSC in the range of 765 mt. However, there existed a potential concern with constraining the hook-and-line CV sector relative to halibut such that they would not be able to harvest their entire (increased) allocation of 2.0% of the ITAC, plus potential jig reallocations. Because of the dynamic nature of the fisheries and the changes in the annual reallocations that are difficult to predict, the Council thus recommended creating separate Pacific cod CV and Pacific cod CP categories for BSAI halibut PSC allocated to the non-trawl Pacific cod fishery in Federal regulations, and determining the amount of halibut mortality apportioned to each of those categories in the annual specifications process. This would allow each sector increased certainty with regard to the ability of their sector to prosecute their cod allocation, and allow NMFS and the Council to redistribute the amount of halibut mortality by season to each sector that more appropriately suits the needs and timing of the two different sectors. Determining the distribution of the total halibut PSC allocated to the hook-and-line cod sectors between the CV and CP sectors in the annual specifications process allows for variability on an annual basis, based on past years' performance. Note that halibut mortality in the Pacific cod fisheries (all gear sectors) imposes costs on other fisheries (e.g., target halibut), as the need for halibut to prosecute the Pacific cod fishery is subsidized by foregoing an alternative use of halibut.

#### 3.4.3.8 Inseason management

The Council motion on the preferred alternative also specified the system by which the non-CDQ sector allocations would be managed. (The CDQ management system is described under Component 5 in Section 3.4.3.4.) This portion of the Council motion is provided below:

*Trawl sector allocations of Pacific cod will be managed as they are currently, as a soft cap with a directed fishing allowance and incidental catch allowance for each trawl sector, determined by NMFS inseason management. When BSAI Amendment 80 is implemented, the Pacific cod sector allocation for the non-AFA trawl CP sector will be divided between cooperative and non-cooperative vessels using the same formula as other allocated species in Amendment 80, and operate as a hard cap.*

The current management system is described in Section 3.4.1.8 and the issues associated with the management system under Alternative 2 are described in Section 3.4.2.9.

Under the Council's preferred alternative, the **fixed gear** cod sectors will continue to be managed using an ICA established at the beginning of the year during the annual specifications process. This is described in the preferred alternative under Component 2. It is assumed that the jig sector will also be managed as it is currently, through Federal Register notice. This sector does not currently require establishing a separate ICA, as it typically harvests only a small proportion of its allocation. NMFS will continue to manage the trawl allocations using the tools described in Section 3.4.2.9,<sup>134</sup> and management of the trawl allocations will increase to accommodate the three new allocations under the preferred alternative: non-AFA trawl CP, trawl CV, and AFA trawl CP.

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<sup>134</sup>In its motion on June 6, 2005, the Council requested that the analysis include a discussion of management measures that could be used to manage the Pacific cod sector allocations. The priorities and management tools were identified and discussed in Section 3.4.2.9.

While the **trawl sectors** do not currently have an ICA established at the beginning of the year, NMFS currently has the ability to established a directed fishing allowance (DFA) for the cod target trawl fisheries and an ICA for cod caught incidentally in the non-cod target trawl fisheries during the fishing year, should NMFS determine that any allocation or apportionment of Pacific cod has been or will be reached during the season.<sup>135</sup> This system allows NMFS to close the directed fishery for cod as described above, and allow other directed trawl fisheries to continue fishing (using the ICA). NMFS has not typically put trawl Pacific cod on bycatch status in the recent past, due to both the seasonal apportionments and the fact that the trawl sectors are not currently constrained by their Pacific cod allocations.<sup>136</sup> The seasonal allocations to the trawl sectors have ensured that a sufficient amount of Pacific cod is left for incidental catch in the other non-cod target trawl fisheries later in the year.

Under the Council's preferred alternative, trawl sector allocations of Pacific cod will be managed as a soft cap with a directed fishing allowance and incidental catch allowance for each trawl sector, determined by NMFS inseason management. The intent described during Council deliberations is that NMFS would establish a DFA and and ICA for each trawl sector (trawl CV, AFA trawl CP, non-AFA trawl CP) funded from its cod allocation, such that each sector has a separate ICA to accommodate incidental catch of Pacific cod in its other (non-Pacific cod) target fisheries. If a trawl sector harvested both its directed fishing allowance and its ICA, retention would be restricted by NMFS (either discards would be required or cod may be retained up to the current maximum retainable amount) but further mortality (in other non-cod target fisheries) is accepted. Under a soft cap system, approaching the ABC or OFL is the critical harvest point, such that NMFS would close directed fisheries for other targeted species due to incidentally caught cod.

NMFS would need to be relatively conservative in establishing the ICA for each trawl sector, given the more refined, smaller allocations to each sector and the annual variability of Pacific cod required for incidental catch in the trawl fisheries. If NMFS initially establishes a DFA or ICA that is too large, it has the authority to modify the amount of cod dedicated to the DFA and ICA inseason through Federal Register notice. As discussed in Section 3.4.2.9, this approach may be more difficult for management of the non-AFA trawl CP sector, as it has more variable incidental catch needs associated with its target flatfish fisheries than do the other trawl sectors. The majority of public testimony from the trawl sectors supported this overall approach, as opposed to establishing the trawl cod allocations as a hard cap.

Note, however, that the Council also specified that: "When BSAI Amendment 80 is implemented, the Pacific cod sector allocation for the **non-AFA trawl CP sector** will be divided between cooperative and non-cooperative vessels using the same formula as other allocated species in Amendment 80, and operate as a hard cap." The need for and effect of apportioning cod between cooperatives under Amendment 80 is discussed in Section 3.4.2.9, as is the ability of this sector to manage its own cod allocation under a hard cap once that amendment is implemented. Under the 2005 Consolidated Appropriations Act, the non-AFA CP sector is defined by sector eligibility requirements,<sup>137</sup> and under Amendment 80 (final action June 2006) this sector would receive sector allocations of five target flatfish species and associated PSC. At the same time, Amendment 80 recommends establishing a cooperative structure for this sector. Given that the expectation is that Amendment 80 will be implemented soon following the BSAI Pacific cod allocation amendment in 2008, the Council motion under Amendment 85 was consistent in

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<sup>135</sup>See 50 CFR 679.20(d)(1)(i).

<sup>136</sup>Establishing an ICA inseason for the trawl sectors has not usually been necessary; however, NMFS did close the BSAI Pacific cod trawl CP fishery on 3/14/04, and set aside 500 mt for an ICA until 3/28 (the next seasonal apportionment started 4/1).

<sup>137</sup>The Consolidated Appropriations Act of 2005 (P.L. 108-447) establishes catcher processor sector definitions for participation in the non-pollock groundfish fisheries. BSAI Amendment 80 will be consistent with those definitions.

recommending that the non-AFA trawl CP sector will also be in position to cooperatively manage a Pacific cod allocation under a hard cap. This means that when the cod allocation is reached, it will prevent the further harvest of any species that would likely also incur harvest of Pacific cod.

Representatives from this sector testified in support of this approach in public testimony in April 2006. This approach would treat Pacific cod the same as all other target species addressed under Amendment 80. Sector members that join cooperatives will have the added advantage of exclusive cooperative allocations of BSAI Pacific cod that can be harvested to maximize returns. Due to the variability and unpredictability in the catch of this sector, NMFS would likely set a conservative ICA if it was tasked to manage this sector. As stated previously, the greater the ICA, the less opportunity the industry has to extract the greatest value from the fishery. If the industry can control and limit its catch, it is assumed that it can best decide how much of its allocation is necessary to apply to a directed fishery and how much is needed for incidental catch in other target fisheries. In effect, this allows the industry to realize the greatest benefit from the fishery. NMFS has stated its intent to the Council to have both Amendment 85 and Amendment 80 implemented in 2008.<sup>138</sup>

#### **3.4.4 Net Benefit Implications**

##### *Effects on Production Efficiency*

In the simplest terms, production efficiency as considered here is the difference between production revenues and production costs. Production efficiency is a measure of the effectiveness of a producer in using inputs to produce one or more outputs, focusing on the relationship between the cost, quantity, and quality of outputs produced and the cost, quantity, and quality of the various inputs (e.g., fuel, vessels, and labor) used for that production. The effects of the components and options under Alternatives 1 and 2 on the affected sectors are described in Sections 3.4.1 and 3.4.2, from which an understanding of the effects on production efficiency can be developed. The Council's preferred alternative for this action is a derivation of Alternative 2.

Production efficiency is not expected to change significantly under either alternative; however, there are some increases worth noting under Alternative 2, compared to Alternative 1. Under the no action alternative, for the most part, production efficiency is limited by the race for fish in the current limited access fisheries. Only the AFA trawl CV and CP sectors currently operate under the cooperative system. While that system was formed for the prosecution of the BSAI pollock fishery under the AFA, these sectors currently manage their Pacific cod sideboards under inter-cooperative agreement. Since the sideboards are constraining, these sectors have effectively managed the sideboard similar to management of an allocation. Both AFA sectors are likely to continue to receive the benefits of cooperative management of the sideboards under the no action alternative. Amendment 80 allows the non-AFA trawl CP sector to operate under a cooperative system (BSAI). If implemented, as expected, the amendment will limit the sector's Pacific cod harvest using a sideboard, similar to the AFA sideboard. If members of that sector are constrained by the sideboard, it is possible that some benefit could come from the cooperative's internal management of the sideboard as an allocation under the no action alternative. In the remaining industry sectors, participants (have and will continue to) race for Pacific cod when the fisheries are open.

Sector allocations under Alternative 2 could provide additional production efficiency benefits. Both the AFA sectors and the non-AFA trawl catcher processor sector (upon implementation of Amendment 80)

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<sup>138</sup>Letter from Robert Mecum, Acting Regional Administrator, NMFS AKR, to Stephanie Madsen, Council Chair, May 31, 2006.

should be able to manage their Pacific cod allocations through cooperatives. The AFA trawl CP sector and non-AFA trawl CP sector will receive separate BSAI Pacific cod allocations under the proposed action, which can be managed for exclusive use by its cooperative members. This should allow each trawl CP sector to better manage its Pacific cod harvest, and associated incidental catch of other species, to receive the highest value. Under the Council's preferred alternative, the AFA and non-AFA trawl CV sectors will continue to share a combined Pacific cod allocation, and it is thus expected that the AFA trawl CV sector would continue to manage the harvest of Pacific cod by its member cooperatives through the Cod Allocation Agreement (approved in 2000). The current cod sideboards and cod sideboard exemptions would also continue to apply within the AFA trawl CV sector.

Although the non-AFA sectors (with the potential exception of the non-AFA trawl catcher processor sector) will continue to race for fish under Alternative 2, some improvement in production efficiency could be realized by those sectors. Overall, the intent of Alternative 2 is to revise the BSAI Pacific cod allocation such that the initial allocations established at the beginning of the year better reflect the actual historical harvests by sector. Meaning, under Alternative 1, one would expect that substantial amounts of cod quota would continue to need to be reallocated among sectors near the end of the fishing year, in order to prevent it from remaining unharvested. While the frequency and level of reallocation varies annually, on average during 2000–2004, NMFS has annually reallocated 17,291 mt of BSAI Pacific cod quota among the existing sectors, which represents about 9% of the total initial allocation. Reallocations from the trawl sectors accounted for about 77% of the reallocations on average during this time period, with most of the remaining reallocations from the jig sector. Jig and trawl reallocations have occurred every year since the cod allocation was apportioned among the jig, fixed, and trawl gear sectors in 1994. To the extent that the options under Alternative 2 would establish distinct BSAI Pacific cod allocations that limit the need to reallocate catch during the year, participants in the sectors receiving those reallocations could benefit from the increased ability to plan their fishing year. Instead of being uncertain of the level and timing of reallocated quota from the trawl sectors late in the year, the harvest history that represents the reallocations would be incorporated in the fixed gear sector's initial allocation. This would reduce overall uncertainty and allow these sectors, particularly the hook-and-line CP sector, to better plan their annual operations.

Note again that production efficiency overall in the BSAI Pacific cod fishery is limited by the race for fish under the current limited access program for most sectors. The exceptions are the AFA trawl sectors, and potentially in the future, the non-AFA trawl CP sector.

### *Effects on Consumers*

In the current cod fishery, catcher processors for all gear types produce mostly eastern and western cut headed and gutted (H&G) products and a few ancillary products. Shorebased processors taking catcher vessel deliveries produce fillets, salted and split, and H&G products, along with a wide variety of ancillary products. Under any alternative, consumers are likely to continue to be supplied with products from the various BSAI Pacific cod fisheries that are currently produced under the status quo. As mentioned above, this means primarily frozen head and gut and whole fish from the catcher processor sectors, as well as fillets and ancillary products from shorebased plants. Recall that the allocations proposed under Alternative 2 are intended to reflect actual retained catch over a series of years, including reallocated quota. Thus, production mixes are not anticipated to change significantly from previous years. Market prices for these products will continue to depend on world cod markets and should be unaffected by the choice of alternatives under this action.

Some minor quality improvement could occur because of the direct sector allocation made to those sectors that operate under cooperatives (AFA trawl CP sector and potentially the non-AFA trawl CP sector, upon implementation of Amendment 80), however, it is unlikely to be substantial. Overall, U.S.

consumers could realize a minor benefit from the improved product quality, but are unlikely to realize any notable change in benefits under this action.

### *Effects of an increased CDQ Program reserve*

While the Council ultimately selected the option under Alternative 2 to maintain the current 7.5% cod allocation to the CDQ Program, it recognized that Congressional action was imminent to potentially increase this allocation. Thus, the Council recognized that should the statute at issue be approved, the CDQ provisions in the Magnuson Stevens Act would be modified such that an increase to the CDQ Program Pacific cod reserve would be included. The President signed the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) into law on July 11, 2006. Among other actions, this Act effectively modifies the CDQ Program Pacific cod allocation to a directed fishing allocation of 10%, upon effectiveness of new Pacific cod sector allocations. Thus, the FMP and regulatory amendments necessary to effect this action are proposed through Amendment 85.

The proposed action includes a CDQ BSAI Pacific cod allocation of 10% of the BSAI Pacific cod TAC as a directed fishing allocation. As discussed in Section 3.4.3.4, this means that an additional amount of the TAC would be established in the annual specifications process for the incidental catch of Pacific cod in other CDQ directed fisheries. NMFS estimates that the CDQ cod ICA would be between 0.5% and 1.0% of the BSAI Pacific cod TAC in the first year of implementation; thus, the total CDQ Program allocation could be estimated at 10.5% to 11.0% of the BSAI Pacific cod TAC.

Increasing CDQ allocations for BSAI Pacific cod could directly benefit the CDQ groups by increasing the amount of BSAI Pacific cod catch and the resulting royalties associated with that catch. Note that, on average during 2001–2003, Pacific cod royalties comprised over 6% or \$3.0 million of the total royalties for the CDQ groups combined. During that time period, the average royalty payment to the CDQ groups was \$232 per metric ton of Pacific cod. Using the 2006 TAC of 188,180 mt (reduced from 194,000 mt to account for the 3% State water AI fishery), the proposed action represents an estimated increase of between 5,646 mt and 6,587 mt to the CDQ Pacific cod reserve, depending on whether the ICA is 0.5% of 1.0% of the TAC, respectively. If one assumes that only 10% of the TAC would be used for the CDQ directed fishing allocation, that equates to 18,818 mt. Using 2006 as a baseline TAC and the average 2001 – 2003 Pacific cod royalty payment of \$232 per mt, the increase to the directed fishing allocation could represent an additional \$1.1 million in revenues to the CDQ groups combined. It is also anticipated that current CDQ allocations of non-target species harvested incidentally in the Pacific cod fishery appear sufficient to support an increase in the CDQ cod allocation.

In addition, increasing the total CDQ allocation (DFA plus ICA) to 10.5% or 11.0% correspondingly reduces the amount of the BSAI Pacific cod TAC allocated to the non-CDQ sectors (i.e., the ITAC) from 92.5% to 89% or 89.5% of the TAC, effectively reducing revenues to the non-CDQ sectors. (Note that if the State water AI fishery continues beyond 2007, the ITAC would be reduced to 86.0% - 86.5% of the TAC.) The non-CDQ sectors include the nine sectors under consideration in this amendment package. As the CDQ reserve is taken off the top of the BSAI Pacific cod TAC, each sector's resulting allocation under Component 2 would be reduced proportionally by 3.0% - 3.5%. Recall that the non-CDQ Pacific cod TAC has historically been fully utilized. The reallocation from non-CDQ to CDQ sectors will impose additional transactions costs on the system. This is because the CDQ groups extract a 'royalty' premium to convey access to the quota, which is a cost over and above the cost the commercial operator would normally incur to harvest cod. In effect, it introduces an additional layer of administrative cost between the harvesting and marketing of the fish. In addition, management imposed costs may be higher in the CDQ fishery, owing to additional observer coverage and reporting costs.

Note also that the vessels that have historically harvested CDQ BSAI Pacific cod are a subset of the hook-and-line CP sector. Fishing companies that harvest CDQ are presumed to derive some benefit from harvesting CDQ, even if they must return part of their harvesting proceeds to the CDQ groups in the form of royalties, and incur somewhat higher operating costs. Thus, while all non-CDQ sectors would incur a loss proportional to their sector allocations of ITAC resulting from Component 2, elements of the hook-and-line CP sector would recover a portion of their loss by continue to lease CDQ from the CDQ groups subject to a royalty rate.

Estimates of the impacts various allocation alternatives would have on the profitability of the companies that own vessels in the non-CDQ Pacific cod fisheries cannot be generated, as information on the vessels' cost structure is necessary to develop those estimates and this information is not available. It is only clear that revenues from these firms would be reduced under the proposed action, as a direct result of a reduced (non-CDQ) BSAI Pacific cod ITAC. A general estimate of the relative reduction to each sector can be made by multiplying the proposed allocations to each sector under Component 2 by the reduction proposed (3.0% - 3.5%). The resulting percentage can be multiplied by the BSAI Pacific cod ITAC for a given year, and then multiplied by a sector's estimated ex-vessel or first wholesale price, in order to generate an estimate of the reduction in ex-vessel or first wholesale revenues by sector. This calculation results in gross estimates, and thus, it is not used in this analysis to compare the benefits and costs for each sector. Note only that the increase in the BSAI Pacific cod CDQ reserve represents a redistribution of wealth, in the form of Pacific cod harvest shares, among the existing sectors, and would increase the relative amount of Pacific cod harvested under a rationalized system. In effect, a larger proportion of the Pacific cod TAC would be harvested under a fully rationalized system, as opposed to the limited access system in place for most non-CDQ sectors. This could result in a net increase in production efficiency. Whether there is any "net" benefit to be realized cannot be determined with available information.

The option selected by the Council under its preferred alternative (Alternative 2) maintains the current CDQ Pacific cod allocation of 7.5% of the BSAI Pacific cod TAC. This was an option evaluated under Alternative 1 (no action) and Alternative 2, and the impacts of this option are discussed in Sections 3.4.1.4 and 3.4.2.5, respectively. Members supporting this option noted that it was more appropriate to consider an increase to the Pacific cod CDQ reserve at such time that the non-CDQ Pacific cod fisheries were also modified to a rationalization system.

In addition, while the Council ultimately selected the option under Alternative 2 to maintain the current 7.5% cod allocation to the CDQ Program, it recognized that Congressional action was imminent to potentially increase this allocation. Thus, the Council recognized that should the statute at issue be approved, the CDQ provisions in the Magnuson Stevens Act would be modified such that an increase to the CDQ Program Pacific cod reserve would be included. The President signed the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) into law on July 11, 2006. Among other actions, this Act effectively increases the CDQ Program Pacific cod reserve from 7.5% to 10% upon effectiveness of new Pacific cod sector allocations. Both regulatory and FMP amendments will be necessary to implement the amendments resulting from this Act. Analysis and legal interpretation of the requirements necessary to implement the Act are ongoing by NMFS.

#### *Effects on environmental/non-use benefits*

Public non-use benefits that may derive from the management of healthy stocks of these species are likely to be maintained under any of the alternatives. NMFS will continue to conduct annual stock assessments to establish the overfishing level, ABC, and TAC for BSAI Pacific cod through the specifications process. NMFS would continue to credit both directed harvest of Pacific cod and the incidental harvest of Pacific cod against the Pacific cod TACs to ensure that Pacific cod are not overharvested.

Under Alternative 2, options existed to create distinct cod sector allocations for each of ten non-CDQ sectors identified. The Council's preferred option under Alternative 2 was to create distinct allocations for each of nine sectors, including the two trawl CP sectors: non-AFA trawl CP and AFA trawl CP. Note that the AFA sectors operate under a cooperative system and the non-AFA trawl CP sector is being considered for a cooperative management regime under Amendment 80. Thus, to the extent distinct cod allocations to the trawl CP sectors reduce the race for fish within the overall trawl CP sectors, and allow these sectors to better manage their directed cod fisheries, as well as reduce incidental catch and discards, this action may contribute additional non-use benefits that may arise from more productive use of the public resources.

Note also that options exist under Alternative 2 to revise the seasonal apportionments to the trawl, fixed, and jig gear sectors (Component 3). The current seasonal apportionments are primarily a result of the 2001 Biological Opinion and Steller sea lion mitigation measures. The 2001 opinion consulted on a comprehensive management regime, of which temporal dispersion of the BSAI Pacific cod fishery was one part. These measures were established to meet a seasonal target of 70% harvest of TAC in the first season (Jan. 1 – June 10), and 30% in the second season (June 10 – Dec. 31), such that the prey species were protected for foraging Steller sea lions in the critical first half of the year.

Options existed under Alternative 2 that would establish seasonal apportionments that exceed the 70% - 30% target established in the Biological Opinion. Note that options also existed under Alternative 2 that would either maintain the 70% - 30% target, or decrease the apportionment to the first half of the year such that it is less than 70%. The Council's preferred approach under Alternative 2 does not exceed the 70% - 30% threshold, and in fact further limits the amount of the Pacific cod ITAC that could be harvested in the first half of the year to 65.8% (or 67.8%, if the <60' fixed gear sector allocation is included, which is not subject to seasonal apportionments). This action is intended to stay well within the current guidelines established to protect Steller sea lions. Note that the current State water AI cod fishery (established for 2006 and 2007) is also apportioned 70% - 30%, to be consistent with the existing Steller sea lion mitigation measures in the BSAI cod fishery.

### *Effects on Management, Monitoring, and Enforcement Costs*

Under the Council's preferred options under Alternative 2, NMFS would be required to monitor nine sector allocations of BSAI Pacific cod, as opposed to the current eight under Alternative 1. This results from splitting the current trawl CP allocations between AFA and non-AFA sectors. However, the frequency and level of inseason reallocations of cod quota among sectors is expected to decline, as the allocations are adjusted under Alternative 2 to better reflect actual catch history. Note that while the management of the fixed gear sectors and the jig sector are expected to remain the same as status quo, the management of the trawl allocations would be slightly modified under this proposed action.

The sectors identified under Alternative 2 that continue to operate in a competitive limited access system, specifically the non-trawl sectors, would not expect any changes in agency management or monitoring. Many have little incidental catch, and catch rates are slow enough to allow the agency to consistently monitor and close the fishery accurately. The intent under any of the options under Alternative 2 is for NMFS to continue to manage the non-trawl sectors. The fixed gear cod sectors would continue to be managed using an ICA established at the beginning of the year, during the annual specifications process.

The intent under the Council's preferred alternative (Alternative 2) is for the trawl sector allocations to be managed as they are currently, as a soft cap with a directed fishing allowance and incidental catch allowance for each trawl sector, if necessary, as determined by NMFS inseason management. This means that NMFS would manage each trawl sector allocation (trawl CV, non-AFA trawl CP, AFA trawl CP) such that both the directed cod fishery and incidental catch needs of cod would be accommodated. The

intent is that each trawl sector would receive a separate ICA, funded from its Pacific cod allocation, to accommodate its incidental catch of cod in other target fisheries, as necessary. If a trawl sector harvested both its directed fishing allowance and its ICA, retention would be restricted by NMFS (either discards would be required or cod may be retained up to the current maximum retainable amount), but further mortality (in other non-cod target fisheries) is accepted.

Further, under the Council's preferred alternative, the Pacific cod sector allocation for the non-AFA trawl CP sector will be divided between cooperative and non-cooperative vessels using the same formula as other allocated (flatfish) species upon implementation of Amendment 80, and operate as a hard cap. Thus, upon implementation of Amendment 80, the Pacific cod allocation will represent the total allocation to this sector, including directed and incidental cod harvest. When the cod allocation is reached, it will prevent the further harvest of any species that would likely also incur harvest of Pacific cod. This approach is intended to treat Pacific cod similarly to the other allocated species under Amendment 80.

The AFA trawl sectors currently operate in a cooperative system established through the AFA for BSAI pollock, and also manage their Pacific cod sideboards through inter-cooperative agreement. In effect, this allows the industry to realize the greater benefit from the fishery than by having NMFS determine the level of incidental catch needs. The more uncertain the level of incidental catch of a species, the greater the ICA established by NMFS. The greater the ICA, the less opportunity the industry has to extract the optimum value from the fishery.

Another important issue under Alternative 2 is the potential to divide the trawl cod fishery group halibut and crab bycatch allowances among the three trawl sectors. While it may be beneficial to the AFA sectors and non-AFA trawl CP sector to be able to manage a certain apportionment of the halibut and crab bycatch allowances, depending on the outcome, more refined apportionments can also make it difficult for a sector whose bycatch needs are relatively variable from year to year. Monitoring of trawl PSC will be a considerable task for both the trawl sectors and NMFS. While a further apportionment of the non-trawl halibut bycatch allowance is also proposed under Alternative 2, between the hook-and-line CP and hook-and-line CV sectors, the level and rate of halibut bycatch in the non-trawl sectors reduces this concern.

Neither Alternative 1, nor Alternative 2, would be expected to have a significant effect on current observer coverage or monitoring requirements, to which the various sectors are subject. It is the case that CDQ allocations require, at a minimum, twice the observer coverage (and thus cost) as do non-CDQ allowances. How these increased observer costs play out, say, per metric ton of reallocated P.cod, is an empirical question. The direct costs of observer coverage are paid by the vessels and processors, and management costs of the observer program are funded by NMFS. The agency costs are not expected to change significantly as a result of this action, although the existing monitoring program and NMFS database would need to be revised such that the system could account for the newly separated AFA trawl CP and non-AFA trawl CP allocations.

Cost data for the harvesting and processing sectors affected by the proposed action are not currently available. For this reason, a quantitative cost/benefit examination of the preferred alternative is not feasible, nor is it possible to derive comparative net benefit conclusions about the alternatives, options, and suboptions. In general, except in the case of reallocation from non-CDQ to CDQ sectors, this action constitutes a redistribution of the BSAI Pacific cod TAC among the various industry sectors that better reflects historical harvests by sector. The amount of catch at issue, and the differences in ex-vessel and first wholesale prices among sectors, is not sufficient for any proposed redistribution of quota to significantly affect the overall benefits to the Nation.

## Summary

In sum, a few factors could potentially contribute to an increase in net benefits to the Nation under this action. The increased certainty in the total annual allowable harvest by sector and the reduction in reallocated quota could increase the ability of participants to plan the fishing year, potentially increasing net benefits in production. In addition, given that ex-vessel and first wholesale prices are slightly higher for fixed gear compared to trawl gear, to the extent that this action provides the fixed gear sector with a more certain future allocation (by moving unused trawl quota that has historically been reallocated from the trawl sectors to the fixed gear sectors into the fixed gear sector's *initial* allocation) this may result in increased value deriving from the catch (with an associated rise in revenues). Absent cost data, however, whether this potential increase in revenues results in a net benefit to the Nation cannot be established.

Because this action will not eliminate the fishery or affect the annual BSAI Pacific cod TAC, one may reasonably conclude that the net benefits to the U.S. economy would not likely be expected to decrease by \$100 million annually, even if private sector costs were included in the calculation. Therefore, based on this criterion, it is unlikely that any of the proposed alternatives has the potential to constitute a 'significant' action under E.O. 12866, recognizing both that there are distributional economic impacts among the various sectors of the industries affected by this proposed action, and that distributional results will be substantially similar to the current harvest situation. Except with respect to the CDQ apportionment, the overall intent of the proposed action is to revise the BSAI Pacific cod allocations such that they better reflect actual annual harvest by sector.

Overall, the increased allocation to the CDQ Program from 7.5% to 10.5% - 11.0% of the TAC (estimated for the first year of implementation) represents a redistribution of 3.0% - 3.5% of the BSAI Pacific cod TAC from the non-CDQ sectors. An allocation of 11% of the 2006 BSAI Pacific cod TAC equates to 21,340 mt, or an additional 6,790 mt in 2006.<sup>139</sup> If one assumes that 10% of the TAC would be used for the CDQ directed fishing allocation, that equates to 19,400 mt. Using 2006 as a baseline TAC and the average 2001 – 2003 Pacific cod royalty payment of \$232 per mt, the increase to the directed fishing allocation could represent an additional \$1.13 million in revenues to the CDQ groups combined. The remainder of the allocation (1% of the TAC) would be used for incidentally caught cod in the other directed CDQ groundfish fisheries. Production efficiency could also be increased with this action, as a larger proportion of the overall Pacific cod TAC would be managed under a rationalized system.

The redistribution of 3.0% - 3.5% of the TAC under this action to the CDQ Program results in each non-CDQ sector realizing a 3.0% - 3.5% proportional reduction in its Pacific cod allocation. However, some participants of the hook-and-line CP sector that fish the non-CDQ BSAI Pacific cod fishery partner with the CDQ groups to prosecute the BSAI Pacific cod CDQ fishery. It is not anticipated that an increase in the CDQ allocation would change this practice. While some participants in the hook-and-line CP sector will have access to the increased CDQ cod quota and receive some benefit from the harvest of CDQ cod, the cost of the royalty payment to the CDQ groups reduces the benefit to the hook-and-line CP sector, as do the higher operational costs imposed by, for example, mandatory 200% observer coverage and additional reporting requirements.

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<sup>139</sup>This estimate does not include the two-year (2006 – 07) Aleutian Islands Pacific cod GHL of 3% of the ABC implemented by the State of Alaska.

## **4 CONSISTENCY WITH OTHER APPLICABLE LAWS**

### **4.1 Consistency with National Standards**

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

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

The BSAI Pacific cod fisheries will be managed, regardless of the specific allocations between sectors, to achieve the TAC without overfishing. In effect, all sector's directed Pacific cod fisheries and other directed fisheries in which cod is caught incidentally would be closed by NMFS if the Pacific cod harvest exceeded the ABC and approached OFL. Pacific cod stocks in the BSAI are not currently in danger of being overfished and are considered stable. Overall yield in terms of Pacific cod catch will be unaffected by the proposed sector allocations. In terms of achieving 'optimum yield' from the fishery, the Act defines 'optimum', with respect to yield from the fishery, as the amount of fish which:

- (A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;
- (B) is prescribed as such on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant economic, social, or ecological factor; and,
- (C) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.

Overall benefits to the Nation will not be significantly affected by the redistribution of BSAI Pacific cod quota among gear sectors under the proposed action, as the price differential between sectors and the level of change in the allocations to each sector are not sufficient to significantly affect the overall benefit to the Nation. However, the analyst's ability to quantify those effects is quite limited. While modest distributional impacts across fishing industry sectors are certainly expected under the preferred alternative, overall net benefits to the Nation would not be expected to change to an identifiable degree between the alternatives under consideration.

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

Information in this analysis represents the most current, comprehensive set of information available, recognizing that some information (such as operational costs) is unavailable. Information previously developed on the BSAI Pacific cod fisheries, as well as the most recent data available, has been incorporated into this analysis. It represents the best scientific information available. Harvest data are based on 1995 – 2003 weekly production report and fishticket data, but data from the catch accounting database (which incorporates observer data) are also provided. Data from 2004 and 2005 are also provided when possible and referenced as preliminary data if applicable.

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 annual TAC is set for BSAI Pacific cod according to the Council and NMFS's harvest specification process. NMFS conducts the stock assessment for Pacific cod and makes allowable biological catch recommendations to the Council. The Council sets the Pacific cod TAC based on the most recent stock assessment and survey information. The sector allocations proposed under Alternative 1 and Alternative 2 (Council preferred alternative) assume that the BSAI Pacific cod stock will continue to be managed as a single stock. Separate quotas for each sector would continue to be monitored inseason by NMFS.

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 sector allocations considered under either alternative are based on industry sectors, which are differentiated by gear type (hook-and-line, pot, jig, or trawl), operating type (catcher vessel or catcher processor) and program (vessels eligible or not eligible under the American Fisheries Act). Additionally, an increase in the allocation to the CDQ Program is proposed, in order to be consistent with recent amendments to the Magnuson Stevens Act (see Appendix H). None of the alternatives consider residency as a criteria for the determination of the sector allocations. Residents of various states, including Alaska and the Pacific Northwest, participate in each of the major sectors affected by the proposed allocations. Within each sector, no further allocations are made to individual fishermen, nor are discriminations made among fishermen based on residency or any other criteria. Allocations are made based on industry sectors, and do not result in 'the acquisition' of any particular share of the privilege to any individual entity.

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.

The wording of this standard was changed in the 1996 Magnuson-Stevens Act authorization, to 'consider' rather than 'promote' efficiency. Efficiency in the context of this change refers to economic efficiency, and the reason for the change, essentially, is to de-emphasize to some degree the importance of economics relative to other considerations (Senate Report of the Committee on Commerce, Science, and Transportation on S. 39, the Sustainable Fisheries Act, 1996). The analysis presents information relative to these perspectives, but does not highlight any one alternative in terms of this standard. National Standard 5 recognizes the importance of various other issues in addition to economic efficiency.

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

Continuing to establish explicit allocations between industry sectors will likely reduce the flexibility of fishermen to respond to variations among groundfish and crab stocks. For example, pot fishermen who traditionally rely on crab fisheries for the majority of their income, but switch to Pacific cod fishing in response to higher cod prices (or lower crab stocks for example), would still be able to do so, but their overall harvest would continue to be constrained by the sector allocations. Conversely, in the event of lower Pacific cod quotas, sector allocations serve to protect the relative harvest levels of sectors that have long-term participation and are dependent on the Pacific cod resource from increased participation by

other sectors. The amendment would revise the initial sector allocations to better reflect the actual BSAI Pacific cod harvest by sector. This is the primary intent of the proposed action.

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

The alternatives under consideration, including the preferred alternative, appear to be consistent with this standard.

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.

Many of the coastal communities in Alaska and the Pacific Northwest are closely linked, culturally, economically, and socially to the crab and groundfish fisheries, whether it be processing, support businesses, or as the harbor/home port to fishermen and processing workers. Major groundfish and crab ports in Alaska that process catch from the BSAI include Dutch Harbor, St. Paul, Akutan, Sand Point, King Cove, and Kodiak. Additionally, the greater Seattle, Washington metropolitan area is home to many catcher and catcher processor vessels operating in these fisheries, as well as cold storage, transshipping, and secondary processing facilities. Summary information on these coastal communities is provided in the Steller Sea Lion SEIS (NMFS 2001b), the Draft Programmatic SEIS (NMFS 2001a), and the crab rationalization EIS (NPFMC 2004). Detailed information on Kodiak, Akutan, Dutch Harbor, and King Cove is in the Comprehensive Baseline Commercial Fishing Community Profiles Final Report (EDAW 2005).

In terms of potential impacts resulting from the proposed sector allocations, the analysts reviewed data similar to those reviewed for previous cod allocation amendments: (1) harvest levels by vessels in each sector; (2) price and revenues resulting from that harvest; (3) where those harvests are delivered for processing or for first sale (in the case of catcher processors), and (4) the residency of the vessel owner as reported on the CFEC vessel license file. Much of the information cannot be presented in its detailed form due to confidentiality restrictions, but is summarized qualitatively. The information presented does not attempt to trace the economic impact of these revenues through the communities involved, nor does this analysis attempt to predict changes in such economic activity from the proposed alternatives; rather, it is provided as a broad indicator of the relative importance of the BSAI Pacific cod fishery to vessels from these communities in the recent past.

The data on each sector's dependency on cod are summarized in Section 3.3.10 of the RIR. The data provide a general assessment of the relative dependence on BSAI Pacific cod as a part of total ex-vessel revenues generated by all fisheries, by sector, during 1999 – 2003. Table 3-34 in that section indicates that of the total estimated ex-vessel value for each catcher vessel sector, the percentage attributed to BSAI Pacific cod is as low as 1.6% ( $\geq 60'$  hook-and-line CV sector) to as high as 34.7% (non-AFA trawl CV sector). The remaining CV sectors had the following percentages attributed to BSAI Pacific cod:  $< 60'$  fixed gear sector - 3.7%; AFA trawl CV - 9.9%; jig CV - 12.8%;  $\geq 60'$  pot CV - 14.5%.

For the catcher processor sectors, Table 3-35 provides a general assessment of the relative dependence on BSAI Pacific cod as a part of total first wholesale revenues attributed to *groundfish* by sector, during 1999 – 2003. The table indicates that of the total estimated first wholesale value of groundfish products for each catcher processor sector, the percentage attributed to BSAI Pacific cod is lowest in the AFA trawl CP sector (1.0%) and highest in the hook-and-line CP sector (82.3%). The pot CP sector is 63.3%

and non-AFA trawl CP sector is 21.2%. The AFA trawl CP sector exhibited the highest estimates of total first wholesale value attributed to groundfish products during this time period, followed by the non-AFA trawl CP sector, hook-and-line CP sector, and pot CP sector. Note that data was not available to provide first wholesale revenue estimates for *all fisheries* (i.e., including fisheries other than groundfish) for the CP sectors. However, participation in the crab and halibut fisheries by the fixed gear CP sectors is provided in Table Table 3-36.

### *Community Linkages by Sector*

#### Hook-and-line CP sector

The data show that 45 unique hook-and-line catcher processors participated in the BSAI Pacific cod fishery in 1999 - 2003. Forty of the 45 participating vessel owners reported non-Alaska residency and 5 reported residency in Kodiak, Petersburg, Anchorage, Sitka and Unalaska at some point during the period. Based on the landings and first wholesale information for 1999 - 2003, the total first wholesale value of Pacific cod products by all participating vessels was about \$486 million, which averages to more than \$97 million per year. In 1999 – 2003, the total value from all *groundfish* products for this sector was about \$590.6 million; therefore, about 82.3% of this fleet’s estimated total first wholesale revenue from groundfish products is attributed to the BSAI Pacific cod fishery during this time period.

First wholesale value of Pacific cod products produced by non-Alaska based vessels constituted almost 87% of the total cod revenues, with most of that coming from the H&G product form. Hook-and-line catcher processors based in Alaska realized about 13% of the total.

#### Hook-and-Line CV sector ≥60'

It is likely that any future involvement by the hook-and-line catcher vessel fleet would continue to result in benefits to Alaskan coastal communities and non-Alaskan communities, through deliveries to coastal plants and income to the participants which could benefit their community of residence. The data show that 33 unique hook-and-line catcher vessels participated in the BSAI Pacific cod fishery during 1999 - 2003, and these same vessels also fished several other fisheries and gear types. Total ex-vessel value of all fisheries for these vessels was \$44.0 million during 1999 – 2003, which averages to about \$8.8 million per year. BSAI Pacific cod accounted for about 1.6%, or \$695,000, of the total during this time period.

Twelve of the 33 participating vessels were based (by vessel owner’s reported residency) in Alaska. Seven of the 12 were from Kodiak, with the remaining vessel owners from Homer, Petersburg, Sitka, and Unalaska. Twenty-one of the 33 vessel owners reported non-Alaskan residency. Of the total ex-vessel revenues generated by BSAI Pacific cod landings in this sector during this time period, about 26% is attributed to vessel owners residing in Alaska and 74% is attributed to non-Alaskan vessel owners.

#### Pot CP sector

The data show that 13 unique pot catcher processors participated in the BSAI Pacific cod fishery in 1999 - 2003, although these same vessels also fished several other (primarily crab) fisheries. Eleven of the 13 participating vessel owners reported non-Alaska residency and two reported residency in Kodiak, Alaska. In 1999 – 2003, the total first wholesale value of BSAI Pacific cod products produced by all participating pot CPs was about \$14.7 million, while the total value from all *groundfish* products for this sector was about \$23.3 million. Therefore, about 63% of this fleet’s estimated total first wholesale revenue from groundfish products is attributed to the BSAI Pacific cod fishery during this time period. First wholesale value of Pacific cod products produced by non-Alaska based vessels constituted the vast majority of total

revenues from BSAI Pacific cod products for this sector; the Alaska and non-Alaska revenue breakouts are not reported due to confidentiality concerns.

#### Pot CV sector ≥60'

This sector is much more numerous and more widely dispersed geographically than any of the other sectors involved in the BSAI Pacific cod fishery. In 1999 – 2003, there were 148 unique vessels fishing BSAI Pacific cod in this sector. Of this total, 41 reported Alaska residency, with about half of those in Kodiak and the remaining half from Homer, Anchorage, Cordova, Petersburg, and several other southcentral and southeast coastal communities. Of the 107 non-Alaskan based vessels, these were widely distributed through the Pacific Northwest, with the majority of vessel owners from Seattle. In 1999 - 2003, the total value from BSAI Pacific cod for this fleet was about \$8.0 million, while the total value of all species to these vessels was about \$295 million, which averages to about \$59 million per year. About 14.5% (or \$42.8 million) of this fleet's total gross earnings during this time period was from the BSAI Pacific cod fishery.

Of the total ex-vessel revenues generated by BSAI Pacific cod landings in this sector during this time period, about 18% is attributed to vessel owners residing in Alaska and 82% is attributed to non-Alaskan vessel owners.

#### Jig sector

The jig sector is also relatively diverse, with ex-vessel revenues attributed to halibut, Gulf groundfish, other BSAI groundfish, BSAI Pacific cod, and salmon. In 1999 – 2003, there were 58 unique vessels fishing BSAI Pacific cod in this sector. Of this total, 42 reported Alaska residency, primarily in Unalaska/Dutch Harbor (14 vessel owners) and Kodiak (10 vessel owners), with a few owners from Sand Point, Homer, Anchorage, and several other coastal communities. In 1999 - 2003, the total value of all species to these vessels was about \$5 million, which averages to about \$1 million per year. About 12.8% (or \$642,000) of this fleet's total gross earnings during this time period was from the BSAI Pacific cod fishery.

Of the total ex-vessel revenues generated by BSAI Pacific cod landings in this sector during 1999 – 2003, about 73% is attributed to vessel owners residing in Alaska and 27% is attributed to non-Alaskan vessel owners.

#### <60' hook-and-line and pot CV sector

The <60' fixed gear sector is also relatively diverse in terms of fishery and residency, with ex-vessel revenues attributed to halibut, Gulf groundfish, other BSAI groundfish, BSAI Pacific cod, and salmon. In 1999 – 2003, 92 unique vessels retained BSAI Pacific cod in this sector. Of this total, 71 reported Alaska residency, primarily in Kodiak (19 vessel owners), Saint Paul (14 vessel owners), Homer (11 vessel owners) and Dutch Harbor/Unalaska (8 vessel owners), with a few owners from Sand Point, False Pass, Sitka, and several other coastal communities. In 1999 - 2003, the total value of all species to these vessels was about \$65.5 million, which averages to about \$13 million per year. Nearly 4% (or \$2.4 million) of this fleet's total gross earnings during this time period was from the BSAI Pacific cod fishery. Of the total ex-vessel revenues generated by BSAI Pacific cod landings in this sector during 1999 – 2003, about 95% is attributed to vessel owners residing in Alaska and 5% is attributed to non-Alaskan vessel owners.

### AFA Trawl CV sector

The non-AFA trawl CV sector is also relatively diverse in terms of fisheries prosecuted. In 1999 – 2003, there were 107 unique vessels fishing BSAI Pacific cod in this sector. Of this total, only 7 reported Alaska residency, primarily in Kodiak. The non-Alaskan based vessels were from the Pacific Northwest, with the majority of vessel owners from Seattle. In 1999 - 2003, the total value of all species to these vessels was about \$897 million, which averages to about \$179 million per year. About 9.9% (or \$89 million) of this fleet's total gross earnings during this time period was from the BSAI Pacific cod fishery. The majority (79%) of gross earnings for this sector came from other BSAI groundfish, primarily pollock.

Of the total ex-vessel revenues generated by BSAI Pacific cod landings in this sector during 1999 – 2003, less than 1% is attributed to vessel owners residing in Alaska and over 99% is attributed to non-Alaskan vessel owners.

### AFA Trawl CP sector

All of the AFA trawl CP vessel owners report non-Alaskan residency, and the majority are based in the Seattle area. There were 18 unique vessels participating in the BSAI Pacific cod fishery in 1999 - 2003. Based on the landings and first wholesale information for 1999 - 2003, the total first wholesale value of Pacific cod products by all participating vessels was \$10.2 million, which averages to \$2.0 million per year. Most of that product is headed and gutted cod or meal product. This constituted 1.0% of the sector's total first wholesale value from all groundfish products during 1999 – 2003 of \$1.02 billion. BSAI pollock is the primary revenue source for this fleet.

### Non-AFA Trawl CV sector

This sector is fairly diverse in its overall fisheries, and focuses almost wholly on Pacific cod in its BSAI groundfish fisheries. In 1999 – 2003, there were 37 unique vessels fishing BSAI Pacific cod in this sector. Of this total, 15 reported Alaska residency, primarily in Sand Point (8 vessel owners) and Kodiak (4 vessel owners), with one owner each from Cordova, Girdwood, and Sitka. The non-Alaskan based vessels were from the Pacific Northwest. In 1999 - 2003, the total value of all species to these vessels was about \$34 million, which averages to about \$6.9 million per year. About 34.7% (or almost \$12 million) of this fleet's total gross earnings during this time period was from the BSAI Pacific cod fishery. The majority (46%) of gross earnings for this sector came from Gulf groundfish.

Of the total ex-vessel revenues generated by BSAI Pacific cod landings in this sector during 1999 – 2003, about 16% is attributed to vessel owners residing in Alaska and about 84% is attributed to non-Alaskan vessel owners.

### Non-AFA Trawl CP sector

The majority of the BSAI Pacific cod non-AFA trawl CP sector is based in the Seattle area (22 of the 25 unique vessels participating in 1999 - 2003), with 3 vessel owners reporting residency in Kodiak, Alaska during this time period. Based on the landings and first wholesale information for 1999 - 2003, the total first wholesale value of Pacific cod products by all participating vessels was \$158.7 million, which averages to \$31.7 million per year. This constituted 21.2% of the sector's total first wholesale value from all groundfish products during 1999 – 2003 of \$747.7 million. First wholesale value of Pacific cod products produced by non-Alaska based vessels constituted 94% of total revenues from BSAI Pacific cod products for this sector, with most of that coming from the H&G product form. Non-AFA trawl catcher processors based in Alaska accounted for the remaining 6%. The BSAI flatfish fisheries are the primary revenue source for this fleet.

## Shorebased processors taking CV deliveries

Deliveries of Pacific cod contribute to the economies of the communities in which the shorebased plants are located, though these amounts are unlikely to be significant in the context of the other groundfish, pollock, and crab processing activities that occur in these same plants and communities. Table 4-1 provides the percentage of each catcher vessel sector's BSAI Pacific cod estimated ex-vessel revenues by port, from 1999 – 2003. Note that several ports were grouped together due to confidentiality concerns.

Deliveries of BSAI cod to shorebased processors come primarily from pot and trawl vessels, with smaller amounts from hook-and-line and jig catcher vessels. The vast majority of shoreside deliveries were to shore plants in Dutch Harbor, with lesser amounts delivered to Adak, Atka, King Cove, Kodiak, Chignik, Sand Point, and Saint Paul. Some of the smaller fixed gear and jig sectors also deliver to Homer and Seward. Several sectors deliver to inshore floating processors.

**Table 4-1 Percent of each CV sector's BSAI Pacific cod estimated ex-vessel values by port groupings, 1999 - 2003**

Sector	Port Groupings	Estimated Ex-vessel Value	% Port Group	Sector	Port Groupings	Estimated Ex-vessel Value	% Port Group
<b>Non-AFA trawl CV</b>	Adak & Atka	\$3,049,588	25.6%	<b>Hook-and-line CV &gt;60'</b>	Adak & Atka	\$90,871	13.1%
	Akutan, King Cove, Chignik, Sand Point & St. Paul	\$2,476,762	20.8%		Akutan, King Cove, Chignik, Sand Point & St. Paul	*	*
	Dutch Harbor	\$3,063,887	25.7%		Dutch Harbor	\$158,736	22.8%
	Inshore floating processors	\$3,309,485	27.8%		Homer	\$729	0.1%
	Kodiak & Alitak	\$13,831	0.1%		Inshore floating processors	\$441,789	63.6%
	Total	\$11,913,553	100.0%		Kodiak & Alitak	*	*
<b>AFA trawl CV</b>	Adak & Atka	\$9,874,551	11.1%	Seward	*	*	
	Akutan, King Cove, Chignik, Sand Point & St. Paul	\$23,786,416	26.7%	Total	\$695,160	100.0%	
	Dutch Harbor	\$33,432,306	37.6%	<b>Jig CV</b>	Adak & Atka	\$186,436	29.0%
	Inshore floating processors	\$21,830,807	24.5%		Akutan, King Cove, Chignik, Sand Point & St. Paul	*	*
	Kodiak & Alitak	*	*		Dutch Harbor	\$363,200	56.6%
	Total**	\$88,924,080	100.0%		Homer	*	*
			Inshore floating processors		\$19,195	3.0%	
			Total		\$641,797	100.0%	
<b>Pot CV &gt;60'</b>	Adak & Atka	\$1,565,392	3.7%	<b>&lt;60' hook-and-line and pot CV</b>	Adak & Atka	\$84,379	3.5%
	Akutan, King Cove, Chignik, Sand Point & St. Paul	\$11,815,779	27.6%		Akutan, King Cove, Chignik, Sand Point & St. Paul	\$527,921	21.9%
	Dutch Harbor	\$21,740,812	50.8%		Dutch Harbor	\$1,779,259	73.8%
	Inshore floating processors	\$7,484,915	17.5%		Homer	*	*
	Kodiak & Alitak	\$178,928	0.4%		Inshore floating processors	*	*
	Total	\$42,785,826	100.0%		Kodiak & Alitak	*	*
			Seward	*	*		
			Total	\$2,412,486	100.0%		

\*Not shown due to confidentiality concerns. \*\*The total for the non-AFA trawl CV sector excludes confidential data.

As shown in Table 4-1, pot boat deliveries were primarily (50.8%) to shore plants in Dutch Harbor, with lesser amounts (27.6%) to the group of Akutan, Saint Paul, King Cove, Chignik, Kodiak, and Sand Point. Almost 18% of the ex-vessel revenues are attributed to cod delivered to inshore floating processors. The <60' fixed gear sector exhibits a similar pattern: 73.8% to Dutch Harbor, 21.9% to the ports in the Aleutians east area, and 3.5% to Adak and Atka combined. The hook-and-line CV sector had the majority of its revenues (63.6%) associated with deliveries to inshore floaters, and the remainder primarily delivered to Dutch Harbor (22.8%) and Adak and Atka (13.1%). The jig sector also delivers primarily to Dutch Harbor (56.6%), with the remainder to Adak and Atka (29.0%).

In the trawl sectors, deliveries are distributed fairly evenly among several port groupings during this time period. Ex-vessel revenues attributed to BSAI Pacific cod from the non-AFA trawl CV sector were

distributed about evenly: 27.8% to inshore floaters, 25.7% to Dutch Harbor, 25.6% to Adak and Atka combined, and 20.8% to the ports in the Aleutians East area. The majority of estimated ex-vessel revenues generated from BSAI Pacific cod in the AFA trawl CV sector was from Dutch Harbor (37.6%), followed by the Aleutian East ports (26.7%), inshore floaters (24.5%), and Adak and Atka (11.1%). Because this action is intended to reflect the recent harvest shares among the sectors (except for CDQ groups and operations utilizing jig gear) and the current timing (seasonal) of the harvest by sector, it is not expected that this action will have a significant effect on the distribution of cod landings by community. It is also not expected to affect the residency of fishermen eligible to fish off of the sector allocations.

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.

Chapter 2 presents information on historical bycatch patterns in the BSAI Pacific cod fishery by sector. In summary, bycatch rates in the fixed gear Pacific cod fisheries are low overall. Some differences among the fixed gear sectors are evident, as the hook-and-line sectors report higher incidental catch of halibut, while the pot sectors report higher incidental catch of crab. The trawl sectors overall report a higher incidental catch of both halibut and crab than the fixed gear sectors. Because the preferred alternative establishes sector allocations based largely on catch history during the recent past, the proposed action is not expected to have significant bycatch implications.

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

The alternatives under consideration appear to be consistent with this standard. None of the alternatives or options proposed to continue or modify the sector allocation percentages of BSAI Pacific cod would change safety requirements for fishing vessels. Note also that all of the allocation options under Alternative 2 (the Council's preferred alternative) would continue a separate allocation for the <60' fixed gear sector, but would not allow this sector to fish off the general hook-and-line and pot allocations when those directed fisheries are open. While not necessarily proposed to promote safety, this provision may reduce incentives for the <60' fixed gear sector to harvest Pacific cod earlier in the year in more difficult weather. In the recent past, the A season for the directed hook-and-line CV and pot CV BSAI Pacific cod fisheries has been increasingly short, and thus in order for the <60' fixed gear participants to fish off the general allocation, they need to fish earlier in the year (January/February). Alternative 2 eliminates this incentive by allowing each sector only to fish off their separate allocation. In addition, the preferred alternative establishes separate sector allocations to the non-AFA and AFA trawl CP sectors. To the extent this eliminates competition between trawl CP sectors for their historical share of Pacific cod, allows the trawl sectors to better manage their Pacific cod fisheries through internal mechanisms and cooperatives, and reduces competition among individual vessels within trawl sectors, this may promote safety at sea.

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

This section of the Magnuson Stevens Act requires that any management measure submitted by the Council take into account potential impacts on the participants in the fisheries, as well as participants in adjacent fisheries. The impact to participants in the BSAI Pacific cod fisheries is the primary topic of Chapter 3. Section 4.2 addresses potential impacts to other fisheries that could result from a change in the BSAI Pacific cod apportionments, as vessels constrained by those allocations may move into other fisheries to attempt to make up lost revenues. However, note that all of the allocation options proposed under Alternative 1 and Alternative 2 (preferred alternative) are based on historical participation in the BSAI Pacific cod fishery by sector. Thus, while the Council selected explicit allocation percentages to

each sector, these closely represent catch history based on a broad series of years; thus, the proposed action should not substantially differ from a sector's recent historical participation.

In the past, one of the concerns with BSAI Pacific cod sector allocations has been the potential impact on BSAI crab fisheries. Pot vessels with qualified crab licenses whose Pacific cod sector allocation could be reduced could exert additional effort in the BSAI crab fisheries. However, NMFS recently implemented a program to comprehensively rationalize the BSAI crab fisheries (2005). Participants in these fisheries are thus now constrained by the amount of quota for which they qualify under a specified set of qualifying years (NPFMC 2004). Thus, the fixed gear cod vessels under consideration in this amendment that have qualifying history in the BSAI crab fisheries will receive quota based on past participation. If these vessels want to expand their participation in the BSAI crab fisheries under this program, they will need to purchase quota from another individual. Thus, vessels cannot move into these fisheries in the future and erode other vessels' shares.

The pot and jig sectors in this amendment may also potentially exert additional effort in the Gulf of Alaska State water cod fisheries which are not limited entry, and which are limited to pot and jig gear. However, the preferred alternative establishes the hook-and-line and pot gear Pacific cod allocations very close to the historical harvest distribution from 1995 – 2003. This is very similar to the allocations that have been in effect under Amendments 64 and 77 since mid-2000. In addition, while the jig allocation is reduced from 2.0% of the BSAI Pacific cod ITAC to 1.4% under the preferred alternative, this sector has typically harvested about 5% of its allocation on average since 1996. Finally, the <60' hook-and-line/pot gear sector receives an increase from 0.7% of the BSAI Pacific cod ITAC to 2.0% under the Council's preferred alternative. Thus, it is not expected that any fixed or jig gear sector would be severely constrained compared to what it has harvested in the recent past.

In addition, recall that under Amendment 67, the  $\geq 60'$  Pacific cod fixed gear fishery in Federal waters is limited to those license holders that qualify for a BSAI Pacific cod endorsement by meeting specific year and landings requirements. This amendment became effective January 1, 2003. Thus, "cod endorsed" fixed gear vessels realize less competition within their sectors for their respective BSAI Pacific cod allocations under Amendment 67. Because Amendment 67 does not affect <60' hook-and-line and pot vessels, it is possible that the <60' sector could be constrained by a separate BSAI Pacific cod allocation in the future as the number of participants increases, thus spurring these vessels to move into other fisheries. However, the <60' fleet has historically harvested a very small percentage of the total BSAI Pacific cod ITAC, averaging about 0.4% during the period 1995 – 2003, with the majority of the harvest during the years in which this sector had a separate allocation (2001 – 2003). As stated previously, the current allocation to this sector (Alternative 1) represents about 0.7% of the BSAI Pacific cod ITAC. Under the preferred alternative (Alternative 2), the allocation to the <60' fixed gear sector is increased to 2% of the BSAI Pacific cod ITAC. Note also that while 116 <60' fixed gear vessels have the necessary LLP to fish BSAI Pacific cod, only 26 such vessels have retained BSAI Pacific cod harvests on average during 1995 – 2003. Thus, it is not expected, due to the relatively small number of participating vessels and the increased, separate allocation to <60' fixed gear vessels, that this action will have significant spillover effects.

Finally, the implementing regulations for the AFA establish sideboards (harvest limits) on participation by AFA-qualified vessels in the non-pollock BSAI groundfish fisheries (including Pacific cod) and GOA groundfish fisheries. While the proposed action in this amendment would replace the BSAI Pacific cod sideboards for the AFA trawl CP sector with a direct allocation based on catch history, it would not affect the sideboards in place for the other BSAI non-pollock groundfish fisheries or the GOA groundfish fisheries. In addition, the AFA trawl sectors currently manage Pacific cod through an inter-cooperative agreement, even though these sectors do not currently receive a distinct allocation, and it is expected that this type of management system would continue. Finally, the proposed action would maintain a combined

trawl CV allocation for the AFA and non-AFA trawl CV sectors. It would not affect the Pacific cod sideboards, or the exemptions to those sideboards, in place for the AFA CV sector, nor would it affect the sideboards in place for the other BSAI non-pollock groundfish fisheries or the GOA groundfish fisheries. Thus, this action is not expected to substantially affect participation in other fisheries by the AFA trawl sectors.

The non-AFA trawl CP sector is also currently proposed to be managed under a cooperative system under BSAI Amendment 80. This amendment would establish cooperative provisions for the non-AFA trawl CP sector, as well as five target species allocations and sideboards in other ‘non-allocated’ groundfish fisheries to the sector. The sideboards proposed in Amendment 80 include non-allocated BSAI species, GOA groundfish fisheries,<sup>140</sup> and GOA halibut PSC. Upon approval of Amendment 85, the current BSAI Pacific cod sideboard to this sector would be replaced by a direct allocation of cod. Upon implementation of Amendment 80, the non-AFA trawl CP sector would be constrained to historical participation levels in every other potential fishery.

The non-AFA trawl CV sector does not have eligibility requirements defined in statute as do the other trawl sectors. This sector differs also from the AFA CV sector such that it has a higher percentage of its overall BSAI revenues from Pacific cod; cod is the only target fishery for this sector in the BSAI. In addition, vessels in this sector also commonly participate in the GOA groundfish fishery and the halibut IFQ fishery using hook-and-line gear. This sector would continue to share a combined Pacific cod allocation with the AFA trawl CV sector, based on historical catch, under the proposed action. Thus, it not expected that the proposed action would significantly affect participation in other GOA groundfish fisheries by the non-AFA trawl CV sector.

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

The Regulatory Flexibility Act (RFA), first enacted in 1980, 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 economic 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 ‘certify’ that the action will not have a significant adverse economic impact on a substantial number of small entities, and support that certification with the “factual basis” upon which the decision is based; or it must prepare and make available for public review an Initial Regulatory Flexibility Analysis (IRFA). When an agency publishes a final rule, it must prepare a Final Regulatory Flexibility Analysis (FRFA).

Analytical requirements for the IRFA are described below in more detail. The IRFA must contain:

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<sup>140</sup>Component 12 of BSAI Amendment 80 addresses GOA sideboards for the non-AFA trawl CP sector in the GOA pollock, Pacific cod, directed rockfish species (Pacific Ocean perch, northern rockfish, pelagic shelf rockfish), and flatfish fisheries. In the BSAI, they are mostly focused on Pacific cod. The non-allocated BSAI species that are sideboarded are: other rockfish, BS Pacific Ocean perch, sablefish (trawl), Greenland turbot, incidental pollock catch, arrowtooth flounder, northern rockfish, other flatfish/Alaska plaice, other species & squid, and shortraker and rougheye rockfish.

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and the legal basis for, the proposed rule;
- 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);
- A description of the projected reporting, recordkeeping 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;
- An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule;
- 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 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:
  1. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
  2. The clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
  3. The use of performance rather than design standards;
  4. An exemption from coverage of the rule, or any part thereof, for such small entities.

In determining the scope, or ‘universe’, of the entities to be considered in an IRFA, the analysis includes only those entities, both large and small, that are directly regulated by the proposed action. If the effects of the rule fall primarily on a distinct segment, or portion thereof, of the industry (e.g., user group, gear type, geographic area), that segment would be considered the universe for the purpose of this analysis. NOAA currently interprets the intent of the RFA to address negative economic impacts, not beneficial impacts, and thus such a focus exists in analyses that are designed to address RFA compliance.

Data on cost structure, affiliation, and operational procedures and strategies in the fishing sectors subject to the proposed regulatory action are insufficient, at present, to permit preparation of a “factual basis” upon which to certify that the preferred alternative does not have the potential to result in a “significant adverse economic impact on a substantial number of small entities” (as defined under the RFA). Because, based on all available information, it is not possible to ‘certify’ this outcome, should the proposed action be adopted by the Secretary, a formal IRFA, focusing on the complete range of available alternatives (including the Council’s preferred alternative), has been prepared and is included in this package for Secretarial review.

#### 4.3.1 Definition of a small entity

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

**Small businesses.** Section 601(3) of the RFA defines a ‘small business’ as having the same meaning as ‘small business concern’ which is defined under Section 3 of the Small Business Act (SBA). ‘Small business’ or ‘small business concern’ includes any firm that is independently owned and operated and not dominant in its field of operation. The SBA has further defined a “small business concern” as one “organized for profit, with a place of business located in the U.S., and which operates primarily within the U.S. 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. Effective January 5, 2006, 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 gross 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, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. Because the SBA does not have a size criterion for businesses that are involved in both the harvesting and processing of seafood products, NMFS applies SBA's fish harvesting criterion for these businesses because CP's are first and foremost fish harvesting businesses. Therefore, 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. Finally, a wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. **The SBA size standards applicable to RFA analyses increased from \$3.5 million to \$4.0 million on January 5, 2006, to adjust for inflation (70 FR 72577, 12/6/05).**

**Small organizations.** The RFA defines “small organizations” as any not-for-profit 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.

#### 4.3.2 Reason for considering the proposed action

The Pacific cod resource in the Bering Sea and Aleutian Islands is fully utilized and has been allocated among the overall trawl, fixed, and jig gear groups since 1994. Members of the gear sectors have expressed concern that the current allocations (under BSAI Amendment 46) are overdue for review, as the overall gear split between the trawl, jig, and fixed gear sectors has been in place since 1997. In addition, the CDQ Program allocation has been in place since 1998. Harvest patterns among non-CDQ sectors have varied significantly, resulting in annual inseason reallocations of BSAI Pacific cod quota from the trawl and jig sectors, to the fixed gear sectors, primarily the hook-and-line CP sector. Thus, except in the case of CDQ, <60' fixed gear, and jig allocations, a need has been identified to revise the sector allocations to better reflect actual historic use by sector, as proposed under this action. This need is described in the problem statement, with the expressed intent that sector allocations will be based on catch history, as well

as socio-economic and community factors. The proposed action is fully described in Section 3.4.3, including the EA and RIR. The reason for considering the action is treated at length in Section 4.3.2 and interested readers may refer there for details. Section 3.4.3 includes the recommended percentages of the BSAI Pacific cod ITAC allocated to each sector, summarized briefly here, as well as treatment of the rationale for each.

<60 Hook-and-line/Pot CV	2.0
AFA Trawl CP	2.3
Trawl CV	22.1
Jig CV	1.4
Hook-and-line CP	48.7
Hook-and-line CV $\geq$ 60'	0.2
Non-AFA Trawl CP	13.4
Pot CP	1.5
Pot CV $\geq$ 60'	8.4
<b>Total</b>	<b>100.0</b>

It was also recognized under this action that allocations at the sector level may well be necessary as a first step toward comprehensive rationalization of the Pacific cod resource. Sector allocations represent the first level of apportionment, thus, this action is deemed necessary to consider revising the sector allocations to better reflect actual use by sector.

The proposed action also makes FMP and regulatory changes to the CDQ Program as required by recent amendments to the Magnuson Stevens Act. The President signed the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241) into law on July 11, 2006, after the Council selected a final preferred alternative for Amendment 85. Among other actions, this Act amends Section 305(i) of the Magnuson Stevens Act, which pertains to the CDQ Program. The MSA amendments include a change to make the CDQ Program Pacific cod allocation a directed fishing allocation of 10% of the BSAI Pacific cod TAC upon the establishment of sector allocations (Section 305(i)(1)(B)(ii)(1)). As Amendment 85 establishes sector allocations of BSAI Pacific cod, the MSA thus requires that, at the same time these sector allocations are established, the allocation of BSAI Pacific cod to the CDQ Program must increase to 10% as a directed fishing allocation. The regulatory and FMP amendments necessary to implement this change are thus included in this amendment package and described in Section 3.4.3.4, in order for the Council's proposal for Amendment 85 to be consistent with the MSA. Further FMP and regulatory amendments resulting from the Act are undergoing analysis and legal interpretation by NOAA GC. ).

#### **4.3.3 Objectives of, and legal basis for, the proposed action**

The legal basis for this action is the Magnuson-Stevens Fishery Conservation and Management Act that expressly allows for the allocation of the BSAI Pacific cod TAC among user groups. Part of the stated purpose of the MSA is to promote domestic commercial fishing under sound conservation and management principles, as well as to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery (Section 2(b)). The objectives of the proposed action, as stated previously, are to maintain stability in the BSAI Pacific cod fishery by continuing to provide separate allocations for the industry sectors identified. The further objective of the proposed action is to provide these separate allocations in a manner that, except in the case of CDQs, reflects the catch distribution that has historically occurred among sectors, with an additional allocation made for the smallest vessel classes in the BSAI Pacific cod fisheries (<60' fixed gear CV and jig sectors). The proposed increase to the CDQ

Program to a 10% Pacific cod directed fishing allocation is required by recent amendments to the Magnuson Stevens Act (Public Law 109-241, July 11, 2006). See Section 3.4.3.4 and Appendix H.

#### **4.3.4 Number and description of directly regulated small entities**

For purposes of the IRFA, the SBA has established that 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 gross receipts not in excess of \$4.0 million for all its affiliated operations worldwide. The IRFA uses the most recent year of data available to conduct this analysis (2003). As stated previously, the commercial entities directly regulated by the proposed action are divided into nine sectors for the purpose of (non-CDQ) BSAI Pacific cod allocations, and the CDQ allocation is considered a separate sector. A description of the participants in, and the eligibility requirements for, each non-CDQ sector is provided in detail in Section 3.3.3 and 3.3.4, and a description of the CDQ sector is provided in Section 3.3.6.2.

Vessels considered large entities, for purposes of this RFA analysis, were those with individual annual gross receipts greater than \$4.0 million, or those affiliated under owners of multiple vessels, contractual relationships, and/or affiliated through fishing cooperative membership (e.g., AFA) that, when combined with earnings from all such affiliated operations, had aggregate annual gross revenues greater than \$4.0 million. Insufficient documentation of multiple and joint-ownership structures, contractual affiliations, interlocking agreements, etc., among vessels in the various fleets of interest, herein, exists with which to confidently estimate the number of directly regulated small (and large) entities. Recognizing this, the IRFA is understood to likely overestimate the actual number of directly regulated small entities subject to this action.

The majority of the catcher vessels in all gear sectors can be considered small entities under a conservative application of the existing threshold criterion. In 2003, only the AFA trawl catcher vessels were considered large entities, as they are known to be party to a harvest cooperative system. The remaining 138 catcher vessels of all gear types appear to meet the criterion for a small entity, as applied by evaluating the 2003 gross revenue data on a per vessel basis. However, as just noted, little is known about the ownership structure of the vessels in the fleets. Thus, based on the best available data, the following vessels appear to meet the application of the criterion above for a small entity in 2003: 25 <60' hook-and-line and pot CVs; 22 non-AFA trawl CVs; 15 jig CVs; 6 hook-and-line CVs  $\geq 60'$ ; and 70 pot CVs  $\geq 60'$ .

In the catcher processor sector, the available data indicate that fewer than half meet the threshold for a small entity, as applied by evaluating the 2003 gross revenue on a per vessel basis. Thirty-one of the 81 participating vessels in 2003 had gross receipts not in excess of \$4.0 million. Again, because little is known about the ownership structure of the vessels in the fleets, it is likely that the IRFA overestimates the number of small entities. Thus, based on the best available data, the following vessels meet the application of the criterion above for a small entity in 2003: 24 hook-and-line CPs; 4 non-AFA trawl CPs; and 3 pot CPs. In sum, of the 310 vessels participating in 2003, 169 vessels are estimated as small entities directly regulated by the proposed action.

In addition, the six CDQ groups participating in the CDQ Program are not-for-profit entities that are not dominant in the overall BSAI fishing industry. These six groups represent 65 western Alaska villages with populations of fewer than 50,000. Thus, the six CDQ groups directly regulated by the proposed action would be considered small entities or 'small organizations' under the RFA. Thus, under a conservative application of the SBA criterion and the best available data, the total number of small entities directly regulated by the proposed action is estimated as 175.

#### 4.3.5 Recordkeeping and reporting

This regulation does not impose new record keeping or reporting requirements on the directly regulated small entities.

#### 4.3.6 Relevant Federal rules that may duplicate, overlap, or conflict with proposed action

There do not appear to be any Federal rules that duplicate or overlap with the proposed action. Some current Federal regulations will be in technical conflict and will need modification to implement the proposed action, such as the regulations implementing the current BSAI Pacific cod allocations at 50 CFR 679.20(a)(7)(i). Changes to the provisions addressing unused quota and seasonal apportionments of the jig allocation would require changes to 50 CFR 679.20(a)(7)(ii) and (iii), respectively. Changes to the halibut apportionment in the non-trawl categories would require changes to 679.21(e)(4), and changes to the PSC apportionment in the trawl fishery categories would require changes to 679.21(e)(1) and 679.21(e)(3). Eliminating the BSAI Pacific cod sideboard for listed AFA trawl catcher processors (as it is replaced by a direct allocation to the AFA trawl CP sector under the proposed action) would require changes to 679.64(a). Increasing and modifying the CDQ Program allocation of BSAI Pacific cod to a 10% directed fishing allocation, at a minimum, would necessitate changes to 679.31.

#### 4.3.7 Description of significant alternatives to the proposed action

This section is intended to provide a description of any significant alternatives to the proposed action that accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that would minimize any significant economic impact of the proposed rule on small entities.

The alternatives under consideration are described in detail in Section 1.2 and Section 3.2. Each of the primary alternatives is comprised of the same set of components, or issues. **Alternative 1** is the no action alternative, which would continue: 1) the current overall gear allocations in the BSAI Pacific cod fishery that were established under Amendment 46 in 1997; 2) the current CDQ allocation of 7.5% of the BSAI Pacific cod TAC; and 3) the current apportionment of the fixed gear portion of the BSAI Pacific cod ITAC established under Amendment 77 in 2004. Alternative 1 would also continue shared halibut and crab PSC allowances to the BSAI trawl cod fishery group, which means that halibut and crab PSC harvest by each trawl sector would accrue to the same PSC allowance. Similarly, Alternative 1 would continue a shared halibut PSC allowance to the BSAI hook-and-line cod fishery group.

**Alternative 2** considers several options under each of the components, the combination of which results in the evaluation of a multitude of potential alternatives. **The proposed action is thus a derivation of Alternative 2, reflecting the Council's conscious effort to balance the economic and social objectives for the action, against the potential burden placed on directly regulated entities (especially those which are "small"). The Council selected one option under each of the components to comprise its final preferred alternative.** The preferred alternative is described in detail in Section 3.4.3.

#### *Measures taken to reduce impacts on small entities*

Most vessels operating in the fishery regulated by the proposed action have expected annual gross revenues of less than \$4.0 million in 2003. However, little is known about the ownership structure of the vessels in the various fleets, so it is possible that the IRFA overestimates the number of small entities. Under a conservative application of the SBA criterion and the best available data, this analysis estimates that 169 of 310 vessels that participated in 2003 may be small entities, as are the six CDQ groups.

As previously noted, about half of the potentially directly regulated entities under this action are considered “small,” as defined under the RFA. Recall that the Council’s action is limited to the sector level, not the individual vessel level. Within the universe of small entities that are the subject of this IRFA, impacts may accrue differentially; i.e., some small entities could be negatively affected and others positively affected. Therefore, the Council deliberately sought to provide considerable accommodation for the smallest of the small entities under this amendment. Thus, while the nature of the proposed action is distributional in nature, the overall impact on the smallest of the small entities is expected to be positive.

A specific means to facilitate economic opportunity and stability for small entities participating in the cod fisheries would be to establish BSAI Pacific cod allocations for the smallest of the small entities (e.g., jig vessels and <60’ hook-and-line/pot CVs) that represent a net increase over their actual catch history, in order to provide for potential growth in those sectors. On average during 1995 – 2003, the combined harvest history by these sectors is about 0.5% of the retained BSAI Pacific cod harvest. However, in recent years, it appears that the 60’ fixed gear CV sector has increased its participation in the BSAI Pacific cod fishery and could benefit from additional quota, if it was made available. This specific accommodation for some of the smallest entities has been included in the preferred alternative.

As noted in the EA and RIR, the subject fisheries are currently managed through a complex series of permits, gear and area endorsements, and licenses. Many are predicated on historical participation and/or performance thresholds (e.g., meeting or exceeding a specific threshold landing in a specific series of season, etc.). Many of these requirements result in extremely high entry costs and physical barriers for small vessels and entry level operations. Recognizing these burdens and obstacles to participation, an important means of accommodating small entities can be “exemptions” from, for example, requirements to acquire some specific permits, and/or meeting historical catch and participation thresholds, extended to particularly vulnerable or disproportionately burdened classes of smaller vessels. Recognizing the opportunity to facilitate and sustain small entity participation, the Council incorporated a number of exemptions for small entities in the final preferred action. For greater detail on these provisions, refer to the extensive treatment given in the RIR.

The preferred alternative also maintains an aspect of the current reallocation scheme, such that any unused jig quota is first considered for reallocation to the <60’ fixed gear sector, before being reallocated to any other sector. The preferred alternative also apportions the jig sector allocation such that 20% more of the jig allocation is allowed to be harvested in the first half of the year. Thus, more cod may potentially be harvested by the <60’ fixed gear sector earlier in the year, when it is preferable for this small boat sector. The preferred alternative also specifies that the third trimester of the jig allocation, if it is to be reallocated, should be available to the <60’ fixed gear CV sector on September 1. The intent of this provision is also to reallocate quota between the small boat CV sectors as early in the year as possible, in order for these sectors to have an opportunity to harvest the quota under better weather conditions.

The preferred alternative also increases the BSAI Pacific cod allocation to the CDQ Program, in which six CDQ groups are eligible to participate. The six CDQ groups directly regulated by the proposed action are considered small entities or ‘small organizations’ under the RFA. The preferred alternative increases the CDQ Pacific cod allocation from 7.5% of the TAC to 10%, and modifies the allocation such that it represents a directed fishing allocation, as mandated by the recent Coast Guard Act of 2006. In effect, instead of receiving 7.5% of the TAC to fund all of the directed and incidental Pacific cod taken in the CDQ fisheries (status quo), the CDQ Program would be allocated some amount in excess of 10% of the TAC for its combined directed Pacific cod fishery and to fund Pacific cod harvested incidentally in other CDQ target fisheries (e.g., pollock, Atka mackerel). NMFS’s approach is to establish the amount of the ICA in the annual specifications process. While subject to annual variation, NMFS estimates that the total Pacific cod allocation to the CDQ Program under the proposed action would likely be in the range of

10.5% - 11.0% of the BSAI Pacific cod TAC in the first year of implementation. While a tradeoff in terms of impacts on the small entities in the non-CDQ sectors, whose allocations must be reduced (proportionally by 3.0% - 3.5%) by the increase to the CDQ Program, Congressional action makes this adverse economic impact unavoidable. Nonetheless, efforts to minimize the burden on the smallest of small entities by, as discussed immediately above, exempting them from the most onerous permit and recency requirements, and by allocating TAC amounts in excess of their recent harvest levels, reflects a sincere effort to address the needs of these small entities. The proposed action represents a positive economic effect on the six small entities that comprise the CDQ groups in terms of potential revenues resulting from an increased allocation. This increase in royalty payments is estimated as approximately \$1.13 million (see Section 3.4.3.4).

In sum, many operations in each of the nine Pacific cod sectors directly regulated by the proposed action are small entities. Because this action is principally designed to “reapportion” access to the cod resource among current user groups (at the ‘sector level’), by definition, it represents tradeoffs (i.e., some small entities could be negatively affected, while others are positively affected). In addition, the six CDQ groups receive an increased allocation under the proposed action, to comply with recent Congressional mandates. Based upon the best available scientific data and information, and careful consideration of the objectives of this action, one may draw the following conclusion. It appears that there are no alternatives to the proposed action which have the potential to accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that have the potential to minimize any significant adverse economic impact of the proposed rule on small entities.

#### **4.4 Marine Mammal Protection Act (MMPA)**

The MMPA of 1992 (16 U.S.C. 1361 *et seq.*), as amended through 1996, establishes a Federal responsibility to conserve marine mammals with management responsibility for cetaceans (whales) and pinnipeds (seals), other than walrus vested with the Department of Commerce. The Department of the Interior, USFWS, is responsible for all other marine mammals in Alaska including sea otters, walrus, and polar bear. Congress found that certain species and population stocks of marine mammals are, or may be in danger of, depletion due to human activities. Congress also declared that marine mammals are resources of great international significance and should be protected using sound policies of resource management.

Species listed in the Endangered Species Act (ESA) present in the management area under consideration are listed in Chapter 2. Marine mammals not listed under the ESA that may be present in the BSAI management area include cetaceans, [minke whale (*Balaenoptera acutorostrata*), killer whale (*Orcinus orca*), Dall’s porpoise (*Phocoenoides dalli*), harbor porpoise (*Phocoena phocoena*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), and the beaked whales (e.g., *Berardius bairdii* and *Mesoplodon spp.*)] as well as pinnipeds [Pacific harbor seal (*Phoca vitulina*), northern fur seal (*Callorhinus ursinus*), Pacific walrus (*Odobenus rosmarus*), spotted seal (*Phoca largha*), bearded seal (*Erignathus barbatus*), ringed seal (*Phoca hispida*) and ribbon seal (*Phoca fasciata*)], and the sea otter (*Enhydra lutris*).

The primary management objective of the MMPA is to maintain the health and stability of the marine ecosystem, with a goal of obtaining an optimum sustainable population of marine mammals within the carrying capacity of the habitat. The MMPA is intended to work in concert with the provisions of the Endangered Species Act (see Chapter 2). The Secretary is required to give full consideration to all factors regarding regulations applicable to the “take” of marine mammals, including the conservation, development, and utilization of fishery resources, and the economic and technological feasibility of implementing the regulations. If a fishery affects a marine mammal population, then the potential impacts of the fishery must be analyzed in the appropriate EA or EIS, and the Council or NMFS may be requested to consider regulations to mitigate adverse impacts. This action is intended to continue to

establish in regulation specific allocations of BSAI Pacific cod to the various industry sectors, based on the historical harvest distribution (and temporal distribution of that harvest) among sectors. No adverse impacts on marine mammals are anticipated as a result of implementing either of the alternatives, including the preferred alternative.

#### **4.5 Coastal Zone Management Act**

Implementation of either of the alternatives, including the preferred alternative, would be conducted in a manner consistent, to the maximum extent practicable, with the Alaska Coastal Management Program within the meaning of Section 30(c)(1) of the Coastal Zone Management Act of 1972 and its implementing regulations.

#### **4.6 Executive Order 12898**

Executive Order (E.O.) 12898 focuses on environmental justice in relation to minority populations and low-income populations. The EPA defines environmental justice (EJ) as the: "fair treatment for people of all races, cultures, and incomes, regarding the development of environmental laws, regulations, and policies." This executive order was spurred by the growing need to address the impacts of environmental pollution on particular segments of our society. The order (Environmental Justice, 59 Fed. Reg. 7629) requires each Federal agency to achieve environmental justice by addressing "disproportionately high and adverse human health and environmental effects on minority and low-income populations." The EPA responded by developing an Environmental Justice Strategy which focuses the agency's efforts in addressing these concerns.

In order to determine whether environmental justice concerns exist, the demographics of the affected area should be examined to determine whether minority populations and low-income populations are present, and if so, a determination must be made as to whether implementation of the alternatives may cause disproportionately high and adverse human health or environmental effects on these populations. Environmental justice concerns typically embody pollution and other environmental health issues, but the EPA has stated that addressing environmental justice concerns is consistent with NEPA and thus all Federal agencies are required to identify and address these issues.

Pot, hook-and-line, trawl, and jig vessels are owned by persons living throughout Alaska, the Pacific Northwest, and other states in the U.S. Vessel owner residency information for each of the affected sectors is provided in Section 4.1 of this chapter, and a discussion of the relative importance of the BSAI Pacific cod fishery to these regions is in Section 4.1. Note that the number of vessels eligible to fish BSAI Pacific cod is not affected by this action; further data on this issue are provided in Section 3.3.4.

Overall, the population structures of these regions vary considerably, but in the Aleutian Islands and Kodiak regions there are areas with substantial Alaska Native and other minority populations. The city of Kodiak has about 6,334 persons (2000 U.S. Census) and about 46 percent of its population is white. The predominant minority in the city and its surrounding area is Asian/Pacific Islanders (33%), followed by American and Alaska Native (11%). The ethnic composition of the Kodiak Island Borough (population 13,913), which includes the city of Kodiak, Kodiak Station, the unincorporated population, and all named places on Kodiak Island, is similarly structured: 60% white; 17% Asian/Pacific Islander; and 15% Native American/Alaskan Native.

In King Cove (2000 pop. 792), Alaska Natives make up about 47% of the population, with Asian and Pacific Islanders the next largest minority population (27%). In Unalaska, the 2000 U.S. Census reports a

population of 4,283 persons, the majority of which (44%) are white. The remaining composition is about 31% Asian/Pacific Islander; 13% 'other'; 8% Native American/Alaskan; and 4% African American.<sup>141</sup> Akutan's population (2000 pop. 713) is also dominated by minority populations: 39% Asian/Pacific Islander, 20% 'other', and 16% Alaska Native. About 24% of the Akutan population in 2000 was white.

While the relationship of Washington and Oregon to the Alaska groundfish fishery is more involved than some regions of Alaska (in terms of absolute number of jobs), it has been asserted that the fishery is generally less important to or vital for these states than for the Alaskan communities involved. For example, the size of Seattle dilutes the overall impact of the Alaska groundfish fishery jobs, whereas in Alaskan communities such jobs represent a much greater proportion of the total employment in the community (NMFS 2004a, Appendix F). Thus, while the majority of vessel owners that appear eligible to fish BSAI cod report residency in Washington, there are relatively more individual catcher vessels, specifically in the fixed gear fisheries, that are attributed to Alaskan communities than there are catcher processors. It is this distinction, and the minority populations associated with these communities, that would determine whether this action may have any environmental justice impacts.

Finally, the 65 eligible CDQ communities in western Alaska comprise one of the most economically depressed areas of the nation, and thus a major goal of the CDQ Program is to allow these communities to accumulate sufficient capital from fishing activities in the BSAI to generate sustainable, diversified, local economies. All but one eligible community is certified by the Secretary of Interior as a Native village under the Alaska Native Claims Settlement Act. In total, about 87% of the population in these communities is comprised of Alaska Native residents. Because the CDQ Program was specifically designed to foster fishery participation among, and direct fishery benefits toward, minority populations and low-income populations in the economically underdeveloped communities in western Alaska, all of the CDQ communities represented by the six CDQ groups (the directly affected entities) would be considered both low-income and comprised of minority populations under this order.

To the extent that any Federal action negatively impacts the CDQ program and communities, these may be considered environmental justice impacts. The existing conditions of the CDQ region are presented in the Steller Sea Lion Final Supplemental SEIS in Appendix F(4), and additional information relating to environmental justice issues specific to Alaska Native populations is in Section 3.12.2.9 and 2.5.1.4 (November 2001). However, the action proposed in this amendment is an increase in the BSAI Pacific cod allocation to the CDQ Program, thus, this action positively impacts the CDQ Program and the communities that benefit from that program.

The effects of the action under consideration are discussed in Section 3.4.2 and Section 3.4.3 (RIR), and Section 4.3 (IRFA). It is assumed that, absent revised sector allocations (Alternative 1), substantial reallocations of Pacific cod quota would continue to be necessary among gear sectors to ensure there is no foregone harvest. Under the proposed action (Alternative 2), those reallocations are expected to be reduced, as the initial allocations would be modified to reflect actual retained catch by sector, including reallocated quota. Because the action would reflect historical harvests by sector, it is not expected that this action would significantly affect one sector relative to another, nor would historical delivery patterns by vessels delivering to shoreside processing plants be significantly affected. In addition, under Alternative 1, the CDQ BSAI Pacific cod allocation would remain at status quo, while under Alternative 2, this allocation would increase.

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<sup>141</sup>In the 2000 U.S. Census, the 'other' category represents 'some other race' other than the four primary races listed and 'two or more races.'

The action proposed in this amendment is to modify the current Pacific cod allocations among the BSAI industry sectors, based on the historical distribution of harvest among sectors, including an increased allocation to the CDQ Program. Thus, regardless of whether one sector would receive an economic benefit upon approval of this action relative to the status quo, the alternatives do not appear to have any significant individual or cumulative environmental or human health effects. Thus, no distinct population, minority or otherwise, should be affected in this regard.

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## Appendix A: Participation patterns within the sectors

In addition to the number of vessels and their aggregate retained catch by sector, information on participation is important to consider. Tables that represent each vessel's participation history by sector during 1995 – 2003 are provided in this appendix. A separate table is provided for each sector under consideration; the shaded cells in the tables represent participation in that year. The column on the left side of the table represents the number of years out of the nine-year period that the vessels had retained BSAI Pacific cod harvests in 1995 – 2003. The two columns on the far right side of the table report the number of unique vessels that are represented by that particular participation pattern. The first right side column reports the total number of unique vessels that generated that particular participation pattern; the next right side column reports the number of unique vessels that generated that particular participation pattern and whose history is also associated with an LLP. Note that the vessels shown in the LLP column may not have an LLP for *both* the BS and AI subareas, and they may not necessarily have generated an LLP for an area in which they fished. For example, vessels that harvested Pacific cod in the AI but only received an LLP with a BS endorsement would be included in the LLP column.

Note also that the last two rows of each table provides the unique number of vessels that participated in *each* year during 1995 - 2003. These rows provide both the total number of vessels and the number that that participated and whose history is associated with an LLP. Note also that these tables represent participation patterns by all vessels that retained BSAI Pacific cod, whether that harvest was in Federal or State waters.

Note that several important issues were being considered by the Council that would affect Pacific cod vessels during this time period. The first was the LLP. Qualifying years for LLP area endorsements were January 1, 1992 through June 17, 1995. The second issue was the BSAI Pacific cod TAC split among the fixed, trawl, and jig gear sectors, which was scheduled to sunset on December 31, 1996. The Council made its final decision on this amendment (Am. 46) during the June 1996 meeting. The third issue was the BSAI Pacific cod TAC split among the fixed gear sectors, approved by the Council in October 1999. Finally, the Council made a decision on the Pacific cod endorsement for the  $\geq 60'$  fixed gear sectors in April 2000. These actions may have provided incentive for vessels to fish in a manner that they would not have otherwise. However, it is not possible to determine exactly how or whether participation patterns were influenced by these amendments. It is clear that the first and last year for LLP endorsement qualification were years that many vessels fishing in just one year participated. This trend is consistent across the fixed gear sectors.

Table A. 1 provides participation patterns for the **AFA trawl CV** sector. This sector exhibited a consistent number of vessels that had retained BSAI Pacific cod harvests during this time period. Overall, 91 – 99 vessels harvested cod each year, and only one vessel was not associated with an LLP. Thus, almost 100% of the harvests were made by AFA trawl CVs that have LLPs.

Table A. 2 provides participation patterns for the **non-AFA trawl CV** sector. This sector also exhibited a fairly consistent number of vessels that had retained BSAI Pacific cod harvests during this time period. Overall, 9 – 22 vessels harvested cod each year, and half of the total number of unique vessels that participated during this nine-year period were not associated with an LLP. However, nearly 81% of the cod harvests made during this time period were by non-AFA trawl CVs that have LLPs.

Table A. 3 provides participation patterns for the  **$\geq 60'$  hook-and-line CV** sector. Overall, 3 – 19 vessels harvested cod each year, and 32 of the 46 total unique vessels that participated during this nine-year period were associated with an LLP. In addition, about 97% of the cod harvests made during this time period were by  $\geq 60'$  hook-and-line CVs that have LLPs.

Table A. 4 provides participation patterns for the **≥60' pot CV** sector. This sector exhibited a fairly broad range of participants annually during 1995 – 2003, from 54 to 110. Overall, about two-thirds of the total number of unique vessels that participated during this nine-year period were associated with an LLP, and those vessels represent almost 90% of the cod harvests made during this period.

Table A. 5 provides participation patterns for the **<60' pot/hook-and-line CV** sector. This sector had a range of 11 to 41 participants each year during 1995 – 2003. Overall, about one-third of the total number of unique vessels that participated during this nine-year period was associated with an LLP, however, harvests by those LLP vessels represent about 79% of the total retained cod harvest by this sector.

Table A. 6 provides participation patterns for the **jig CV** sector. Similar to the <60' fixed gear sector, the jig sector had a range of 10 to 42 participants each year during 1995 – 2003. Overall, about 29% of the total number of unique vessels that participated during this nine-year period were associated with an LLP, and harvests by those LLP vessels represent about 42% of the total retained cod harvest by this sector. Note that of all affected sectors, only the jig sector is exempt from the LLP requirement in Federal waters (vessels that do not exceed 60' LOA, and that are using no more than 5 jig machines, one line per machine, and 15 hooks per line are exempt from the LLP requirements in the BSAI.)

Table A. 7 shows participation patterns for the **AFA trawl CP** sector. This sector had a range of 8 to 14 vessels that had retained BSAI Pacific cod harvests annually during this time period, all of which were associated with an LLP. Thus, 100% of the harvests made during this time period by the AFA trawl CP sector were made by vessels associated with an LLP. **Table A.8** is provided for the **AFA 9**. Recall that these are the nine trawl CPs that may no longer participate in United States fisheries under the AFA provisions. During the four years considered in which these vessels operated prior to the AFA (1995 – 1998), between 6 and 7 vessels participated each year. Clearly, none of the vessels in the AFA 9 generated an LLP.

Table A. 9 is provides participation patterns for the **non-AFA trawl CP** sector. This sector also exhibited a fairly consistent number of vessels that had retained BSAI Pacific cod harvests during this time period. Overall, 22 – 30 vessels harvested cod each year, and 35 of the 41 unique vessels and almost 100% of the retained Pacific cod harvests during this nine-year period were associated with an LLP.

Table A. 10 is provided for the **pot CP** sector. This sector had a range of 3 – 13 vessels with retained Pacific cod harvests each year during 1995 – 2003. Of the 26 unique pot CPs that had retained cod harvests during this period, 18 were associated with an LLP. Nearly 96% of the retained cod harvests by this sector were made by vessels associated with an LLP.

Table A. 11 is provided for the **hook-and-line CP** sector. Each year during 1995 – 2003, the hook-and-line CP sector had a range of 37 – 43 vessels with retained BSAI Pacific cod harvests. Overall, 59 of the 66 unique vessels that participated during this nine-year period were associated with an LLP, comprising nearly 100% of the retained cod harvested by this sector.

**Table A. 1 Participation patterns of the AFA trawl CV sector in the BSAI Pacific cod fishery, 1995 - 2003**

Years fished	1995	1996	1997	1998	1999	2000	2001	2002	2003	All vessels	LLP only
1				■						1	0
3	■	■			■					1	1
3			■	■	■					1	1
4	■		■	■	■					1	1
4		■					■	■	■	1	1
4				■			■	■	■	1	1
4	■	■	■	■	■	■	■	■	■	1	1
5	■	■			■			■	■	1	1
5			■					■	■	1	1
5		■	■	■	■	■		■	■	1	1
5	■	■	■	■	■	■		■	■	1	1
5		■	■	■	■	■		■	■	1	1
6	■	■	■	■	■	■		■	■	1	1
6			■				■			1	1
6	■	■	■	■	■	■		■	■	2	2
6		■	■	■	■	■		■	■	1	1
6	■	■	■	■	■	■		■	■	1	1
6		■	■	■	■	■		■	■	1	1
7	■	■	■	■	■	■		■	■	3	3
7	■	■	■	■	■	■		■	■	1	1
7			■						■	1	1
7	■	■	■	■	■	■		■	■	1	1
7		■	■	■	■	■		■	■	1	1
7	■	■	■	■	■	■		■	■	1	1
7		■	■	■	■	■		■	■	2	2
8	■	■	■	■	■	■		■	■	5	5
8							■	■	■	1	1
8							■	■	■	1	1
8					■				■	2	2
8					■				■	2	2
8		■	■	■	■	■		■	■	3	3
8		■	■	■	■	■		■	■	1	1
8	■	■	■	■	■	■		■	■	7	7
9	■	■	■	■	■	■		■	■	58	58
Total # unique vessels by year	91	99	92	93	99	98	98	97	91	109	108
LLP only	91	99	92	92	99	98	98	97	91		

Source: ADF&G fishtickets, 1995 - 2003.

**Table A. 2 Participation patterns of the non-AFA trawl CV sector in the BSAI Pacific cod fishery, 1995 – 2003**

Years fished	1995	1996	1997	1998	1999	2000	2001	2002	2003	All vessels	LLP only
1	■									3	2
1		■								5	3
1			■							1	0
1				■						2	2
1					■					2	1
1						■				4	0
1							■			3	0
1								■		3	0
1									■	6	3
2							■			1	0
2								■	■	2	1
2	■	■								2	2
2	■			■						1	1
2		■								1	0
2		■				■				1	1
2			■	■						1	0
2					■		■			1	0
3						■		■	■	1	0
3							■	■	■	2	1
3				■		■				1	1
3		■	■					■		1	0
4			■		■			■	■	2	2
4				■					■	1	1
4		■					■		■	1	0
5	■	■		■	■					1	1
5			■					■	■	1	1
8			■		■	■	■	■	■	1	1
9				■	■	■	■	■	■	3	3
Total # unique vessels by year	12	17	9	12	11	11	13	18	22	54	27
LLP only	11	12	6	10	9	6	6	10	14		

Source: ADF&G fishtickets, 1995 - 2003.

**Table A.3 Participation patterns of the ≥60' hook-and-line CV sector in the BSAI Pacific cod fishery, 1995 – 2003**

Years fished	1995	1996	1997	1998	1999	2000	2001	2002	2003	All vessels	LLP only
1	■									1	1
1		■								4	3
1			■							2	1
1				■						5	3
1					■					5	2
1						■				3	2
1							■			1	1
1								■		1	1
2	■		■							1	1
2	■			■						1	1
2				■	■	■				2	1
2					■	■	■			1	0
2					■	■	■	■		1	1
2						■	■	■	■	3	3
2							■	■		1	1
3	■				■	■	■			1	1
3	■					■	■	■		1	0
3			■	■		■	■	■		1	0
3						■	■	■	■	1	1
3					■	■	■	■	■	1	1
3	■					■	■	■	■	1	1
4	■				■	■	■		■	1	1
4		■	■	■		■	■			1	1
4			■	■		■	■	■		1	0
4				■		■	■	■		1	1
4					■	■	■	■	■	1	0
5	■		■	■		■	■	■	■	1	1
5		■	■	■		■	■	■		1	1
5				■	■	■	■	■	■	1	1
Total # unique vessels by year	7	7	10	3	18	19	19	6	6	46	32
LLP only	6	5	8	3	11	12	13	5	6		

Source: ADF&G fishtickets, 1995 - 2003.

**Table A. 4 Participation patterns of the  $\geq 60'$  pot CV sector in the BSAI Pacific cod fishery, 1995 – 2003**

Years fished	1995	1996	1997	1998	1999	2000	2001	2002	2003	All vessels	LLP only
1	1									18	14
1		1								11	5
1			1							2	0
1				1						11	2
1					1					7	2
1						1				11	4
1							1			1	1
1								1		1	1
1									1	3	1
2	1	1								4	3
2		1	1							1	1
2			1	1						1	1
2				1		1				10	8
2									1	1	1
2	1	1	1							2	0
2		1	1			1				2	1
2			1				1			1	0
2				1	1				1	2	1
2				1	1	1				4	1
2					1	1	1			10	2
2						1			1	1	1
2								1	1	1	0
3	1	1	1							2	1
3		1			1					1	1
3			1	1		1				2	2
3			1	1						1	0
3				1	1					2	2
3					1		1			2	2

**Table A.4 continued**

Years fished	1995	1996	1997	1998	1999	2000	2001	2002	2003	All vessels	LLP only
3	■				■	■				1	1
3		■	■	■						1	1
3		■	■		■					1	0
3		■				■				1	1
3		■					■			1	1
3		■				■		■		1	0
3			■	■	■					1	0
3			■			■				1	0
3								■	■	1	0
4	■	■	■		■					1	0
4	■	■				■				2	1
4				■	■					2	2
4					■		■			1	0
4						■				2	2
4									■	1	1
4	■		■		■	■				2	2
4	■				■	■			■	1	1
4	■				■	■	■	■		1	1
4	■						■	■		1	1
4		■	■			■				1	0
4			■						■	1	1
4		■			■		■			1	0
4			■	■	■	■				1	0
4			■					■	■	1	1
4			■	■	■	■		■		1	1
4	■	■	■	■	■	■				1	0
5	■	■	■			■				1	1
5	■	■	■			■				1	1
5	■	■	■		■	■		■		1	1
5	■	■	■	■	■	■	■	■		1	1
5	■			■	■	■				2	2
5		■	■				■		■	1	1
5		■		■				■		1	0
5					■				■	1	1
5					■			■	■	3	3



**Table A.5 Participation patterns of the <60' fixed gear CV sector in the BSAI Pacific cod fishery, 1995 – 2003**

Years fished	1995	1996	1997	1998	1999	2000	2001	2002	2003	All vessels	LLP only
1	■									24	14
1		■								6	2
1			■							8	2
1				■						7	0
1					■					6	0
1						■				15	1
1							■			17	3
1								■		9	2
1									■	12	4
2	■	■								8	5
2	■		■							1	1
2	■				■					1	1
2	■						■			1	0
2					■	■				4	0
2					■			■		1	0
2						■	■			7	1
2							■	■		3	1
2								■	■	4	1
3	■			■					■	1	1
3		■	■			■				1	1
3			■	■	■					1	0
3				■	■	■				1	0
3					■		■		■	1	1
3						■	■		■	1	1
3							■	■		2	1
3			■			■		■	■	2	2
4			■				■		■	1	1
4					■		■		■	1	1
4	■					■	■		■	2	1
5		■		■	■			■		1	1
5			■	■	■	■		■		1	1
5	■		■			■		■	■	1	0
7	■				■	■	■	■	■	1	1
Total # unique vessels by year	38	16	13	11	20	38	41	30	25	152	51
LLP only	24	9	6	2	6	9	14	15	13		

Source: ADF&G fishtickets, 1995 - 2003.

**Table A. 6 Participation patterns of the jig CV sector in the BSAI Pacific cod fishery, 1995 – 2003**

Years fished	1995	1996	1997	1998	1999	2000	2001	2002	2003	All vessels	LLP only
1	■									26	17
1		■								13	1
1			■							3	0
1				■						6	0
1					■					7	0
1						■				9	0
1							■			10	1
1								■		7	2
2	■	■								6	3
2		■	■							2	0
2				■			■			1	0
2					■	■				1	0
2						■	■			2	0
2								■	■	3	1
3	■	■	■							1	1
3		■						■	■	1	1
3		■	■	■						1	0
3			■		■	■				1	0
3					■	■	■			1	0
4	■	■	■	■						1	0
4		■				■				1	1
4	■			■			■	■		1	1
4		■	■	■				■		1	0
5	■	■	■	■	■					1	0
5					■				■	1	0
6					■	■	■			2	1
7	■	■	■				■			1	1
7		■	■	■	■	■		■		1	1
8									■	1	0
Total # unique vessels by year	42	34	17	10	15	16	19	18	15	112	32
LLP only	26	9	5	4	3	4	3	5	4		

Source: ADF&G fishtickets, 1995 - 2003.

**Table A. 7 Participation patterns of the AFA trawl CP sector in the BSAI Pacific cod fishery, 1995 – 2003**

Years fished	1995	1996	1997	1998	1999	2000	2001	2002	2003	All vessels	LLP only
1	■									2	2
1				■						1	1
1					■					1	1
2	■	■								1	1
2				■				■		1	1
3				■				■	■	1	1
4	■	■		■						1	1
4				■		■		■		1	1
5	■	■		■	■					1	1
6				■			■	■		1	1
6				■		■	■	■	■	1	1
7					■	■	■			1	1
8	■	■		■	■			■	■	6	6
unique vessels by year	14	12	11	13	11	8	8	11	10	19	19
LLP only	14	12	11	13	11	8	8	11	10		

Source: Weekly processors reports, 1995 – 2003.

**Table A. 8 Participation patterns of the AFA 9 (trawl CP) sector in the BSAI Pacific cod fishery, 1995 – 2003**

Years fished	1995	1996	1997	1998	1999	2000	2001	2002	2003	All vessels	LLP only
1			■							1	0
2	■		■	■						1	0
3	■	■	■	■						1	0
4	■	■	■	■						5	0
Total # unique vessels by year	6	6	7	7	0	0	0	0	0	8	0
LLP only	0	0	0	0	0	0	0	0	0		

Source: Weekly processors reports, 1995 – 2003.

**Table A. 9 Participation patterns of the non-AFA trawl CP sector in the BSAI Pacific cod fishery, 1995 – 2003**

Years fished	1995	1996	1997	1998	1999	2000	2001	2002	2003	All vessels	LLP only
1									■	1	1
1	■									4	3
1		■								1	0
1			■							4	0
2	■	■								3	3
3	■	■	■							3	3
4	■	■	■	■						1	1
5					■	■	■	■	■	1	1
5	■	■								1	1
6			■	■	■		■	■		1	1
7		■							■	1	1
7	■	■					■	■		1	1
9	■	■	■	■	■	■	■	■	■	19	19
Total # unique vessels by year	33	30	30	23	24	23	22	22	23	41	35
LLP only	32	29	26	23	24	23	22	22	23		

Source: Weekly processors reports, 1995 – 2003.

**Table A. 10 Participation patterns of the pot CP sector in the BSAI Pacific cod fishery, 1995 – 2003**

Years fished	1995	1996	1997	1998	1999	2000	2001	2002	2003	All vessels	LLP only
9										1	1
6										1	1
8										1	1
5										1	1
5										1	1
4										1	1
1										2	0
3										1	0
3										1	1
1										5	2
4										1	1
2										1	1
1										1	1
3										1	1
1										1	0
4										1	1
2										1	1
1										2	1
3										1	1
2										1	1
Total # unique vessels by year	8	13	9	8	13	10	5	5	3	26	18
LLP only	6	9	8	7	12	9	5	5	3		

Source: Weekly processors reports, 1995 – 2003.

**Table A. 11 Participation patterns of the hook-and-line CP sector in the BSAI Pacific cod fishery, 1995 – 2003**

Years fished	1995	1996	1997	1998	1999	2000	2001	2002	2003	All vessels	LLP only
1	■									6	4
1		■								1	1
1			■							2	2
1				■						1	1
1					■					3	1
1						■				2	0
2	■	■								5	5
2			■	■						1	1
2				■	■	■				1	0
2								■	■	2	2
3	■	■	■							1	1
3							■	■	■	2	2
4	■	■	■	■						1	1
4		■	■		■		■			1	1
4						■	■	■	■	1	1
5				■	■	■	■		■	1	1
6									■	2	2
7	■	■	■					■		1	1
7					■			■	■	1	1
7	■	■						■	■	3	3
8	■	■		■						2	2
9	■	■		■						26	26
Total # unique vessels by year	43	39	37	38	38	41	42	40	39	66	59
LLP only	41	39	37	38	37	38	40	40	39		

Source: Weekly processors reports, 1995 – 2003.

**Appendix B:** Letter from J. Balsiger, Administrator, Alaska Region, NOAA Fisheries to C. Oliver, Executive Director, North Pacific Fishery Management Council. May 23, 2005.



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**

*National Marine Fisheries Service*

*P.O. Box 21668*

*Juneau, Alaska 99802-1668*

May 23, 2005

Mr. Chris Oliver  
Executive Director  
North Pacific Fishery Management Council  
605 W. 4<sup>th</sup> Street, Suite 306  
Anchorage, Alaska 99501-2252

Dear Mr. Oliver:

Thank you for your letter regarding the proposed changes to the Pacific cod fishery in the Bering Sea and Aleutian Islands (BSAI). NMFS has reviewed the draft discussion paper dated June 2005, and the North Pacific Fishery Management Council (Council) motion dated April 8, 2005, and offers the following preliminary comments specific to requirements for consultation under section 7 of the ESA.

The Pacific cod fisheries in the BSAI have undergone formal section 7 consultation in 2001 (2001 Biological Opinion) and informal consultation on changes to the fixed gear fisheries in 2003 (informal consultation on Amendment 77 to the Fishery Management Plan for Groundfish of the BSAI). These consultations considered a complex Pacific cod fishery in which roll-overs occur between seasons and between gear types under specific scenarios. This fishery was further considered in the Supplement (dated June 19, 2003) to the 2001 Biological Opinion, which evaluated the performance of the fishery in relation to the fishery regulations and the proposed action considered in 2001.

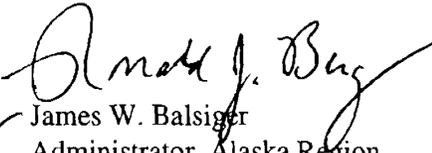
The concept being proposed would effectively implement in regulation the observed fishery as it has occurred given roll-overs between seasons and gear types. Table 9 of the discussion paper provides one proposal for achieving the Council's goal as described in the Council's motion (April 8, 2005). After review of this conceptual approach, our preliminary response is that the proposal in Table 9 is unlikely to trigger a formal re-consultation. Because there would be no change to the actual fishery as it currently occurs, no effects to listed species under the ESA would be expected. This action appears to be merely a re-allocation of Total Allowable Catch (TAC) to a gear type that already effectively harvests those fish under the roll-over scenario. Although the apportionments by gear type and the allocations by season would change from the specific numbers considered in previous consultations, the proposed approach would be crafted in such a way as to maintain the relative portion of the TAC taken by gear and season as is currently observed and has been considered in previous consultations.

In summary, we would anticipate no effects to listed species (e.g., the western distinct population segment of Steller sea lions) or the designated critical habitat based on the Council's proposed



approach under the scenario described above. However, if an approach were adopted that modified the proportion of TAC harvested by gear type and season, such as is described in Table 5 of the discussion paper, further consultation may be necessary.

Sincerely,

  
For James W. Balsiger  
Administrator, Alaska Region



## Appendix C: Market Conditions for Pacific Cod

As part of an ongoing contract with the Council, Gunnar Knapp with the Institute of Social and Economic Research (ISER) at the University of Alaska Anchorage is analyzing market information for Pacific cod. This project is not complete, but an interim summary report titled, "Selected Market Information for Pacific Cod" was provided to the Council in January. At the February Council meeting, a portion of this report was presented to the SSC as part of the overview of Amendment 85. While it is not anticipated that actions being considered under Amendment 85 will specifically be affected by market conditions, this information is included as an appendix to Amendment 85 as information on the general market conditions for Pacific cod.

The portions of the report receiving the most interest relate to the product form and export trends for Pacific cod. The attached report provides a sequence of data as follows:

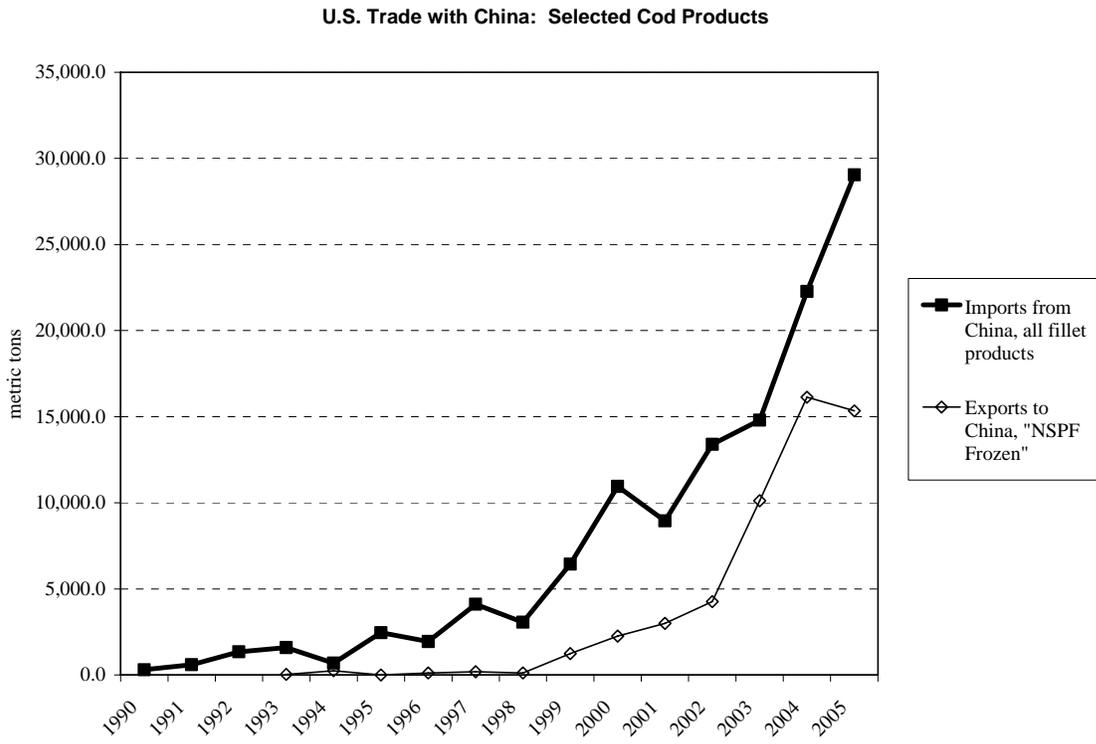
- Figure 7 shows the proportion of frozen (headed and gutted) cod to be steadily increasing from 1995 through 2004. The overall amount of exported cod has also increased.
- Figure 8 suggests that a high proportion of total U.S. exports of cod are frozen (presumably headed and gutted product).
- Figure 9 show an increasing convergence between headed and gutted production in the U.S. with total exports of frozen cod (currently over 90 percent). This suggests that almost all headed and gutted Pacific cod is being exported.
- Figures 11 and 12 show a trend (since 2001) of declining exports of Pacific cod fillets as a share of total U.S. production. The production of Pacific cod fillets have been declining in the U.S. since 1997 and the proportion of the fillet production exported has recently decreased.
- Figures 13 and 14 show that China has received an increasing share of U.S. exports of frozen cod since 1999.
- Figure 18 estimates the U.S. consumption of Pacific cod fillets. Over the period from 1995-2004, the proportional share from imported fillets has increased steadily to become the major source for Pacific cod fillet consumption in the U.S.

Following the February meeting, additional information was gathered to 'close the loop' on the cycle of Pacific cod exports and imports that are outlined above. Specifically, the following graph (Figure C-1) was added to show China's imports and exports of cod with the U.S. As can be noted from the figure, China's exports of cod fillets to the U.S. are larger than the amount they are importing as headed and gutted frozen cod from the U.S. This suggests that most of the exports from the U.S. may be imported back to the U.S. after being reprocessed. It also appears as if cod from other countries is being exported to the U.S., since the imports from China are greater than the amount of cod they receive from the U.S.

In sum, the market trend for Pacific cod is for frozen headed and gutted product to be exported by all sectors of the industry (shorebased processors and catcher processors). The exported headed and gutted cod is being reprocessed into fillets (and other products) and imported by the U.S. This trend suggests an industry shift away from 'value-added' processing at U.S. processing plants (shorebased or catcher processors) in favor of reprocessing in China and other overseas nations.

The preliminary report is attached. Questions and comments on this information are encouraged. Please contact either the Council staff or Gunnar Knapp at ISER.

**Figure C-1**



Source: NOAA Fisheries, at <http://www.st.nmfs.gov/st1/index.html>. Graph by ISER.

## **SELECTED MARKET INFORMATION FOR PACIFIC COD**

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January 12, 2006

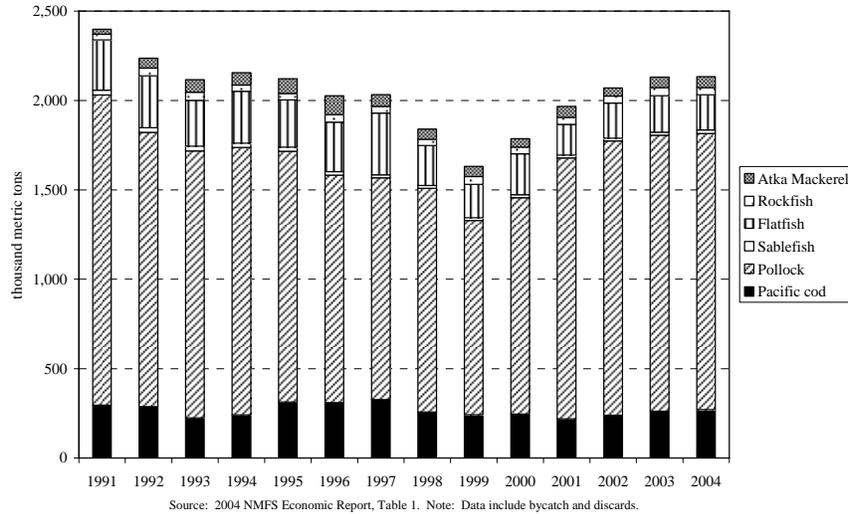
*Note: This document includes selected materials from a report entitled  
“Overview of Markets for Pacific Cod” which is in preparation for the  
North Pacific Fisheries Management Council.*

## Economic Significance of Pacific Cod

Pacific cod (*Gadus macrocephalus*) is an important North Pacific groundfish species. Between 2000 and 2004, annual harvests of Pacific cod off Alaska ranged between 218 and 271 thousand metric tons, and accounted for 12% of the volume of the groundfish catch off Alaska.

**Figure 1**

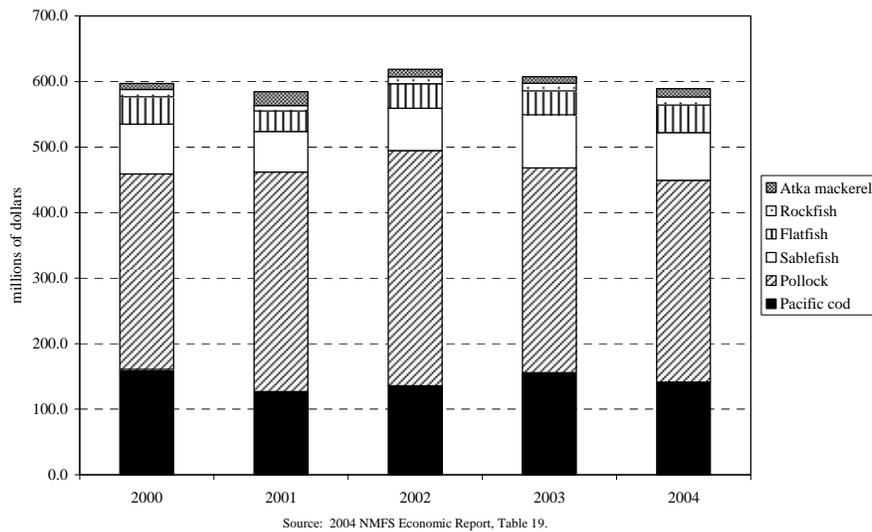
Groundfish Catch in Commercial Fisheries off Alaska, by Species, 1991-2004



During these years, the annual ex-vessel value of Pacific cod harvests was between \$127 million and \$161 million, and accounted for 24% of the ex-vessel value of the groundfish catch off Alaska.

**Figure 2**

Ex-Vessel Value of Groundfish Catch off Alaska, by Species, 2000-2004



## Pacific Cod vs. Atlantic Cod

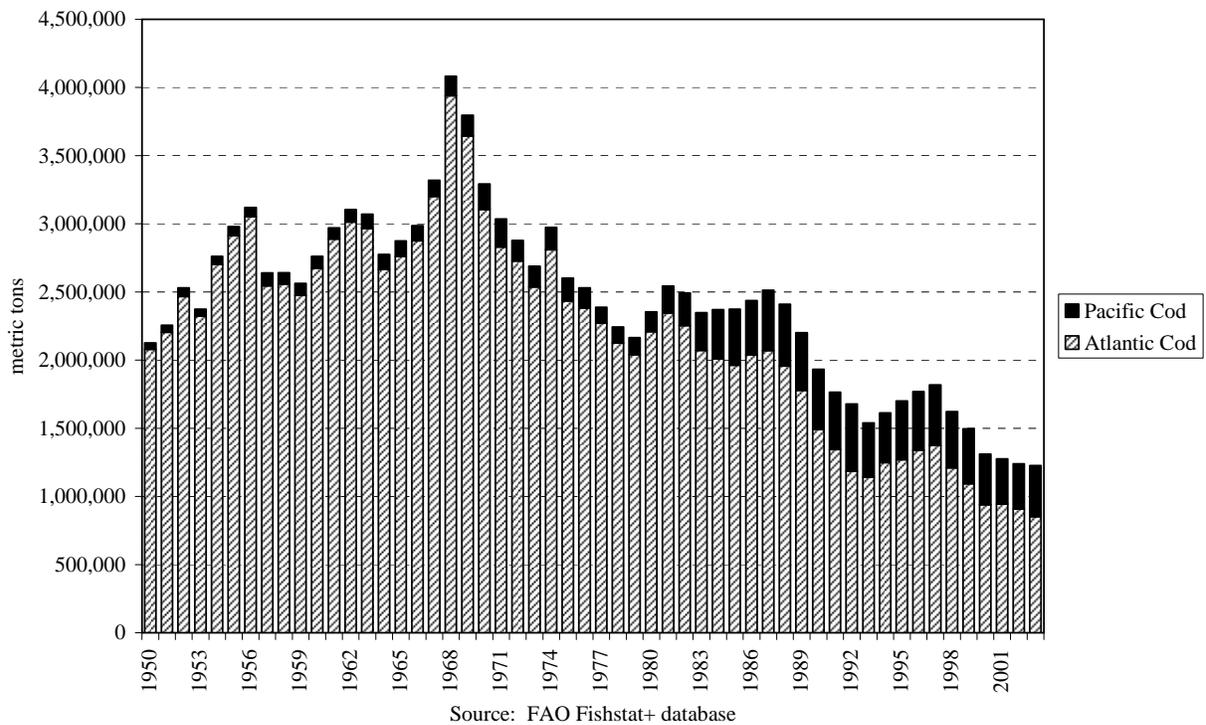
Pacific cod (*Gadus macrocephalus*) is one of the two cod species of commercial importance in the world. The other is Atlantic cod (*Gadus morhua*).

Prior to the 1980s, world harvests of Atlantic cod greatly exceeded harvests of Pacific cod. For most of the 1960s and 1970s, annual world harvests of Atlantic cod exceeded 2.5 million metric tons, while annual harvests of Pacific cod were less than 200 thousand metric tons. However, after peaking in 1969, Atlantic cod harvests began a long and dramatic decline, falling to 850 thousand metric tons by 2003.

Beginning in the 1980s, Pacific cod harvests increased dramatically to between 350 and 450 thousand metric tons for most of the past 20 years. As a result, Pacific cod harvests, while still lower than Atlantic cod harvests, have in recent years represented about one-fourth to one-third of total world cod supply.

Figure 3

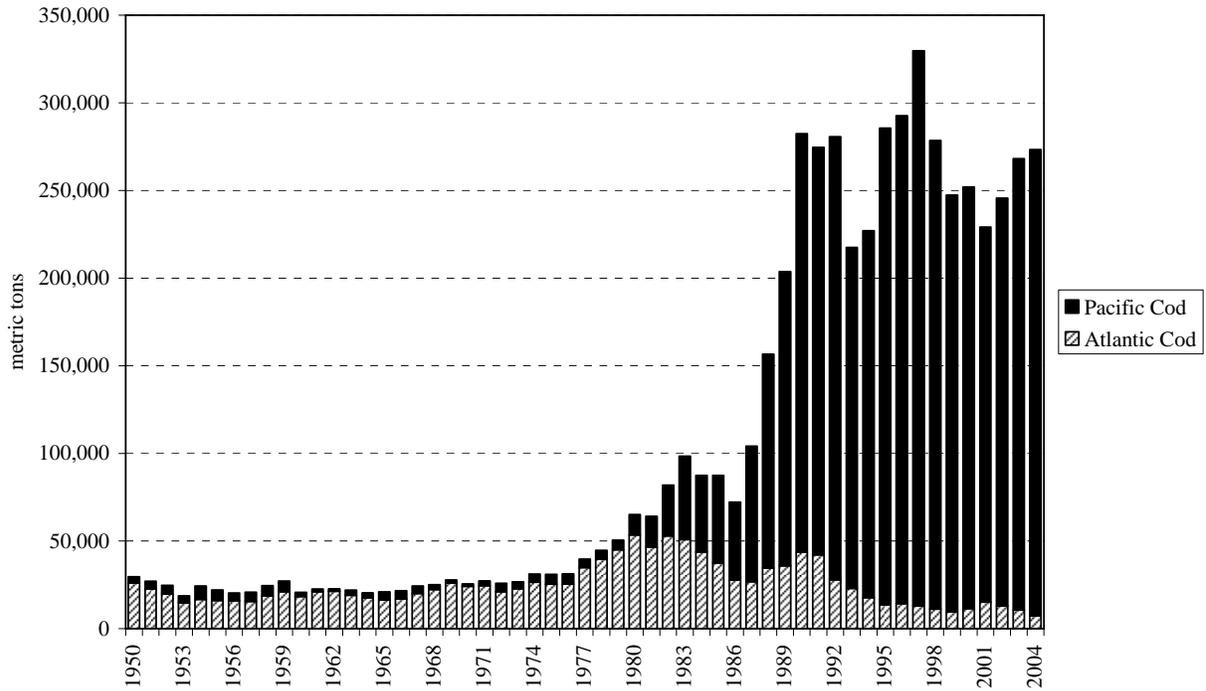
World Harvests of Atlantic and Pacific Cod



The United States has experienced an even more dramatic relative shift in harvests of Atlantic and Pacific Cod. Although historically, the United States accounted for only a small share of world Atlantic cod harvests, prior to 1980, Atlantic cod accounted for almost all of U.S. cod harvests. With the dramatic decline in U.S. Atlantic cod harvests from more than 50,000 metric tons in 1980 to less than 10,000 metric tons in 2004, and the rapid increase in Pacific Cod harvests to more than 200,000 metric tons annually since 1990, Pacific cod now dominates U.S. cod harvests, accounting for more than 95% of U.S. domestic cod harvests. More than 99% of U.S. Pacific cod harvests are from Alaska waters.<sup>1</sup>

**Figure 4**

**United States Harvests of Atlantic and Pacific Cod**



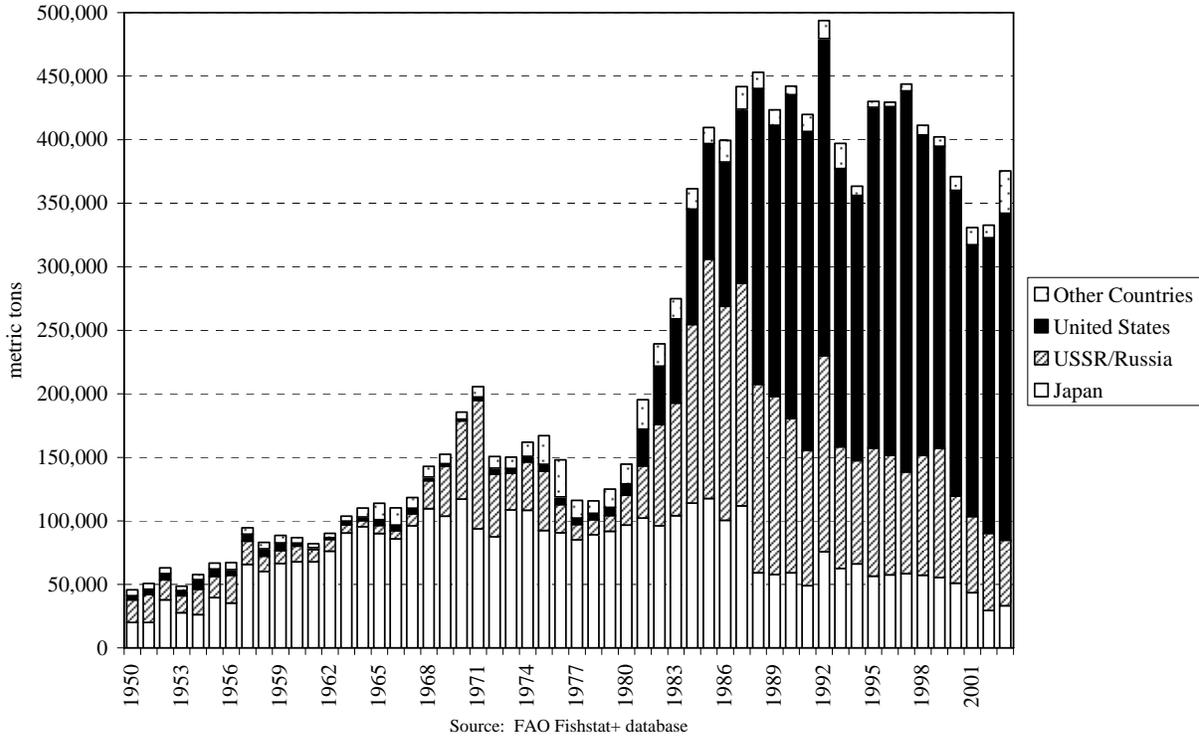
Source: NMFS Commercial Landings Data

<sup>1</sup> NMFS Commercial Landings data.

Until the 1980s, Japan accounted for most of the world harvests of Pacific Cod. In the 1980s harvests of both the USSR and the United States increased rapidly. Since the late 1980s harvests of both Japan and the USSR/Russia have fallen by about half, while U.S. harvests have increased. As a result, the United States now accounts for more than two-thirds of world Pacific Cod supply.

**Figure 5**

**World Harvests of Pacific Cod, by Country**

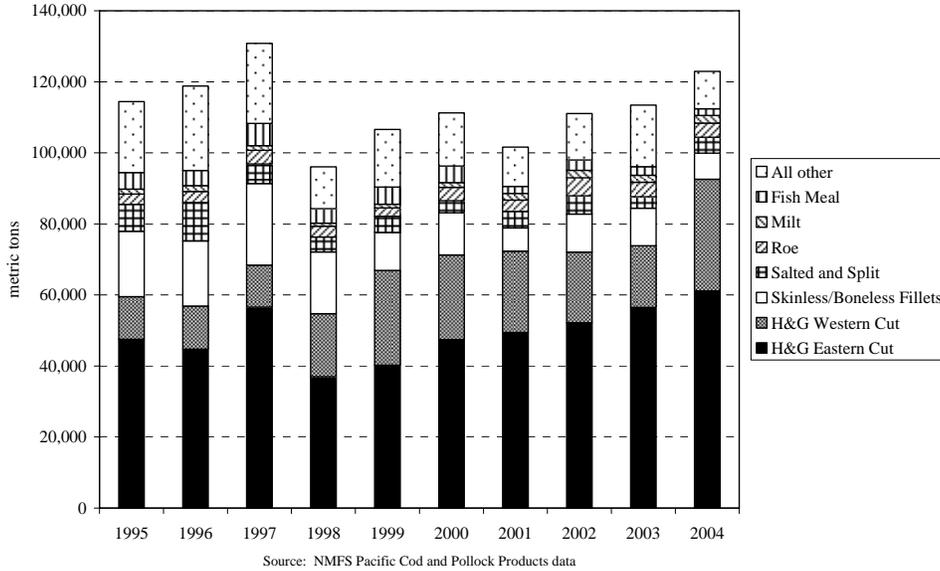


## Pacific Cod Production

Headed and gutted (H&G) fish account for by far the largest share of Alaska Pacific cod production. This share has been increasing over time, from just over 50% in 1995 to more than 70% in 2004. Over the same period, the product share of skinless-boneless fillets has declined from more than 15% to about 5%.

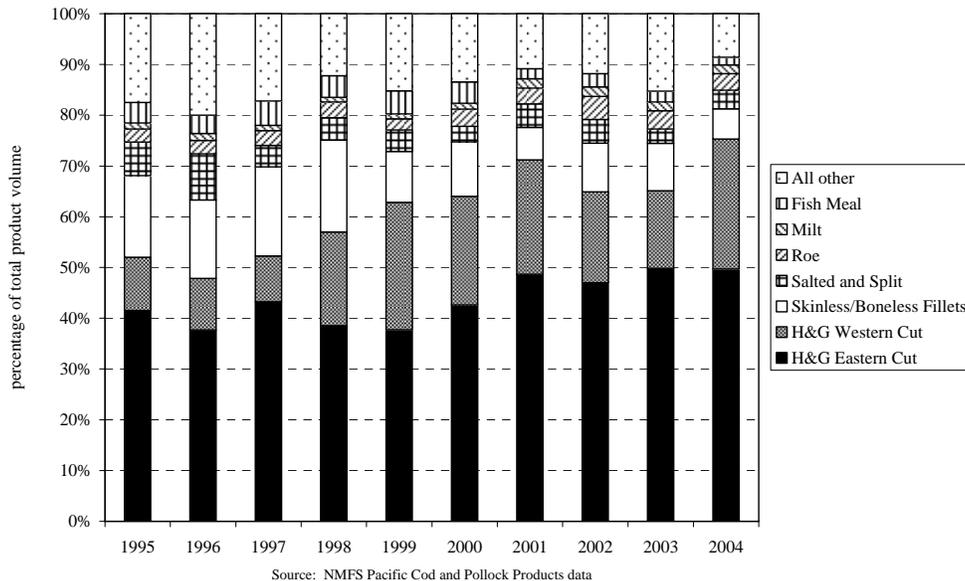
**Figure 6**

Alaska Pacific Cod Production, by Product



**Figure 7**

Share of Alaska Pacific Cod Production Volume, by Product



## Description of Pacific Cod Products from Trident Seafood Website

### Pacific Cod

**Shatterpack Fillets** are processed at Trident's strategically located shore-based or floating processing plants. Here, the cod trawler fleet delivers fish to the plant within hours of harvest. At this point the fish is headed, eviscerated, and filleted into a skinless, boneless fillet. Each fillet is inspected and "candled" to detect any visible nematodes, bruising, gaping or any other defects. The fillets are then layered into a shatterpack pan. Each fillet is separated from the next by a blue poly liner. The liner prevents fillets from bonding together. This shatterpack is then frozen in a plate freezer. A shatterpack has a net weight of 15 pounds and is preferred by some operators due to the density of the pack, which takes up less room than the IQF form.



**Cod Loins, Center Cuts and Tails** are cut from cod fillets and are graded by the ounce in 4, 5, 6, 7, 8, 9 sizes. Each particular cut is suited to specific cooking and serving applications. These portions are plate-ready.

**Cod Fillet Blocks** are made by taking boneless, skinless cod fillets and layering them into a 16.5 pound cardboard-lined block. This block is then frozen in a plate freezer. Most blocks will be used for further processing into products such as breaded portions or sticks.

**Minced Cod Blocks** are made using small boneless, skinless small fillets, or pieces of fillets that have been put through a mincing process and then formed into a 16.5 pound cardboard-lined block. This block is then frozen in a plate freezer. Most minced blocks will be used for further processing into products such as minced fish sticks or nuggets.

Source: Trident Seafoods Website: [www.tridentseafoods.com](http://www.tridentseafoods.com)

## United States Cod Exports

U.S. trade data do not distinguish between Atlantic and Pacific cod. Exports of both species are coded as “Cod.” However, given the preponderance of Pacific Cod in total landings, it is likely that exports are also overwhelmingly Pacific Cod.

The only “Cod” product categories in U.S. fisheries trade data are the following:

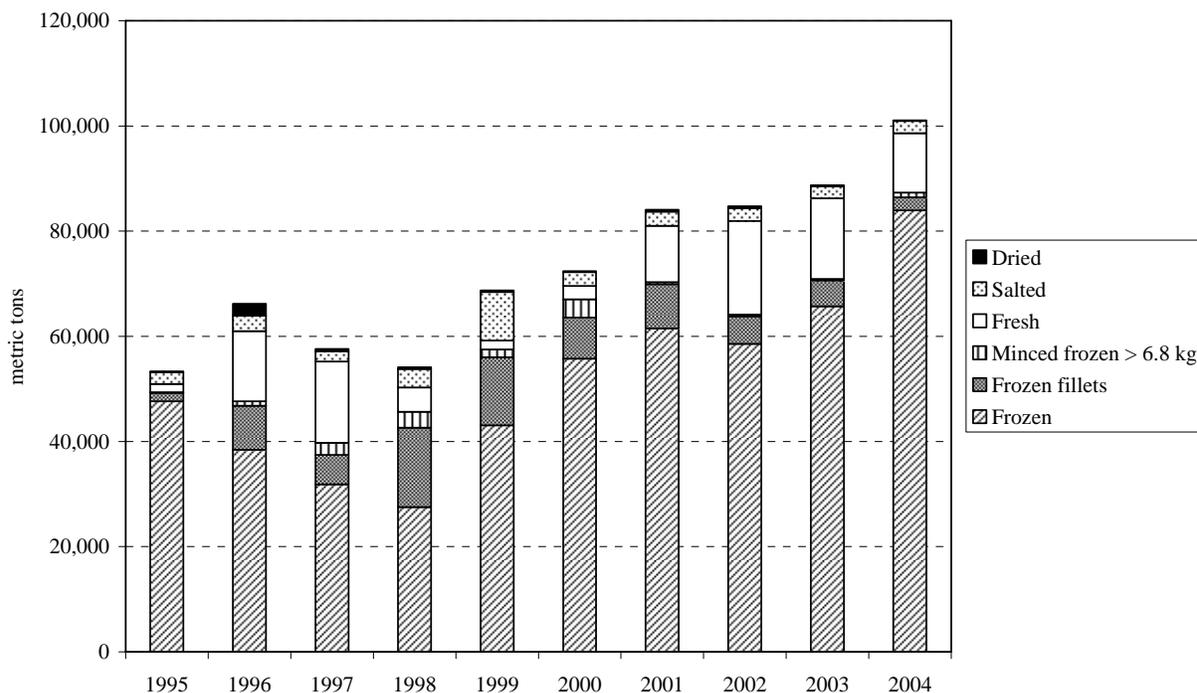
GROUND FISH COD NSPF DRIED  
 GROUND FISH COD NSPF FILLET FROZEN  
 GROUND FISH COD NSPF FRESH  
 GROUND FISH COD NSPF FROZEN  
 GROUND FISH COD NSPF MINCED FROZEN > 6.8KG  
 GROUND FISH COD NSPF SALTED

Exports are dominated by “frozen” cod (excluding frozen fillets and frozen minced). Every year since 1999, “frozen” cod has accounted for more than two-thirds of total cod exports. In 2004, “frozen” cod accounted for 90% of total cod exports.

Since 1995 United States Cod exports have experienced a long period of almost continuous growth. Total cod exports increased from less than 55,000 metric tons in 1995 to more than 100,000 metric tons in 2004. Almost all of this growth has been in exports of “frozen” cod. The next most important products by volume are fresh cod, frozen fillets, and salted cod.

**Figure 8**

**U.S. Cod Exports, by Product**



Source: NMFS Fisheries Trade data.

## Export Share of Pacific Cod Production

There are several problems in analyzing the relative extent to which Pacific Cod products are exported or consumed domestically. While data are available for export volumes, there are no corresponding data for shipments of Pacific cod to the United States market. U.S. domestic consumption can only be estimated as the difference between production and exports. Such estimates, however, are complicated by several factors. Export data for Pacific cod are combined with export data for Atlantic cod. Export data for some Pacific cod products, such as roe and fish meal, are also combined with data for other, non-cod species. The fact that exports do not occur simultaneously with production, but may occur weeks or months later, means that the years in which production and exports are reported do not necessarily correspond. Finally, U.S. trade data “product” categories do not correspond directly to Alaska production data “product” categories.

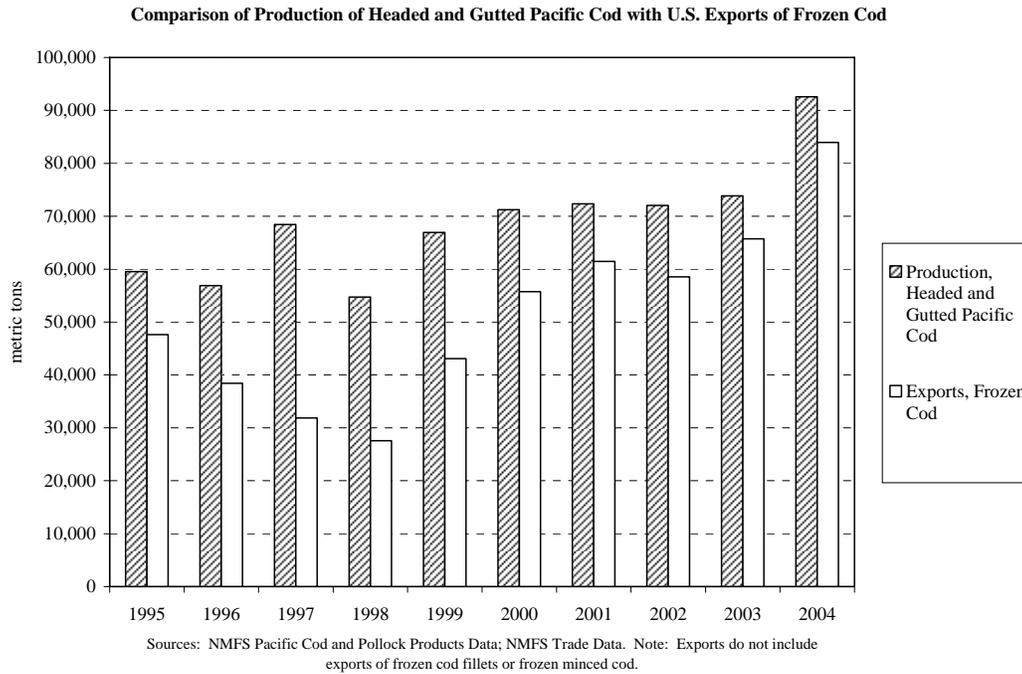
The table below provides shows roughly corresponding product categories for U.S. trade dat and Alaska production data. While for some data series it is impossible to “match” the two kinds of data, it is reasonable to assume that “frozen” cod exports (other than frozen fillets and frozen minced)—which dominate cod exports, would consist primarily of headed and cutted cod, which dominates Pacific cod production.

**Assumed Correspondence Between Trade Data and Production Data Product Categories**

Trade Data Product Categories		Production Data Summary Product Categories
Cod product categories	Groundfish Cod NSPF Frozen	Headed and Gutted
	Groundfish Cod NSPF Fillet Frozen	Fillets
	Groundfish Cod NSPF Salted	Salted and Split
	Groundfish Cod NSPF Minced Frozen > 6.8kg	Minced
	Groundfish Cod NSPF Fresh	All other products
	Groundfish Cod NSPF Dried	
Non cod-specific product categories	Other Potential Cod Products Not Specified In the Trade Data As "Cod"	
	Fish,Shellfish Meal Unfit for Human Consumption	Fish Meal
	Fish NSPF Liver & Roe Fresh	Roe, Milt
	Fish NSPF Liver & Roe Frozen Fish NSPF Liver & Roe Cured	

As shown in the figures below, U.S. frozen cod export volume accounts for a large and increasing share of headed and gutted Pacific cod production: more than 80% since 2001 and about 90% in 2003 and 2004. Clearly, most Pacific cod H&G production is exported and the U.S. market accounts for only a small share of H&G production.

**Figure 9**

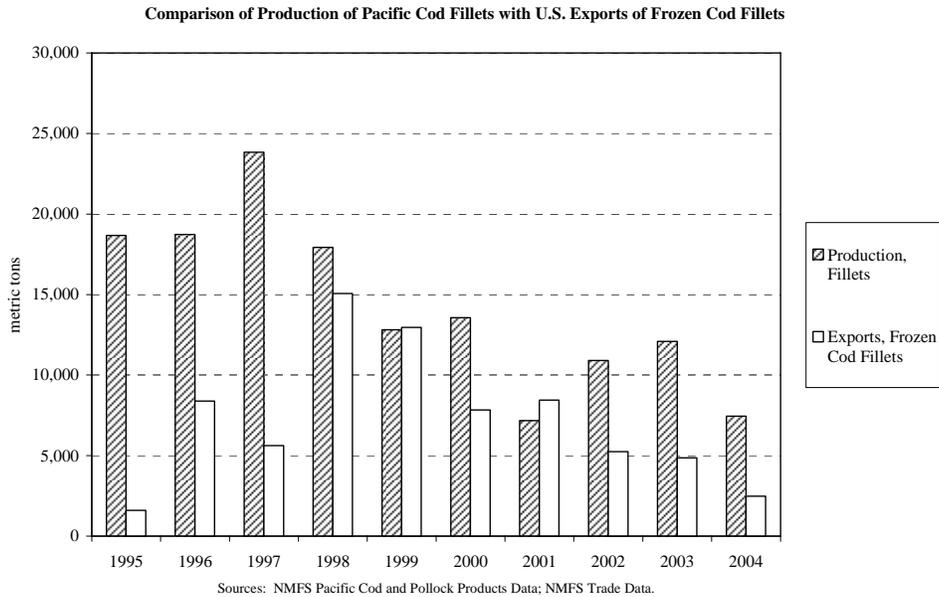


**Figure 10**

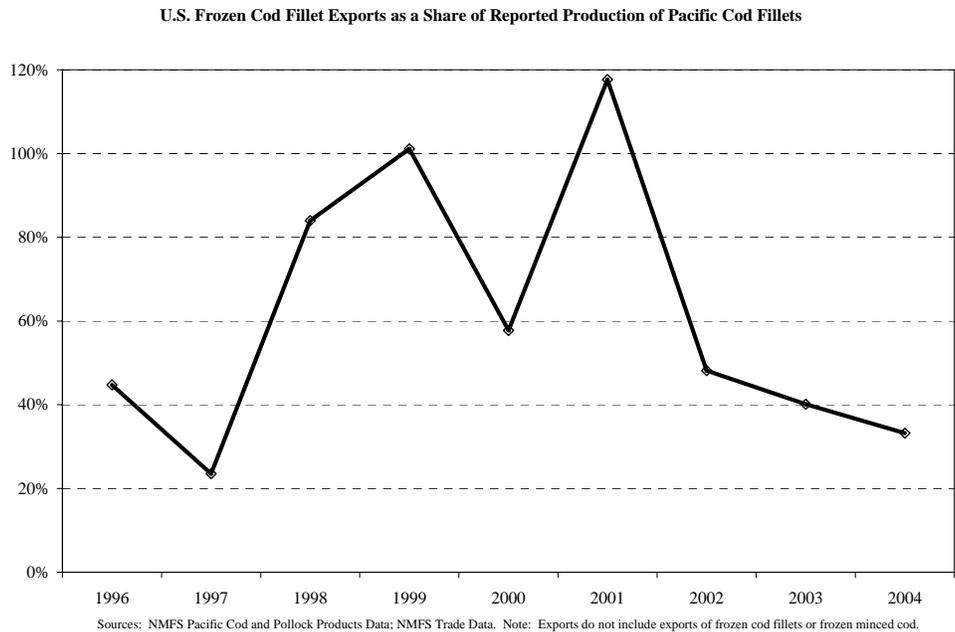


The only other “production” and “trade” product data categories for which there is a close correspondence are production of fillets and exports of frozen cod fillets. Both categories have declined sharply since 1998, but exports have declined relatively more sharply. Since 2002, the export volume has been less than half of reported production volume. This suggests that somewhat over half of Pacific cod fillet production is currently consumed in the U.S. domestic market.

**Figure 11**



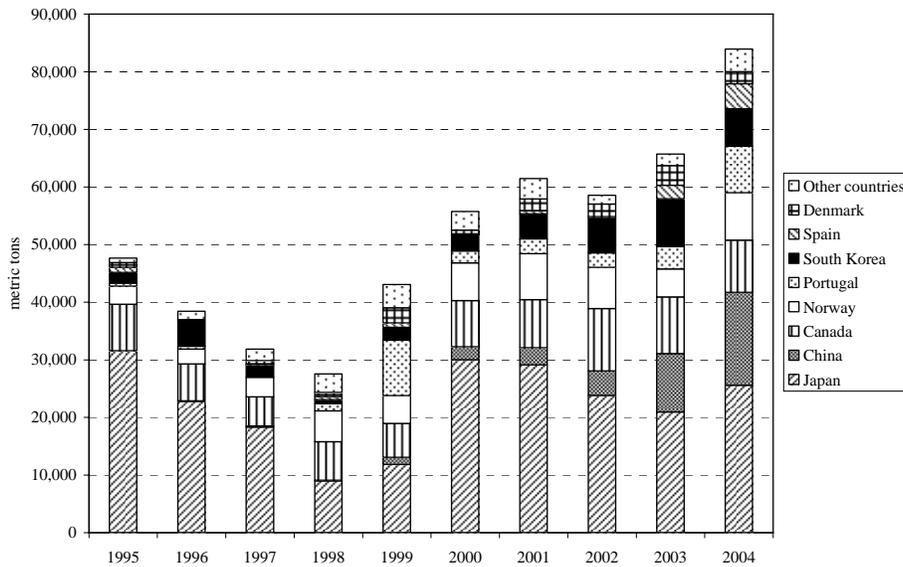
**Figure 12**



Japan accounts for the largest share of U.S. frozen cod exports. However, the Japanese share of frozen exports has been declining, from more than 60% in 1995 to just over 30% in 2003 and 2004. The actual volume of exports to Japan—while varying from year to year—has been relatively steady. In contrast, in recent years, exports of frozen Pacific cod to China have increased rapidly, as have exports to the traditional Atlantic-cod consuming nations of Portugal and Spain.

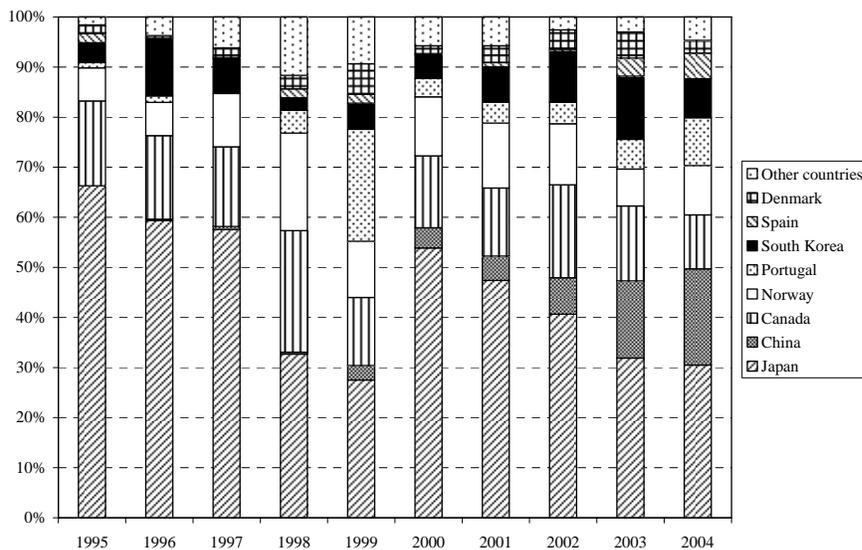
**Figure 13**

U.S. Frozen Cod Exports, by Country



**Figure 14**

Share of U.S. Frozen Cod Exports, by Country



## Comparison of Average Annual Frozen Cod Export Prices for Major Export Markets

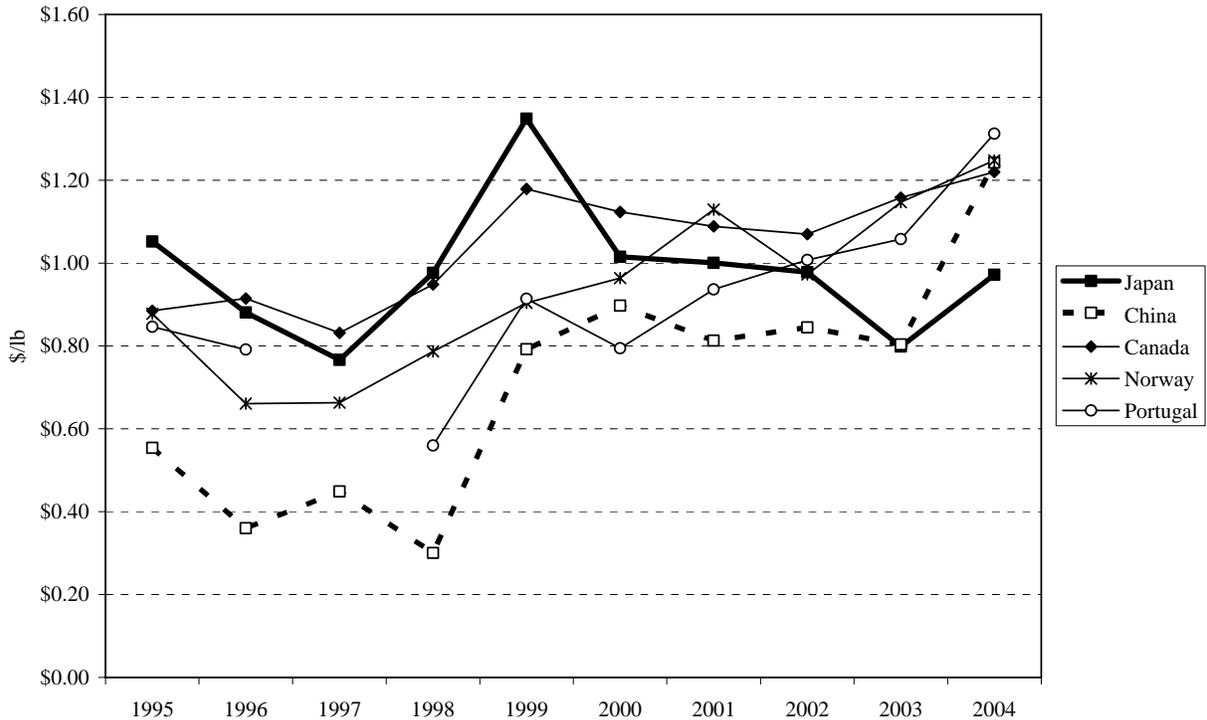
A broad range of product forms are potentially included in “frozen cod” exports. One potential indicator of the extent to which there are significant differences in the mix of product forms sent to different export markets is whether average export prices are similar between markets (and whether they exhibit similar trends over time).

Figure 15 compares average annual export prices (total value divided by total volume) for “frozen cod” exports to the five largest export markets.

The average prices for Canada, Norway and Portugal show relatively similar trends—especially for the years 2001-2004—suggesting that a relatively similar mix of “frozen cod” exports go to these countries. In contrast, Japan and China show significantly different price trends from these three countries and from each other—suggesting that a different mix of “frozen cod” product forms are exported to these countries. Note that the average export price to China, relative to the other countries, has increased significantly—suggesting that the “relative” quality of the product mix has increased over time.

**Figure 15**

Average U.S. Frozen Cod Export Prices, by Country

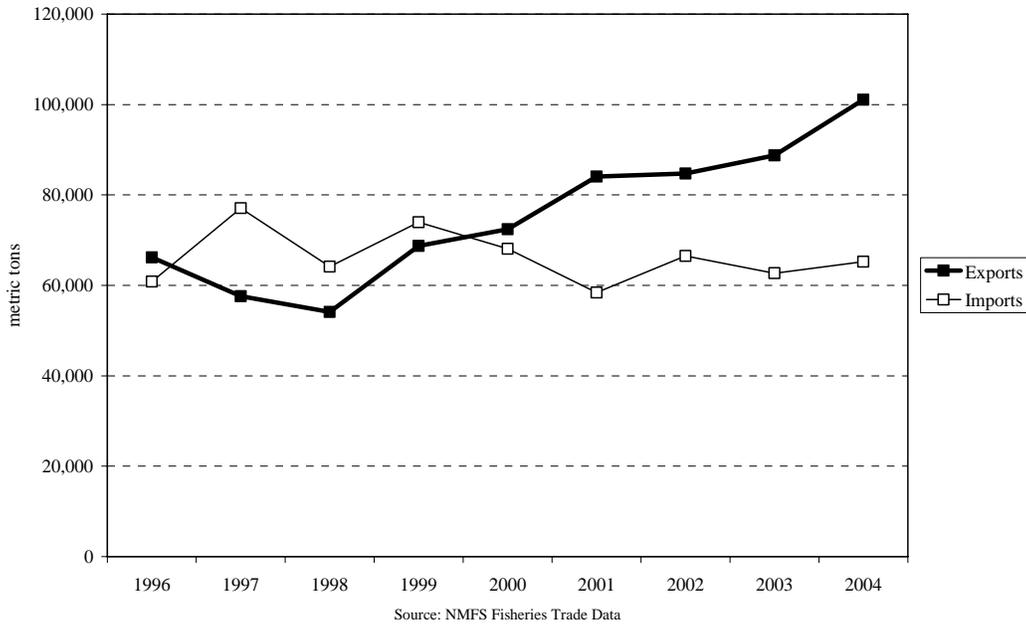


## United States Cod Imports

Since 2000 the United States has imported between 60,000 and 70,000 metric tons of cod annually. In the late 1990s imports slightly exceeded exports. With the rise in exports since 2000, by 2004 U.S. cod exports were about 50% greater than U.S. cod imports.

**Figure 16**

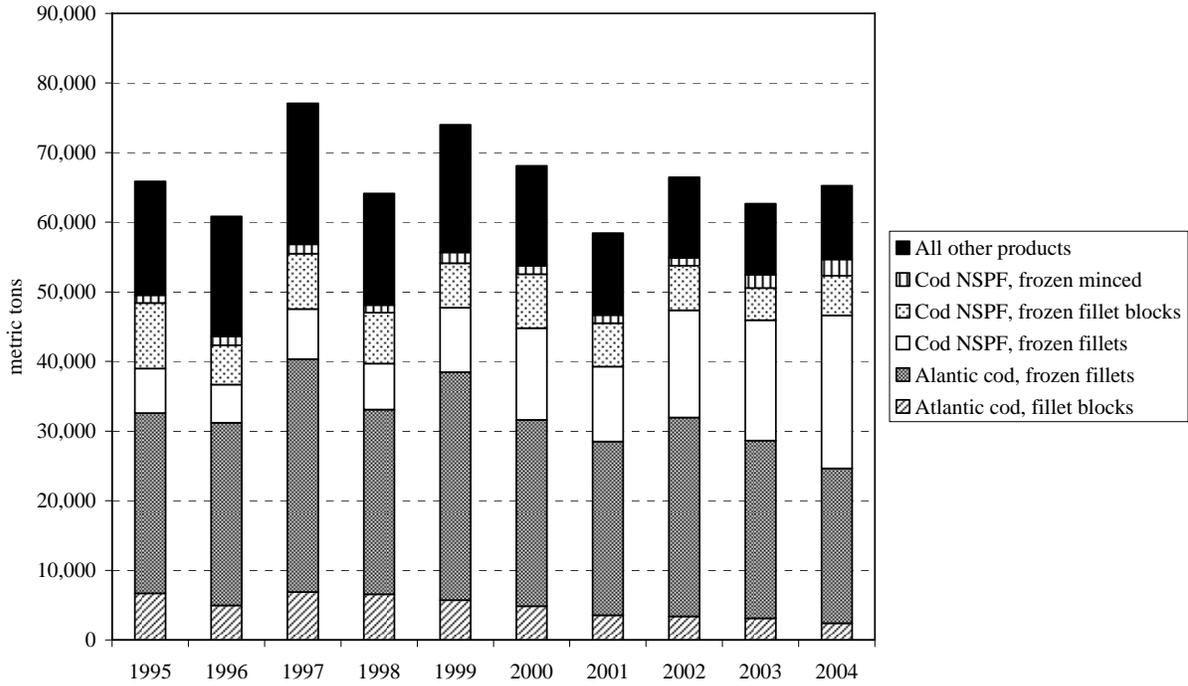
United States Cod Exports and Imports, All "Cod" Product Categories



Frozen fillets and fillet blocks of Atlantic cod account for a little less than half of total U.S. cod imports. Their combined share of total imports has declined since the late 1990s. Over the same period the total imports of “nonspecified” (Pacific) frozen fillets and fillet blocks has increased.

**Figure 17**

**U.S. Cod Imports, by Product**



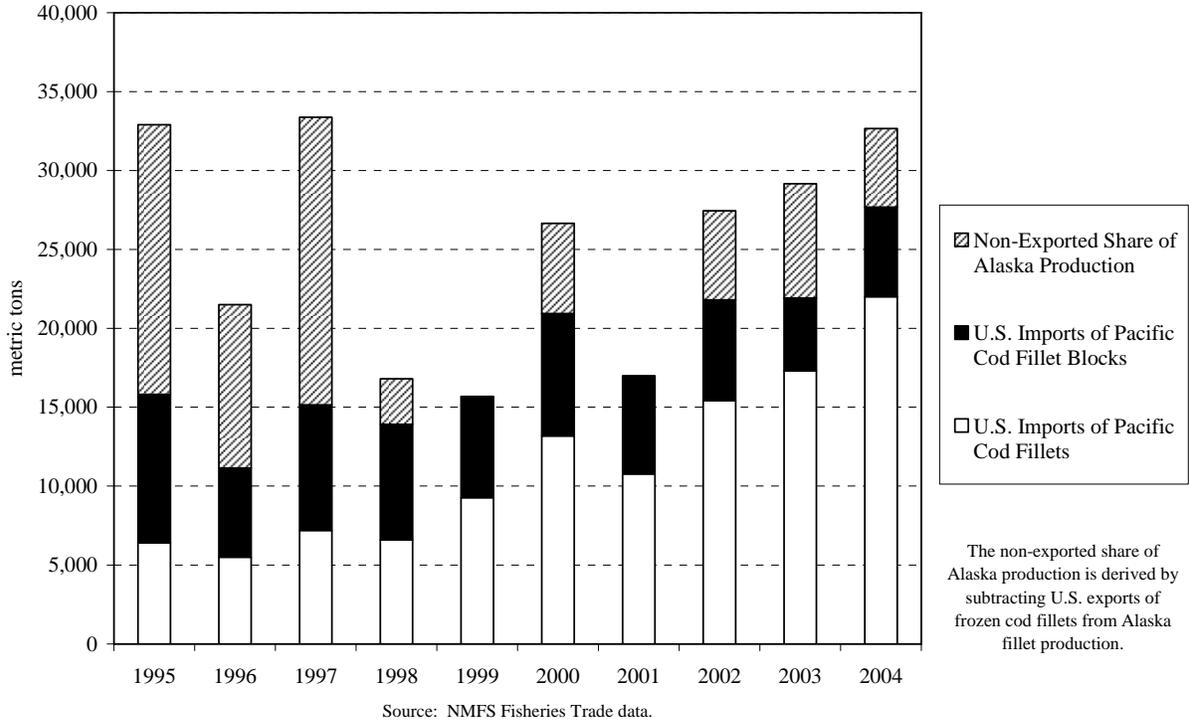
Source: NMFS Fisheries Trade data.

## U.S. Consumption of Pacific Cod Fillets

Figure 18 provides a rough estimate of U.S. consumption of Pacific Cod fillets. The estimates suggest that total consumption has been about 30,000 metric tons for the past decade, but imports are replacing Alaska production in total U.S. consumption.

**Figure 18**

**Approximate U.S. Consumption of Pacific Cod Fillets**

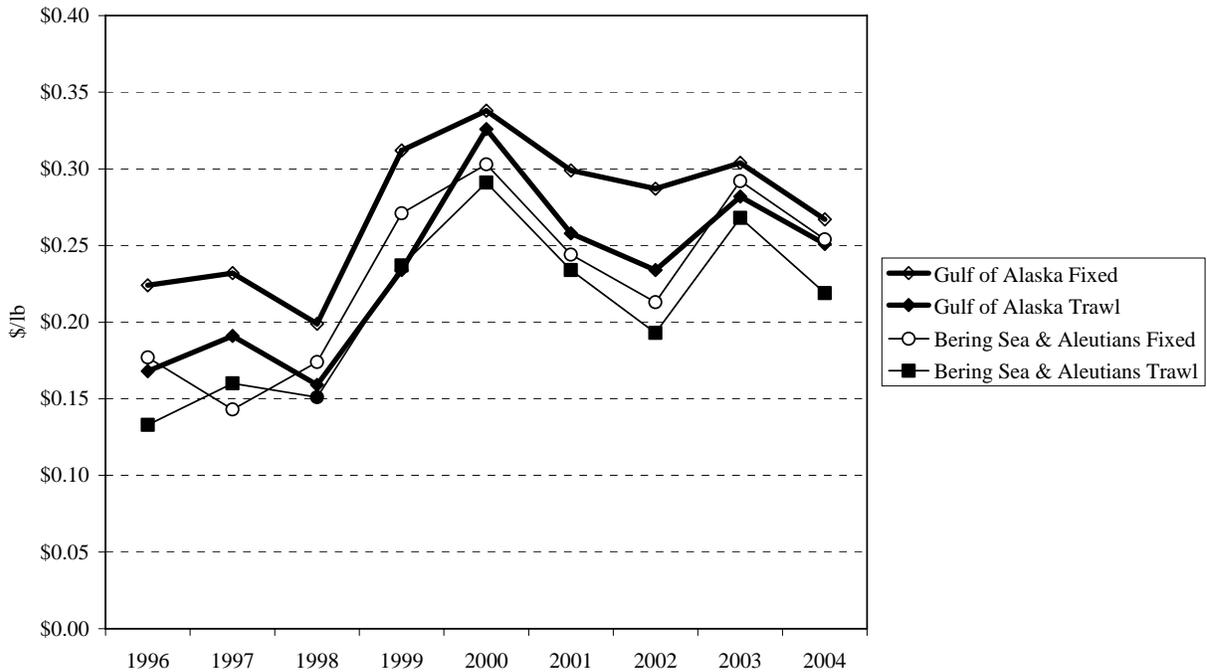


## Ex-Vessel Prices

Since 2000, estimated average ex-vessel prices for Pacific Cod have ranged between \$.19/lb and \$.34/lb, depending on year, area and gear type. Ex-vessel prices have consistently been higher for Gulf of Alaska fisheries than for BSAI fisheries, and higher for fixed gear than for trawl fisheries. Prices fluctuate significantly from year to year. Prices increased sharply between 1998 and 1999, peaked in 2000, and have since trended downwards.

Figure 19

Estimated Pacific Cod Ex-Vessel Prices, by Area and Gear



Source: 2000-2004 data from 2004 "Economic Status of the Groundfish Fisheries off Alaska" Report; earlier data provided by Terry Hiatt, NMFS Alaska Fisheries Science Center.



## Appendix D: Proposed FMP amendment language for BSAI Amendment 85

Deletions are stricken; additions are in bold.

### p. ES-3, Table ES-2:

Apportionment of TAC: Pacific cod: **10% of the TAC is allocated to the CDQ Program as a directed fishing allowance. After subtraction of the CDQ directed fishing allowance and the CDQ incidental catch allowance, the remaining TAC** shall be allocated ~~1.42%~~ for vessels using jig gear, ~~47-2.3%~~ for **catcher processors** ~~vessels~~ using trawl gear **listed in Section 208(e)(1)-(20) of the AFA, 13.4% for catcher processors using trawl gear as defined in Section 219(a)(7) of the Consolidated Appropriations Act, 2005 (P.L. 108-447), 22.1% for catcher vessels using trawl gear, 48.7% for catcher processors using hook-and-line gear, 0.2% for catcher vessels ≥60' LOA using hook-and-line gear, 1.5% for catcher processors using pot gear, 8.4% for catcher vessels ≥60' LOA using pot gear, and 2.0% for catcher vessels <60' LOA that use either hook-and-line gear or pot gear.** ~~and 51% to vessels using hook and line or pot gear. The trawl gear allocation is allocated 50% to catcher/processor vessels and 50% to catcher vessels. The allocation to hook and line and pot gear is apportioned 80% to hook and line catcher/processor vessels, 0.3% to hook and line catcher vessels, 3.3% to pot catcher/processor vessels, 15% to pot catcher vessels, and 1.4% to catcher vessels less than 60' LOA.~~ Allocations may be seasonally apportioned.

### p. ES-5, Table ES-2, add line to CDQ Multispecies Fishery box:

**Pacific cod: 10% of the TAC**

### p. 17, 3.2.5.3 Reserves, first paragraph:

The groundfish reserve at the beginning of each fishing year shall equal the sum of 15 percent of each target species and the “other species” category TACs, except for pollock, ~~and~~ fixed-gear sablefish, **and Pacific cod**. When the TACs for the groundfish complex are determined by the Council, 15 percent of the sum of the TACs is set aside as a reserve. This reserve is used for: a) correction of operational problems in the fishing fleets, to promote full and efficient use of groundfish resources, b) adjustments of species TACs according to the condition of stocks during the fishing year, and c) apportionments.

### p. 17, 3.2.6 Apportionment of Total Allowable Catch, first paragraph:

When the TAC for each target species and the “other species” category, except for pollock, ~~and~~ fixed-gear sablefish, **and Pacific cod**, is determined, it is reduced by 15 percent to form the reserve, as described in Section 3.2.5.3. The remaining 85 percent of each TAC is then apportioned by the Regional Administrator.

### p. 19, Section 3.2.6.3.1, Gear Allocations:

#### 3.2.6.3 Pacific Cod

##### 3.2.6.3.1 Gear Allocations

##### Among gear groups

The BSAI Pacific cod TAC (**excluding CDQ**) shall be allocated among gear groups as follows: ~~2~~ percent to vessels using jig gear; ~~51~~ percent to vessels using hook and line or pot gear; and ~~47~~

~~percent to vessels using trawl gear. The trawl apportionment will be divided 50 percent to catcher vessels and 50 percent to catcher processors.~~

- a. **48.7 percent to catcher/processors using hook-and-line gear;**
- b. **0.2 percent to catcher vessels equal to or greater than 60 ft length overall using hook-and-line gear;**
- c. **1.5 percent to catcher/processors using pot gear;**
- d. **8.4 percent to catcher vessels equal to or greater than 60 ft length overall using pot gear;**
- e. **2.0 percent to catcher vessels less than 60 ft length overall that use either hook-and-line gear or pot gear;**
- f. **1.4 percent to vessels using jig gear;**
- g. **2.3 percent to catcher processors using trawl gear and listed in Section 208(e)(1) through (20) of the American Fisheries Act;**
- h. **13.4 percent to catcher processors using trawl gear as defined in Section 219(a)(7) of the Consolidated Appropriations Act, 2005 (P.L. 108-447);**
- i. **22.1 percent to catcher vessels using trawl gear.**

#### Inseason reallocations

Specific provisions for the accounting of these ~~directed fishing allowances~~ **allocations** and the transfer of unharvested amounts of these ~~allowances~~ **allocations** to other vessels using hook-and-line or pot gear, **trawl gear, or jig gear** will be set forth in regulations.

#### Among vessels using hook and line or pot gear **Incidental catch allowances**

The Regional Administrator annually will estimate the amount of Pacific cod taken as incidental catch in directed fisheries for groundfish other than Pacific cod. **For the CDQ fisheries, the incidental catch allowance will be deducted from the Pacific cod TAC before the TAC is allocated among the non-CDQ sectors. For** ~~by~~ vessels using hook-and-line or pot gear, **the incidental catch allowance will be and deducted that amount from the aggregate amount portion** of Pacific cod TAC annually allocated to hook-and-line ~~or~~ **and** pot gear sectors combined. ~~The remainder will be further allocated as directed fishing allowances as follows:~~

- a. ~~80 percent to catcher/processor vessels using hook and line gear;~~
- b. ~~0.3 percent to catcher vessels using hook and line gear;~~
- c. ~~3.3 percent to catcher/processor vessels using pot gear;~~
- d. ~~15 percent to catcher vessels using pot gear; and~~
- e. ~~1.4 percent to catcher vessels less than 60 ft length overall that uses either hook and line gear or pot gear.~~

p. 46:

#### 3.7.4.3 Pollock Allocation

Ten percent of the pollock TAC in the BSAI management area shall be allocated as a directed fishing allowance to the CDQ program. This quota shall be released to communities on the Bering Sea coast which submit a plan, approved by the Governor of Alaska, for the wise and appropriate use of the quota.

#### 3.7.4.4 Pacific Cod Allocation

**Ten percent of the Pacific cod TAC in the BSAI management area shall be allocated as a directed fishing allowance to the CDQ Program.**

#### ~~3.7.4.4~~ 3.7.4.5 Multispecies Groundfish and Prohibited Species Allocations

In addition to the CDQ allocations authorized in Sections 3.7.4.2, ~~and Section 3.7.4.3 and 3.7.4.4~~, 7.5 percent of the TAC for all BSAI groundfish species or species groups, except squid, will be issued as a CDQ allocation from the groundfish reserve. A pro-rata share of PSC species also will be issued. PSC will be allocated before the trawl/non-trawl splits. The program is patterned after the pollock CDQ program.

p. 56, Section 4.1.2.2, Pacific Cod:

#### 4.1.2.2 Pacific Cod

The BSAI Pacific cod stock increased to high levels in the mid 1990s, then declined. The 2000 year class was above average, with recruits into the fishery beginning in 2003. Significant uncertainty surrounds the maximum permissible ABC computed in the stock assessment model. Between 1998 and 2002, the ABC was set below the maximum permissible ABC from the model. In 2003 and 2004, the Council, with advice from the Groundfish Plan Team and the SSC, instead selected an ABC through an alternative ‘constant catch’ approach, as the resulting ABC is at least as conservative as under the previous approach.

The BSAI Pacific cod TAC is not apportioned by area, but is currently allocated **10% to the CDQ Program as a directed fishing allowance. The remainder of the TAC after subtraction of the CDQ directed fishing allowance and the CDQ incidental catch allowance is allocated 1.4% to vessels using jig gear; 2.3% to catcher processors using trawl gear listed in Section 208(e)(1)-(20) of the AFA; 13.4% to catcher processors using trawl gear as defined in Section 219(a)(7) of the Consolidated Appropriations Act, 2005 (P.L. 108-447); 22.1% to catcher vessels using trawl gear; 48.7% to catcher processors using hook-and-line gear; 0.2% to catcher vessels  $\geq$ 60’ LOA using hook-and-line gear; 1.5% to catcher processors using pot gear; 8.4% to catcher vessels  $\geq$ 60’ LOA using pot gear; and 2.0% to catcher vessels <60’ LOA that use either hook-and-line gear or pot gear.** ~~2 percent to jig gear, 51 percent to fixed gear, and 47 percent to trawl gear.~~

The **hook-and-line, pot, and jig fixed gear allocations are** is seasonally apportioned **through regulations by trimester, with the exception of catcher vessels <60’ LOA that use either hook-and-line gear or pot gear. The trawl gear allocations are also seasonally apportioned through regulations.** ~~Any unused TAC from the jig gear quota becomes available to fixed gear on September 15. 80 percent of the fixed gear apportionment is reserved for longline catcher/processors, 0.3 percent for longline catcher vessels, 15 percent for pot catcher vessels, 3.3 percent for pot catcher/processors, and 1.4 percent for fixed gear catcher vessels less than 60 ft length overall. Beginning in 1998, 100 percent retention was required for Pacific cod under the IR/IU program.~~

p. 94, Section 4.5.3.2, Akutan (third full paragraph):

As a CDQ community, the community of Akutan enjoys access to the BSAI groundfish resource independently of direct participation in the fishery. The CDQ communities as a group will receive **allocations of groundfish, halibut, and prohibited species under section 3.7.4 of this FMP and allocations of crab under the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs.** ~~CDQs equal to 7.5 percent of each BSAI groundfish TAC, except for the fixed gear sablefish, pollock, and squid TACs. The CDQ communities will receive 20 percent of the fixed gear sablefish and 10 percent of the pollock TACs for the eastern Bering Sea and the Aleutian Islands subareas.~~ Similarly, the economic benefits the community derives from the local 1 percent raw fish tax from landings at the nearby plant are dependent on BSAI groundfish TACs and the resulting ex-vessel value of groundfish landings.

p. 98, Section 4.5.4, Community Development Quota Program Communities (second paragraph):

Although the program was initially proposed for the fixed gear sablefish fishery, it was first implemented for BSAI pollock. The program set aside 7.5 percent of the annual BSAI pollock TAC for allocation to qualifying rural Alaskan communities. The first pollock allocations were proposed for 1992 through 1995, however, the Sustainable Fisheries Act, which amended the Magnuson-Stevens Act, institutionalized the program as part of the BSAI FMP in 1996. CDQ allocations for BSAI sablefish and halibut were added in 1995, and the multi-species groundfish CDQ Program was implemented in late 1998. ~~Ultimately, the program allocates CDQ for pollock, all remaining most groundfish species (7.5 percent, except 20 percent for fixed gear sablefish), crab (7.5 percent), and halibut (20 to 100 percent), as well as a pro-rata share of prohibited species.~~ In 1999, the American Fisheries Act increased the pollock allocation to 10 percent as a directed fishing allowance. **In 2006, amendments to the Magnuson-Stevens Act required that the allocation of Pacific cod to the CDQ Program be increased to 10 percent as a directed fishing allowance, as a result of BSAI Amendment 85.**

Add to the end of Appendix A:

**Amendment 85 implemented [insert implementation date], superseded Amendments 46 and 77:**

**Implemented a gear allocation among all non-CDQ fishery sectors participating in the directed fishery for Pacific cod. After deduction of the CDQ allocation and the CDQ incidental catch allowance, the Pacific cod TAC is apportioned to vessels using jig gear (1.4 percent); catcher processors using trawl gear listed in Section 208(e)(1)-(20) of the AFA (2.3 percent); catcher processors using trawl gear as defined in Section 219(a)(7) of the Consolidated Appropriations Act, 2005 (Public Law 108-447) (13.4 percent); catcher vessels using trawl gear (22.1 percent); catcher processors using hook-and-line gear (48.7 percent); catcher vessels  $\geq 60'$  LOA using hook-and-line gear (0.2 percent); catcher processors using pot gear (1.5 percent); catcher vessels  $\geq 60'$  LOA using pot gear (8.4 percent); and catcher vessels  $< 60'$  LOA that use either hook-and-line gear or pot gear (2.0 percent). Amendment 85 also incorporated provisions of the MSA, added by the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241), that require the allocation of 10 percent of the Pacific cod TAC to the CDQ Program as a directed fishing allowance.**

Add new Appendix J to end of the BSAI FMP:

Appendix J Consolidated Appropriations Act, 2005 (Public Law 108-447): Provisions related to catcher processor participation in the BSAI non-pollock groundfish fisheries

J.1 Summary of the Consolidated Appropriations Act, 2005

On December 8, 2004, the President signed into law the Consolidated Appropriations Act, 2005 (Public Law 108-447). With respect to fisheries off Alaska, the Consolidated Appropriations Act, 2005, establishes catcher processor sector definitions for participation in: 1) the catcher processor subsectors of the BSAI non-pollock groundfish fisheries, and 2) the BSAI Catcher Processor Capacity Reduction Program. The following subsectors are defined in Section 219(a) of the Act: AFA trawl catcher processor; non-AFA trawl catcher processor; longline catcher processor; and pot catcher processor. Section 219(a) also states that ‘non-pollock groundfish fishery’ means target species of Atka mackerel, flathead sole, Pacific cod, Pacific Ocean perch, rock sole, turbot, or yellowfin sole harvested in the BSAI. Thus, this legislation provides the qualification criteria that each participant in the catcher processor subsectors must meet in order to operate as a catcher processor in the BSAI non-pollock groundfish fisheries and/or participate in the BSAI Catcher Processor Capacity Reduction Program.

The Consolidated Appropriations Act, 2005, includes numerous provisions that are not related to the management of groundfish and crab fisheries off Alaska. Only the portions of the legislation related to eligibility of the catcher processor subsectors are provided for reference. The portions of the legislation authorizing and governing the development of the BSAI Catcher Processor Capacity Reduction Program are not provided here.

J.2 Consolidated Appropriations Act, 2005: Section 219(a) and (g)

*SEC. 219. (a) DEFINITIONS.—In this section:*

*(1) AFA TRAWL CATCHER PROCESSOR SUBSECTOR.—The term “AFA trawl catcher processor subsector” means the owners of each catcher/processor listed in paragraphs (1) through (20) of section 208(e) of the American Fisheries Act (16 U.S.C. 1851 note).*

*(2) BSAI.—The term “BSAI” has the meaning given the term “Bering Sea and Aleutian Islands Management Area” in section 679.2 of title 50, Code of Federal Regulations (or successor regulation).*

*(3) CATCHER PROCESSOR SUBSECTOR.—The term “catcher processor subsector” means, as appropriate, one of the following:*

*(A) The longline catcher processor subsector.*

*(B) The AFA trawl catcher processor subsector.*

*(C) The non-AFA trawl catcher processor subsector.*

*(D) The pot catcher processor subsector.*

*(4) COUNCIL.—The term “Council” means the North Pacific Fishery Management Council established in section 302(a)(1)(G) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(G)).*

*(5) LLP LICENSE.—The term “LLP license” means a Federal License Limitation program groundfish license issued pursuant to section 679.4(k) of title 50, Code of Federal Regulations (or successor regulation).*

*(6) LONGLINE CATCHER PROCESSOR SUBSECTOR.—The term “longline catcher processor subsector” means the holders of an LLP license that is noninterim and transferable, or that*

*is interim and subsequently becomes noninterim and transferable, and that is endorsed for Bering Sea or Aleutian Islands catcher processor fishing activity, C/P, Pcod, and hook and line gear.*

**(7) NON-AFA TRAWL CATCHER PROCESSOR SUBSECTOR.**—*The term “non-AFA trawl catcher processor subsector” means the owner of each trawl catcher processor—*

*(A) that is not an AFA trawl catcher processor;*

*(B) to whom a valid LLP license that is endorsed for Bering Sea or Aleutian Islands trawl catcher processor fishing activity has been issued; and*

*(C) that the Secretary determines has harvested with trawl gear and processed not less than a total of 150 metric tons of non-pollock groundfish during the period January 1, 1997 through December 31, 2002.*

**(8) NON-POLLOCK GROUND FISH FISHERY.**—*The term “nonpollock groundfish fishery” means target species of Atka mackerel, flathead sole, Pacific cod, Pacific Ocean perch, rock sole, turbot, or yellowfin sole harvested in the BSAI.*

**(9) POT CATCHER PROCESSOR SUBSECTOR.**—*The term “pot catcher processor subsector” means the holders of an LLP license that is noninterim and transferable, or that is interim and subsequently becomes noninterim and transferable, and that is endorsed for Bering Sea or Aleutian Islands catcher processor fishing activity, C/P, Pcod, and pot gear.*

**(10) SECRETARY.**—*Except as otherwise provided in this Act, the term “Secretary” means the Secretary of Commerce.*

**(g) NON-POLLOCK GROUND FISH FISHERY.**—

**(1) PARTICIPATION IN THE FISHERY.**—*Only a member of a catcher processor subsector may participate in—*

*(A) the catcher processor sector of the BSAI non-pollock groundfish fishery; or*

*(B) the fishing capacity reduction program authorized by subsection (b).*

**(2) PLANS FOR THE FISHERY.**—*It is the sense of Congress that—*

*(A) the Council should continue on its path toward rationalization of the BSAI non-pollock groundfish fisheries, complete its ongoing work with respect to developing management plans for the BSAI non-pollock groundfish fisheries in a timely manner, and take actions that promote stability of these fisheries consistent with the goals of this section and the purposes and policies of the Magnuson-Stevens Fishery Conservation and Management Act; and*

*(B) such plans should not penalize members of any catcher processor subsector for achieving capacity reduction under this Act or any other provision of law.*

## Appendix E: Council final motion on BSAI Amendment 85 (April 9, 2006)

### PART I: BSAI PACIFIC COD SECTOR ALLOCATIONS

**ALTERNATIVE 2:** Modify the current BSAI Pacific cod allocations among the jig, trawl, and fixed gear (hook-and-line and pot) sectors according to a set of catch history years or other considerations.

#### Component 1: Sectors for which allocations will be established

- AFA Trawl CPs (AFA 20)<sup>1</sup>  
Suboption b: Exclude catch history of the nine trawl catcher processors whose claims to catch history have been extinguished by Section 209 of the AFA
- Non-AFA Trawl CPs
- Trawl CVs
- Hook-and-line CPs
- Hook-and-line CVs  $\geq 60'$
- Pot CPs
- Pot CVs  $\geq 60'$
- Hook-and-line and pot CVs  $< 60'$
- Jig CVs

#### Component 2: Sector Allocations

The  $< 60'$  hook-and-line/pot CV sector will only fish from the direct allocation to that sector.

The BSAI Pacific cod TAC that is allocated to the above sectors (as defined in Component 1) is TAC less the CDQ Program reserve. In addition, the annual incidental catch allowance (ICA) for fixed gear is deducted off the top from the aggregate amount of the BSAI Pacific cod TAC allocated to the fixed gear sectors combined. Pacific cod harvested incidentally in non-Pacific cod directed BSAI fixed gear fisheries are attributed to the ICA. The ICA is determined annually by the NMFS Regional Administrator in the annual specifications process and has typically been 500 mt.

Option 2.7: The Council can select percentages for cod allocated to each sector that fall within the range of percentages analyzed.

<60 Hook-and-line/Pot CV	2.0
AFA Trawl CP	2.3
Trawl CV	22.1
Jig CV	1.4
Hook-and-line CP	48.7
Hook-and-line CV $\geq 60'$	0.2
Non-AFA Trawl CP	13.4
Pot CP	1.5
Pot CV $\geq 60'$	8.4
	100.0

<sup>1</sup>Refers to the 20 trawl catcher processors listed in Section 208(e) of the American Fisheries Act (AFA).

### **Component 3: Seasonal Apportionments**

- Option 3.2 Upon determination of the new overall allocations to the trawl and fixed gear sectors, maintain the current percentage of the ITAC allocated to the A and B seasons for trawl gear and the A season for fixed gear. Provide that any reduction in the overall trawl allocation resulting from the options would be applied only in the C season for trawl gear. If necessary, remaining reductions will be taken from only the trawl B season. Provide that any increase in the overall fixed gear allocation resulting from the options would be applied only in the B season for fixed gear.
- Option 3.4 Apportion the BSAI Pacific cod jig allocation on a trimester basis as follows:
- 60% (Jan. 1 – April 30)
  - 20% (April 30 – August 31)
  - 20% (August 31 – December 31)

### **Component 4: Rollovers between gear sectors**

Inseason management would retain flexibility to determine how to reallocate projected unused sector allocations (rollovers), taking into consideration the hierarchy below. NMFS takes into account the intent of the rollover hierarchy and the likelihood of a sector's capability to harvest reallocated quota.

- Option 4.2** Projected unused allocations to any sector delivering inshore must be considered for reallocation to other inshore sectors before being considered for reallocation to any offshore sector. The suite of provisions below comprises Option 4.2.
- 4.2.1 Projected unused allocation in the jig sector is considered for reallocation to the <60' fixed gear CV sector on a seasonal basis. The third trimester jig rollover should be available to the <60' fixed gear CV sector on September 1.
  - 4.2.2 Any unused allocation from any inshore sector will first be considered for reallocation to the jig sector and/or <60' fixed gear CV sector; then to the hook-and-line CV  $\geq 60'$  or pot CV  $\geq 60'$  sector; then to the trawl CV sectors. Any CV allocation that is not likely to be harvested through this hierarchy will be reallocated as per components 4.2.3–4.2.6 below.
  - 4.2.3 Projected unused trawl sector allocations are considered for reallocation to other trawl sectors (AFA trawl CP; non-AFA trawl CP; trawl CV) before being reallocated to the fixed gear sectors (hook-and-line CP; pot CP; pot CV  $\geq 60'$ ).
  - 4.2.4 Reallocation of TAC from the trawl sectors to the pot CP,  $\geq 60'$  pot CV, and hook-and-line CP sectors will be proportional to the new fixed gear allocations. (*Staff note: In effect, this means reallocated TAC from the trawl sectors will be allocated 83.1% to the hook-and-line CP sector, 14.3% to the  $\geq 60'$  pot CV sector, and 2.6% to the pot CP sector.*)
  - 4.2.5 Projected unused pot sector allocations (CPs and  $\geq 60'$  CVs) are considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.
  - 4.2.6 Projected unused allocations in the <60' fixed gear CV sector, both pot sectors (CP and  $\geq 60'$  CV), and hook-and-line CV  $\geq 60'$  are reallocated to the hook-and-line CP sector.

### **Component 5: CDQ Allocation of BSAI Pacific Cod**

The CDQ Program reserve for BSAI Pacific cod shall be removed from the TAC prior to the allocation to all other sectors at the following percentage:

- Option 5.1 7.5% (status quo)

### **Component 6: Apportionment of trawl halibut and crab PSC to the cod fishery group**

The total amount of trawl halibut PSC for the non-CDQ fisheries is 3,400 mt, which is apportioned between Pacific cod, yellowfin sole, rocksole/other flatfish/flathead sole, pollock/Atka mackerel/other. Generally, 1,400 mt is apportioned to the cod trawl fishery group, but this amount and actual use can vary annually. A significant amount of Pacific cod is taken incidentally in other trawl fisheries so the PSC use associated with that Pacific cod harvest would be attributed to a fishery group other than cod trawl. Amendment 80 will also allocate halibut PSC to the H&G trawl sector so that the amount of halibut PSC available to the remaining trawl sectors will be reduced. (Status quo)

### **Component 7: Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors**

Option 7.2: The annual PSC allocation to the trawl Pacific cod fishery will be apportioned to the cod trawl sectors based on the sector's directed cod fishery harvests during the qualifying period under Component 2.

To determine PSC, the percentage of Pacific cod harvested in the Pacific cod target fishery by the trawl sectors should be calculated on the basis of all Pacific cod catch (1999 – 2003), including that which is designated for fishmeal production.

The intent is that NMFS inseason management will retain flexibility to move PSC among trawl fishery categories if necessary.

### **Component 8: Apportionment of cod non-trawl halibut PSC**

The total amount of non-trawl halibut PSC for the non-CDQ fisheries is 833 mt. The 833 mt is normally apportioned between cod hook-and-line sectors and other non-trawl fisheries during the annual specifications process. Generally, 775 mt is apportioned to hook-and-line cod fisheries and 58 mt to other non-trawl. This component would divide the halibut PSC amount apportioned to non-trawl cod between the hook-and-line CP sector and hook-and-line CV sector (for CVs  $\geq 60'$  and CVs  $< 60'$  combined).

Option 8.2 10 mt for hook-and-line CV sector, remainder for hook-and-line CP sector  
Set the halibut PSC amount for each category in the specification process.

### **Other provisions:**

Trawl sector allocations of Pacific cod will be managed as they are currently, as a soft cap with a directed fishing allowance and incidental catch allowance for each trawl sector, determined by NMFS inseason management. When BSAI Amendment 80 is implemented, the Pacific cod sector allocation for the non-AFA trawl CP sector will be divided between cooperative and non-cooperative vessels using the same formula as other allocated species in Amendment 80, and operate as a hard cap.

AFA trawl catcher vessel cod sideboards would be maintained.

A review of the effects of BSAI Amendment 85 on the  $< 60$  ft hook-and-line and pot catcher vessel sectors will be conducted when the combined harvest of those sectors (including parallel, Federal, and State fishery harvests) reaches a total of 3% of the BSAI Pacific cod ITAC.

## **PART II: APPORTIONMENT OF BSAI PACIFIC COD SECTOR ALLOCATIONS TO BS AND AI SUBAREAS**

The Council voted to remove Part II and its attendant analysis from BSAI Amendment 85 and to initiate a new analysis that examines alternative approaches to apportion BSAI Pacific cod allocations between the Bering Sea and Aleutian Islands subareas.



## Appendix F: Harvest distribution between BS and AI by sector

Pacific cod is currently managed at the Bering Sea/Aleutian Islands (BSAI) combined management area level, and thus, Amendment 85 addresses sector level allocations of BSAI Pacific cod. For reference purposes, this appendix provides a general description of historic harvests in the BS and AI subareas from 1995 to 2003. Table F.1 shows the amount and division of retained catch (excluding Pacific cod destined for meal as the primary product) between the BS and AI subareas during 1995–2003. Harvest data for catcher vessels is from ADF&G fishticket data, harvest data for catcher processors is from weekly production reports (WPRs).

**Table F.1 Pacific cod retained catch in the Aleutian Islands and Bering Sea from 1995 to 2003 (in metric tons and percent of total)**

Area		1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
Aleutian Islands	Retained catch	9,782	21,603	13,169	25,187	24,441	29,793	30,410	27,442	29,384	211,210
	Percent of BSAI	5.5	11.2	6.2	15.3	17.0	18.5	19.9	16.5	16.2	13.6
Bering Sea	Retained catch	167,255	171,798	200,245	139,382	119,643	131,434	122,141	138,795	151,496	1,342,190
	Percent of BSAI	94.5	88.8	93.8	84.7	83.0	81.5	80.1	83.5	83.8	86.4
<b>BSAI</b>	Retained catch	177,037	193,402	213,414	164,569	144,084	161,228	152,551	166,236	180,880	1,553,400

Source: ADF&G fishtickets and weekly production reports, 1995 – 2003. Harvest data excludes cod that was destined for meal.

The table above shows that retained catch from the Aleutian Islands fluctuated from 1995 through 1997, then stabilized from 1999 through 2003 at between 15% and 20% of the combined BSAI retained catch. From 2000 to 2003, approximately 17.7% of the BSAI retained harvests were from the Aleutian Islands area.

Table F.2 shows the annual Bering Sea, Aleutian Islands, and Bering Sea/Aleutian Islands Pacific cod retained catch by catcher vessels and catcher processors from 1995 to 2003. The table shows that Pacific cod harvest from the Aleutian Islands fluctuated from 1995 to 1998, and then stabilized between approximately 24,000 metric tons and 30,000 metric tons from 1999 to 2003. During this later period, catch from the Bering Sea represented between 80% and 84% of the total BSAI Pacific cod harvests.

**Table F.2 Pacific cod retained catch of catcher vessels and catcher processors in the Aleutian Islands and Bering Sea from 1995 to 2003 (in metric tons)**

Area	Vessel Type	1995	1996	1997	1998	1999	2000	2001	2002	2003
Aleutian Islands	Catcher vessels	47	2,755	712	4,055	*	*	7,672	15,168	17,028
	Catcher processors	9,734	18,848	12,458	21,132	*	*	22,737	12,274	12,356
	Total	9,782	21,603	13,169	25,187	24,441	29,793	30,410	27,442	29,384
Bering Sea	Catcher vessels	59,822	74,499	71,045	43,640	36,728	43,816	30,392	38,696	43,176
	Catcher processors	107,433	97,299	129,200	95,742	82,915	87,619	91,750	100,098	108,320
	Total	169,794	171,812	200,245	139,382	119,643	131,434	122,141	138,795	151,496
Bering Sea and Aleutian Islands	Catcher vessels	59,869	77,254	71,756	47,695	*	*	38,064	53,864	60,204
	Catcher processors	117,167	116,147	141,658	116,874	*	*	114,487	112,372	120,676
	Total	179,575	193,416	213,414	164,569	144,084	161,228	152,551	166,236	180,880

\*Withheld for confidentiality.

Source: ADF&G fishtickets and weekly production reports, 1995 – 2003. Harvest data excludes cod that was destined for meal.

From 1995 to 2003, catcher processors have steadily harvested between 65% and 75% of the total BSAI Pacific cod harvest. During this same period, however, the catcher processor share of the catch in the different areas has fluctuated greatly. From 1995 to 1998, catcher processors accounted for more than 80% of the AI Pacific cod catch. In the two most recent years shown (2002 and 2003), however, catcher processors harvest of Pacific cod in the AI was slightly more than 12,000 mt (or slightly more than 40% of the AI Pacific cod catch). In the BS, catcher processors Pacific cod harvest has been between 65% and 75% of the total BS Pacific cod catch (except in 1996 when relatively high catch by the catcher vessel sector dropped the catcher processor share to slightly more than 55%).

Catcher vessel harvest of Pacific cod in the AI has also fluctuated greatly during the time period shown, ranging from 47 mt in 1995 to 17,000 mt in 2003. As a result, the catcher vessel share of the AI harvest

has ranged from a fraction of a percent at the start of the period to in excess of 50% in the two most recent years. Catcher vessel Pacific cod harvests in the BS have also fluctuated, but show a slightly declining trend in recent years. Catcher vessels accounted for slightly more than 35% of the catch from 1995 to 1997, but dropped to between 25% and 30% from 2001 to 2003.

Table F.3 provides BS, AI and BSAI Pacific cod retained catch by gear type from 1995 to 2003. The table shows that the relative portion of the total retained harvest of Pacific cod from the Bering Sea/Aleutian Islands of the two gear types have remained constant, with fixed and jig gear harvesting about 60% of the catch and trawl gear harvesting the remaining 40%. The single exception occurred in 2001, when trawl catch was substantially below its typical range during the period, which resulted in the fixed gear sector harvesting almost 70% of the total catch.

**Table F.3 BS/AI Pacific cod retained catch (mt) by gear type, 1995 to 2003**

Area	Gear Type	1995	1996	1997	1998	1999	2000	2001	2002	2003
Aleutian Islands	Fixed (including jig)	3,992	9,634	5,722	10,731	10,686	12,845	16,171	1,903	692
	Trawl	5,790	11,969	7,447	14,456	13,755	16,948	14,238	25,538	28,692
	Total	9,782	21,603	13,169	25,187	24,441	29,793	30,410	27,442	29,384
Bering Sea	Fixed (including jig)	105,045	104,009	123,096	84,538	73,010	81,944	89,622	93,706	109,506
	Trawl	62,210	67,789	77,149	54,844	46,633	49,490	32,520	45,088	41,990
	Total	167,255	171,798	200,245	139,382	119,643	131,434	122,141	138,795	151,496
Bering Sea and Aleutian Islands	Fixed (including jig)	109,037	113,644	128,818	95,269	83,696	94,789	105,793	95,610	110,198
	Trawl	68,000	79,758	84,596	69,300	60,388	66,438	46,758	70,627	70,682
	Total	177,037	193,402	213,414	164,569	144,084	161,228	152,551	166,236	180,880

Source: ADF&G fishtickets and weekly production reports, 1995 – 2003. Harvest data excludes cod that was destined for meal.

The division of the catch in the AI by gear type was relatively stable from 1995 through 2000, with the trawl sector harvesting between 55% and 60% of the catch from that area. In 2001, the fixed gear portion of the total retained AI catch rose to approximately 53%, as a result of an increase in fixed gear catch in that year. In 2002 and 2003, fixed gear catch in the AI dropped to its lowest levels during the period, while trawl catch rose to its highest levels, resulting in trawl catch taking in excess of 95% of the AI retained catch during those years.

In the BS, from 1999 through 2000, the fixed gear sector harvested approximately 60% of the retained BS Pacific cod catch. Since then, fixed gear harvests have constituted between 65% and 75% of total BS Pacific cod harvests. This increase corresponds with the drop in fixed gear harvests in the Aleutian Islands and reflects a shift in effort from the Aleutian Islands to the Bering Sea by fixed gear vessels.

**All sectors for which allocations are being considered under this action have some history in both the Aleutian Islands and Bering Sea Pacific management areas. Table F.4 shows, for each sector, the average annual retained catch in each subarea and the BSAI as a whole, the percent of the sector's catch from each subarea, and the number of unique vessels with Pacific cod catches in each subarea and in the BSAI as a whole for two time periods, 1995–1999 and 2000–2003.** For two sectors, the AFA trawl CP sector and the non-AFA trawl CV sector, data are shown for the periods from 1995–1998 and from 1999–2003, because of confidentiality limitations. Vessel counts in all cases are for the years 1995–1999 and 2000–2003.

Table F.4 shows significant differences in participation levels in the two areas by the different sectors, as well as some variation in participation across the two time periods. Overall harvest by both AFA sectors (CV and CP) has decreased since 1999, but the AFA CV sector has more than tripled its annual catch from the Aleutian Islands in the 2000 to 2003 period. The non-AFA trawl CP sector has increased its annual catch slightly in the Bering Sea from the first to the second period, but has more than doubled its Aleutian Islands catch. Similarly, the non-AFA trawl CV sector had no catch in the AI prior to 1999, but since then has almost half of its catch in the AI. Annual Pacific cod harvest by the hook-and-line CP sector and the ≥60' pot CV sector are stable and largely from the BS in both time periods. Pacific cod

harvest by the jig CV sector and  $\geq 60'$  hook-and-line CV sector are relatively small in both areas. Catches in these sectors are heavily weighted toward the BS. Harvest by fixed gear vessels  $< 60'$  has increased substantially across the two periods (likely due to the separate allocation established for this sector in 2000), but are predominantly from the Bering Sea in both periods.

**Table F.4 Retained Pacific cod catch in the Bering Sea and Aleutian Islands by sector and percent of each sector's catch by area, 1995 – 1999 and 2000 – 2003**

		1995 - 1999			2000 - 2003		
		Average annual catch (mt)	Percent of sector BSAI catch	Unique Vessels	Average annual catch (mt)	Percent of sector BSAI catch	Unique Vessels
AFA -9	BS	1,459	43.9	8	0	0.0	0
	AI	1,860	56.1	7	0	0.0	0
	BSAI	3,319		9	0		0
AFA Trawl CPs	BS	1,590*	38.7*	18	577**	30.3**	12
	AI	2,518*	61.3*	9	1,328**	69.7**	3
	BSAI	4,107*		20	1,905**		16
Longline CPs	BS	80,248	93.1	55	75,849	91.8	47
	AI	5,967	6.9	33	6,768	8.2	27
	BSAI	86,215		58	82,617		49
Non-AFA Trawl CPs	BS	15,814	81.1	39	18,774	69.9	25
	AI	3,676	18.9	21	8,069	30.1	15
	BSAI	19,491		40	26,843		25
Pot CPs	BS	3,491	73.1	22	1,893	83.5	9
	AI	1,283	26.9	12	375	16.5	9
	BSAI	4,774		24	2,268		12
Hook and Line and Pot CVs < 60 feet	BS	235	90.0	70	1,095	96.3	76
	AI	26	10.0	19	42	3.7	27
	BSAI	261		79	1,137		93
AFA Trawl CVs	BS	40,406	94.0	108	20,728	67.9	104
	AI	2,589	6.0	40	9,809	32.1	41
	BSAI	42,995		109	30,537		105
Jig CVs	BS	259	92.6	67	108	86.1	45
	AI	21	7.4	6	17	13.9	10
	BSAI	280		73	126		52
Longline CVs > 60 feet	BS	22	71.4	25	400	88.0	27
	AI	9	28.6	12	55	12.0	17
	BSAI	31		34	454		34
Non-AFA Trawl CVs	BS	2,806*	100*	31	2,166**	52.0**	26
	AI	0*	0*	2	1,998**	48.0**	18
	BSAI	2,579		32	4,163**		37
Pot CVs > 60 feet	BS	13,684	94.2	183	14,350	95.7	115
	AI	848	5.8	42	646	4.3	34
	BSAI	14,532		189	14,997		134

\* Retained catch and percent are for 1995-1998.

\*\* Retained catch and percent are for 1999-2003.

Source: ADF&G fishtickets and weekly production reports, 1995 – 2003. Harvest data excludes cod that was destined for meal.

## Harvest by sector in 2004 and 2005

Baseline BSAI Pacific cod harvest information from weekly production reports and fishtickets is presented above in Tables F.1 – F.4. Table F.4 shows the retained harvest (excluding meal) in the non-CDQ BSAI Pacific cod fishery by sector and the percentage of each sector’s harvest taken in BS and AI during two aggregated time periods: 1995 – 1999 and 2000 – 2003. Only retained catch is included and the data are refined on an individual vessel basis and aggregated by sector. Table F.4 represents the most recent data available for this refined data set; 2004 and 2005 data are not yet available.

However, Table F.5 below provides total catch by sector, as reported from the NMFS catch accounting database, which utilizes observer data, shoreside processor landings data, and weekly production reports. Note that confidential data for the <60’ fixed gear and jig gear sectors are not provided in the table, thus, the totals for each year also do not include those confidential data.

Table F.5 indicates that about 14.4% and 11.3% of the total BSAI Pacific cod harvest was taken in the AI in 2004 and 2005, respectively. While these totals do not include harvest from the <60’ fixed gear or jig sectors, those sectors had very little harvest in the AI. Note that Table F.4 from the previous section showed that from 1999 to 2003, approximately 16% - 20% of the BSAI retained harvests were from the AI. **Thus, while the two data sets are not exactly comparable, it appears that the Pacific cod harvest in the AI is a slightly smaller share of the overall BSAI Pacific cod harvest than realized in 1999 - 2003.**

**Table F.5 Pacific cod total catch by sector in the BS, AI, and BSAI areas**

2004						
SECTOR	BS (mt)	BS (%)	AI (mt)	AI (%)	BSAI (mt)	% of total BSAI
Hook-and-line CP	93,866	97.0%	2,921	3.0%	96,786	48.9%
Hook-and-line CV	272	100.0%	-	0.0%	272	0.1%
Hook-and-line and Pot CVs < 60'	1,970	*	*	*	1,970*	1.0%*
Hook-and-line and Pot Gear ICA	346	69.8%	150	30.2%	496	0.3%
Jig Gear	231	100.0%	-	0.0%	231	0.1%
Pot CP	3,234	100.0%	-	0.0%	3,234	1.6%
Pot CV	12,364	100.0%	-	0.0%	12,364	6.3%
Trawl CP	29,352	71.0%	11,980	29.0%	41,332	20.9%
Trawl CV	27,576	67.1%	13,517	32.9%	41,093	20.8%
Total*	169,211	85.6%	28,567	14.4%	197,778	100.0%
2005						
SECTOR	BS (mt)	BS (%)	AI (mt)	AI (%)	BSAI (mt)	% of total BSAI
Hook-and-line CP	97,925	97.9%	2,128	2.1%	100,054	52.6%
Hook-and-line CV	235	100.0%	-	0.0%	235	0.1%
Hook-and-line and Pot CVs < 60'	2,234	*	*	*	2,234*	1.2%*
Hook-and-line and Pot Gear ICA	824	86.3%	131	13.7%	955	0.5%
Jig Gear	104	*	*	*	104*	0.1%*
Pot CP	3,339	100.0%	-	0.0%	3,339	1.8%
Pot CV	12,205	100.0%	-	0.0%	12,205	6.4%
Trawl CP	24,187	68.2%	11,281	31.8%	35,467	18.6%
Trawl CV	27,740	77.6%	8,007	22.4%	35,747	18.8%
Total*	168,792	88.7%	21,547	11.3%	190,339	100.0%

Source: NMFS catch accounting database, 2004 - 2005.

\*Totals exclude confidential data.

**Generally, while the two data sets are not exactly comparable, the data in Table F.5 indicate that the overall BSAI harvest share by sector is similar to what has occurred during 1995 – 2003. The ≥60’ pot CV share of Pacific cod harvest decreased slightly in the past two years compared to 1995 – 2003. Although a small portion of the <60’ fixed gear harvest is confidential and thus not reported in the**

above table, it is clear that the <60' fixed gear share of the total BSAI Pacific cod harvest has increased slightly in the past two years, likely due to additional quota reallocated from the jig sector starting in 2004. Excluding confidential data, the table shows that this sector harvested about 1.0% and 1.2% of the 2004 and 2005 total BSAI Pacific cod harvest. All sectors, with the exception of the <60' fixed gear sector and the combined trawl CP sector, had harvests in 2004 and 2005 that fall within the range of the catch shares during 1995 – 2003. Harvests attributed to the trawl CP sector would be slightly lower if only retained harvest was counted. Thus, while these data are not comparable to the retained only harvest data in the previous tables, they provide a general view of the fishery in the two most recent years.

The data in Table F.5 are important to consider in determining whether the distribution of harvest by sector in the two subareas has changed in recent years. The overall trend discussed previously in this section is that the trawl sectors have generally increased the percentage of their Pacific cod harvest in the AI compared to the BS over time, while the fixed gear sectors have generally decreased their share harvested in the AI. **The data provided for 2004 and 2005 follows this trend, as the trawl sectors appear to continue to take more of their total harvest in the AI than they did in 1995 – 1999.**

The table above shows that the combined trawl CP sectors harvested about 29% and 32% of their total BSAI Pacific cod harvest in the AI in 2004 and 2005, respectively. This can be roughly compared to about 32% of their total BSAI Pacific cod harvest taken in the AI during 2000 – 2003 (see Table F.4). The combined trawl CV sectors harvested about 33% and 22% of their total BSAI Pacific cod harvest in the AI in 2004 and 2005, respectively. This can be roughly compared to about 34% of their total BSAI Pacific cod harvest taken in the AI during 2000 – 2003 (see Table F.4).

**While the fixed gear sectors have not harvested a significant amount of cod in the AI during any of the years considered, they continue to harvest less of their total cod share in the AI in the most recent years.** The hook-and-line CP sector harvested about 3% and 2% of its total cod catch in the AI during 2004 and 2005, respectively. This compares to an estimated 8% in 2000 – 2003. Hook-and-line and pot catcher vessels of any length, as well as jig vessels, harvested little to none of their total BSAI Pacific cod harvest in the AI in 2004 and 2005, and less than was harvested on average in 2000 – 2003.



**Appendix G: BSAI Pacific cod annual harvest (retained mt, including meal) by sector, 1995 – 2003**

SECTOR	1995		1996		1997		1998		1999	
	(mt)	# vessels								
<60 HAL/Pot CVs	900	38	131	16	56	13	40	11	176	18
AFA Trawl CPs	4,677	15	3,717	15	4,676	13	5,599	21	4,680	14
AFA Trawl CVs	39,919	91	51,269	99	53,264	92	38,183	93	34,111	99
Jig CVs	589	42	247	34	167	17	191	10	204	15
Longline CPs	87,870	43	82,700	39	108,590	37	83,642	38	68,271	38
Longline CVs >60'	19	7	8	7	42	10	2	3	92	20
Non-AFA Trawl CPs	16,045	33	17,877	30	19,584	30	21,860	23	22,087	24
Non-AFA Trawl CVs	3,190	12	3,317	17	3,177	9	1,555	12	1,709	11
Pot CPs	4,406	8	8,275	13	4,913	9	3,052	8	3,223	13
Pot CVs >60'	15,252	106	22,282	95	15,050	77	8,467	70	11,835	89
<b>TOTAL</b>	<b>172,867</b>	<b>395</b>	<b>189,824</b>	<b>365</b>	<b>209,519</b>	<b>307</b>	<b>162,591</b>	<b>289</b>	<b>146,388</b>	<b>341</b>

SECTOR	2000		2001		2002		2003		sum 95-03	sum/total
	(mt)	# vessels	(mt)	%						
<60 HAL/Pot CVs	252	38	1,027	41	1,555	30	1,757	25	5,894	0.4%
AFA Trawl CPs	2,393	15	2,412	14	2,669	17	2,364	16	33,187	2.1%
AFA Trawl CVs	37,267	98	19,430	98	35,219	97	34,806	91	343,468	22.1%
Jig CVs	79	16	102	19	170	18	154	15	1,903	0.1%
Longline CPs	75,181	41	86,436	42	79,269	40	89,580	39	761,539	49.1%
Longline CVs >60'	227	19	1,334	20	171	6	94	6	1,988	0.1%
Non-AFA Trawl CPs	25,828	23	23,628	22	29,757	22	28,157	23	204,824	13.2%
Non-AFA Trawl CVs	2,837	11	3,020	13	5,862	18	7,601	22	32,269	2.1%
Pot CPs	2,491	10	2,991	5	2,059	5	1,530	3	32,939	2.1%
Pot CVs >60'	16,793	110	13,964	69	12,677	55	17,223	70	133,544	8.6%
<b>TOTAL</b>	<b>163,348</b>	<b>381</b>	<b>154,344</b>	<b>343</b>	<b>169,409</b>	<b>308</b>	<b>183,265</b>	<b>310</b>	<b>1,551,555</b>	<b>100.0%</b>

Source: Harvest data are from WPR reports and ADF&G fishtickets, 1995 - 2003. Includes cod destined for meal production as the primary product. The 9 trawl CPs listed in Section 209 of the AFA that were made permanently ineligible for fisheries in the U.S. EEZ (i.e., AFA 9) are not included.

Note: In every year, some percentage of the harvest cannot be assigned to a given catcher vessel sector due to missing fishtickets from mothership deliveries. This harvest was not attributed to any sector in this table and is excluded from the annual total. The percent of harvest that cannot be assigned varies by year and ranges from 0.03% - 2.0%. Pacific cod harvested with hand troll gear and harvest from the 3 surimi-fillet non-AFA CPs was not included.



**Appendix H:** Memorandum from Lauren Smoker, Attorney, NOAA General Counsel to Doug Mecum, Acting Regional Administrator, Alaska Region and Sue Salvesson, Assistant Regional Administrator, Alaska Region. September 25, 2006.



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration

Office of General Counsel

P.O. Box 21109

Juneau, Alaska 99802-1109

September 25, 2006

MEMORANDUM FOR: Doug Mecum  
Acting Regional Administrator, Alaska Region

Sue Salveson  
Assistant Regional Administrator for Sustainable Fisheries,  
Alaska Region

THROUGH: Lisa L. Lindeman *Lisa Lindeman*  
Alaska Regional Counsel

FROM: *Lauren Smoker*  
Lauren Smoker  
Attorney, NOAA General Counsel

SUBJECT: Section 305(i)(1)(B) of the Magnuson-Stevens Act and its  
applicability to Amendment 85

This memorandum responds to your request for a legal opinion concerning specific language in section 305(i)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the section's applicability to Amendment 85 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP).

### STATEMENT OF ISSUES

- (1) What is the meaning of the phrase "directed fishing allocation" in section 305(i)(1)(B)(ii)(I) of the Magnuson-Stevens Act?
- (2) What is the meaning of the word "establishment" in section 305(i)(1)(B)(ii)(I)?
- (3) Does section 305(i)(1)(B)(ii)(I) require that Amendment 85 include a directed fishing allocation of 10 percent of Pacific cod to the CDQ program?

### SHORT ANSWERS

- (1) Although undefined, the meaning of the phrase "directed fishing allocation" in section 305(i)(1)(B)(ii)(I) is plain given the statutory language of section 305(i)(1)(B) and the Magnuson-Stevens Act. "Directed fishing allocation" means an amount of fish allocated to the Western Alaska Community Development Quota (CDQ) Program that is for directed fishing and that does not include amounts needed for incidental catch or



bycatch. Amounts needed for incidental catch and bycatch would be in addition to the statutorily prescribed directed fishing allocation.

(2) Although undefined, only one reasonable interpretation of the word “establishment” is available given the statutory language of the Magnuson-Stevens Act. The plain meaning of the word “establishment” is the date on which fishing commences under an approved quota program, fishing cooperative, sector allocation or other rationalization program. If Amendment 85 is approved by NMFS, the changes mandated by section 305(i)(1)(B)(ii)(I) will take effect on the date fishing commences under the Amendment 85 BSAI Pacific cod allocations.

(3) Because Amendment 85 is a sector allocation program, it must include measures that are consistent with section 305(i)(1)(B)(ii)(I) when the North Pacific Fishery Management Council (Council) submits it to the Secretary for review in accordance with sections 304(a) and (b) of the Magnuson-Stevens Act. A statement within the legislative history that indicates different effective dates for section 305(i)(1)(B)(ii)(I) in regards to Pacific cod does not override the statutory language.

## **BACKGROUND**

### **A. Amendment 85**

In April 2006, the Council adopted Amendment 85 to the FMP. Among other things, Amendment 85 would allocate specific percentages of BSAI Pacific cod among various non-CDQ sectors currently operating in the fishery as follows:

Jig Catcher Vessels (CVs)	1.4%	Pot Catcher Processors (CPs)	1.5%
<60' Hook-and-line/Pot CVs	2.0%	Hook-and-line CPs	48.7%
≥60' Hook-and-line CVs	0.2%		
≥60' Pot CVs	8.4%	AFA Trawl CPs	2.3%
Trawl CVs	22.1%	Non-AFA Trawl CPs	13.4%

When the Council adopted Amendment 85, the CDQ Program was receiving 7.5 percent of the annual BSAI Pacific cod TAC. The CDQ Program’s allocation of BSAI Pacific cod included both directed fishing and nontarget needs and was subtracted from the TAC before the TAC was further subdivided. The Council has not yet submitted Amendment 85 for Secretarial review, but is expected to submit it before the end of 2006.

### **B. The Coast Guard and Maritime Transportation Act of 2006**

The Coast Guard and Maritime Transportation Act of 2006 (Coast Guard Act) was enacted on July 11, 2006. Pub. L. No. 109-241, 120 Stat. 516. Section 416 of the Coast

Guard Act amends section 305(i)(1) of the Magnuson-Stevens Act,<sup>1</sup> establishing a number of new provisions for the CDQ Program.

Section 305(i)(1)(B) governs allocations to the CDQ Program. Section 305(i)(1)(B)(i) states:

IN GENERAL.- Except as provided in clause (ii), the annual percentage of the total allowable catch . . . allocated to the program in each directed fishery of the Bering Sea and Aleutian Islands shall be the percentage approved by the Secretary, or established by Federal law, as of March 1, 2006, for the program. The percentage for each fishery shall be either a directed fishing allowance or include both directed fishing and nontarget needs based on existing practice with respect to the program as of March 1, 2006, for each fishery.

Given this language, the current Pacific cod allocation to the CDQ Program of 7.5 percent of the BSAI Pacific cod TAC would continue. The allocation includes both directed fishing and nontarget needs as that was the management practice with regards to Pacific cod as of March 1, 2006. However, section 305(i)(1)(B)(ii)(I) describes an exception to the general rule. It states:

Notwithstanding clause (i) – (I) the allocation under the program for each directed fishery of the Bering Sea and Aleutian Islands (other than a fishery for halibut, sablefish, pollock, and crab) shall be a directed fishing allocation of 10 percent upon the establishment of a quota program, fishing cooperative, sector allocation, or other rationalization program in any sector of the fishery.

Congress did not define the phrase “directed fishing allocation” or the word “establishment” in either the Coast Guard Act or the Magnuson-Stevens Act.

## ANALYSIS

### A. Meaning of the Phrase “Directed Fishing Allocation” As Used In Section 305(i)(1)(B)(ii)(I)

The CDQ Program currently receives 7.5 percent of the BSAI Pacific cod TAC, and the allocation includes both directed fishing and nontarget needs. As a result, 7.5 percent of the Pacific cod TAC is the total maximum amount that may be caught by participants in the CDQ Program while fishing in any CDQ fishery.<sup>2</sup>

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<sup>1</sup>Prior to the Coast Guard Act, section 305(i)(1) of the Magnuson-Stevens Act included several provisions for the CDQ Program that were added by the Sustainable Fisheries Act in 1996 (Pub. L. No. 104-297, 110 Stat. 3559).

<sup>2</sup>A CDQ group is prohibited from catching Pacific cod in amounts that exceed the group’s allocation of Pacific cod. 50 C.F.R. §679.7(d)(5). Any CDQ group that catches Pacific cod in excess of their allocation is in violation of the regulations and could be subject to enforcement action.

Section 305(i)(1)(B)(ii)(I) increases the percentage allocated to the CDQ Program to 10 percent if a quota program, fishing cooperative, sector allocation, or other rationalization program is established in any sector of the fishery. However, a question arises as to whether the increased allocation includes both directed fishing and nontarget needs (thus capping the new allocation to the CDQ Program at 10 percent) or whether the increased allocation includes only directed fishing needs (thereby creating a new allocation to the CDQ Program that is actually greater than 10 percent because incidental catch and bycatch of CDQ program participants are not counted against the 10 percent allocation). Congress described the new allocation in section 305(i)(1)(B)(ii)(I) as a “directed fishing allocation” but did not define the phrase. In order to accurately allocate an appropriate amount of a BSAI directed fishery, such as Pacific cod, to the CDQ Program under section 305(i)(1)(B)(ii)(I), an interpretation of the phrase “directed fishing allocation” is necessary.

Given the statutory language of section 305(i)(1)(B), the plain meaning of the phrase “directed fishing allocation” is an amount of fish allocated to the CDQ Program that is for directed fishing and does not include incidental catch and bycatch.<sup>3</sup> Amounts necessary for incidental catch and bycatch would be in addition to the statutorily prescribed directed fishing allocation. In section 305(i)(1)(B)(i), Congress specified that the CDQ allocation would be either a directed fishing allowance or include directed fishing and nontarget needs. Congress therefore understood and clearly distinguished between CDQ allocations that are solely for directed fishing and CDQ allocations that include both directed fishing *and* nontarget (incidental catch and bycatch) needs. In section 305(i)(1)(B)(ii)(I), however, Congress used the phrase “directed fishing” to describe the allocation to the CDQ Program. Use of the phrase “directed fishing” indicates that the allocation is solely for directed fishing and does not include incidental catch or bycatch amounts.

The language in 305(i)(1)(B)(ii)(I) also specifies two changes to the general CDQ Program allocations set forth in section 305(i)(1)(B)(i) when a quota program, fishing cooperative, sector allocation, or other rationalization program is established. Congress increased the percentage allocated to the CDQ Program when such a program is established,<sup>4</sup> and specified a directed fishing allocation. The CDQ pollock fishery, which is exempt from section 305(i)(1)(B)(ii)(I), is the only CDQ directed fishery that is a

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<sup>3</sup>Rules of statutory interpretation provide that the meaning of a statute is plain when the language is clear and unambiguous on its face (*i.e.*, not contradicted by other language in the same act), admits of no more than one meaning, and is not unreasonable or illogical in its operation. Sutherland Stat. Construction §45:02; 46:01 (6<sup>th</sup> Ed.). Ambiguity exists “when a statute is capable of being understood by reasonably well-informed persons in two or more different senses. Sutherland Stat. Construction §45:02 (6<sup>th</sup> Ed.). Words or phrases not defined by the statute do not necessarily mean that the word or phrase is ambiguous and subject to agency interpretation; rather, undefined words and phrases are to be interpreted as taking their ordinary, contemporary, common meaning unless the ordinary meaning fails to fit within the statutory text as a whole. *See AFL-CIO v. Glickman*, 215 F.3d 7, 10 (D.C. Cir. 2000) (lack of statutory definition does not render a term ambiguous, but, instead, it simply leads a court to give the term its ordinary, common meaning.)

<sup>4</sup>With the exception of the CDQ halibut, fixed-gear sablefish, pollock, and crab fisheries, which are specifically excluded from section 305(i)(1)(B)(ii)(I), the CDQ Program currently receives 7.5 percent of the annual TACs for all groundfish fisheries allocated to the CDQ Program.

directed fishing allowance. If Congress had intended to continue the existing allocation method that includes both directed fishing and nontarget catch for the remainder of the CDQ directed fisheries, it could have used language that only increased the allocation percentage. Instead, Congress specifically identified a directed fishing allocation in addition to the increased allocation.<sup>5</sup>

Although the meaning of the phrase is plain from the statutory language, additional support for such an interpretation can be found in the legislative history for section 305(i)(1)(B)(ii). 152 CONG. REC. S6,042 (daily ed. June 19, 2006) (statements of Sen. Murray and Sen. Stevens). In an exchange between Senators Murray and Stevens, Senator Murray stated her interpretation of section 305(i)(1)(B)(ii) and its reference to a 10 percent directed fishing allocation “as a directed fishing allowance which does not include incidental catch.” *Id.* After explaining that CDQ allocations are currently managed as hard caps, which include both directed and incidental catch of the CDQ groups, Senator Murray asked Senator Stevens if he intended “to change the current manner in which the council sets CDQ allocations in these fisheries, from a hard cap allocation to a directed fishing allocation.” *Id.* Senator Stevens replied that he did. *Id.* This further supports an interpretation that CDQ allocations under this paragraph would not include non-target needs.

#### **B. Meaning of the Word “Establishment” As Used In Section 305(i)(1)(B)(ii)(I)**

A question has been raised regarding when the CDQ allocations under section 305(i)(1)(B)(ii)(I) will be effective. Therefore, an interpretation of the word “establishment” as used in that section is necessary. In the Magnuson-Stevens Act rulemaking process, there are two distinct dates on which a quota program, fishing cooperative, sector allocation, or other rationalization program could be “established:” (1) the earliest date on which a rule can be effective under the APA, which is generally 30 days after publication of the final rule,<sup>6</sup> or (2) the date on which fishing commences under the approved program.<sup>7</sup> NMFS publishes final rules for these types of programs at various times during the fishing year. However, fishing typically commences under these types of programs at the beginning of a fishing year following issuance of a final rule

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<sup>5</sup>An examination into whether some interpretive insight can be gained through Congress’ use of “directed fishing allocation” versus “directed fishing allowance” does not bear fruit. In section 305(i)(1)(B)(i), Congress recognized two types of percentages for the CDQ Program; either the percentage is a directed fishing allowance that excludes nontarget needs or it includes both directed fishing and nontarget needs. Although “directed fishing allocation” is not identical to “directed fishing allowance,” the difference does not support a conclusion that Congress intended a directed fishing allocation to include both directed fishing and nontarget needs. Congress did not describe percentages that include both directed fishing and nontarget needs as directed fishing allocations. Therefore, the appropriate focus should be on the words “directed fishing,” which are the words Congress used to describe the allocation.

<sup>6</sup>A final rule may be effective earlier than 30 days after publication of the final rule if the agency has good cause to shorten or waive the APA’s 30-day cooling off period. 5 U.S.C. 553(d).

<sup>7</sup>Under quota programs, fishing cooperatives, and other rationalization programs, there can be interim dates, such as application deadlines, that fall after publication of the final rule but prior to the commencement of fishing under such programs. While these dates have importance to the overall implementation of the program, none of them permit participants to begin fishing under such programs.

mainly to avoid the disruption that would likely occur to existing sectors and allocations with a mid-year effective date. If “establishment” means the earliest possible date by which a rule can be effective, *i.e.*, no later than 30 days after publication of the final rule in the *Federal Register*, then regulatory adjustments for the CDQ Program likely would be effective during a mid-point in the fishing year and therefore adjustments of allocations to other sectors would be required to accommodate the increase to the CDQ Program. If “establishment” means the date on which fishing commences under one of these programs, then regulatory adjustments for the CDQ Program in Amendment 85 would be effective at the same time the Amendment 85 non-CDQ sector allocations are effective.

The word “establishment” is not defined in the Magnuson-Stevens Act or in the Coast Guard Act. In such cases, the rules of statutory construction provide that the ordinary, common meaning of the word should be applied.<sup>8</sup> The common definition of the word “establishment” is “to bring into existence, create, make, start, originate, found or build.”<sup>9</sup> This definition lends support to using the fishing commencement date, as that is the date on which the program exists or starts. While publication of a final rule is the first step in starting or bringing into existence such programs, the program itself does not go into effect until the beginning of the next fishing year, even if that is more than 30 days after issuance of the final rule.

Also, Congress used the word “establishment” as opposed to “effective date” or “promulgate.” The Magnuson-Stevens Act currently uses the word “promulgate” in reference to issuance of final regulations or rules.<sup>10</sup> “Promulgate” is not defined in the Magnuson-Stevens Act, but has been interpreted by NMFS to mean publication of regulations in the *Federal Register*, consistent with the word’s common meaning (“to make known by open declaration; to make public as having the force of law; to announce officially”).<sup>11</sup> Because Congress was well aware of the word “promulgate” and its meaning, and used a different word in section 305(i)(1)(B)(ii)(I), it is consistent with the rules of statutory construction to conclude that Congress intended “establishment” to have a meaning different from “promulgate” and the date of publication of regulations in the *Federal Register*.<sup>12</sup>

Finally, the statutory language creates a tie between the CDQ Program receiving the benefits from an increased directed fishing allocation and the non-CDQ sector(s) receiving the benefits from one of the specified programs. For the reasons provided above, fishing typically commences under one of the specified programs at the start of a fishing year. To interpret “establishment” as meaning the earliest possible effective date would de-link the CDQ and non-CDQ sectors because they would not receive benefits simultaneously.

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<sup>8</sup>Sutherland Stat. Construction § 47:28 (6<sup>th</sup> Ed.).

<sup>9</sup>Webster’s 3<sup>rd</sup> New International Dictionary.

<sup>10</sup>See sections 304(b)(3), 305(c), 305(d), and 305(f) of the Magnuson-Stevens Act.

<sup>11</sup>Webster’s 3<sup>rd</sup> New International Dictionary.

<sup>12</sup>Sutherland Stat. Construction §46:06 (6<sup>th</sup> Ed.).

Based on the foregoing, only one reasonable interpretation of the word “establishment” is available given the statutory language of the Magnuson-Stevens Act. The meaning of the word “establishment” is the date on which fishing commences under an approved quota program, fishing cooperative, sector allocation or other rationalization program. Therefore, the changes to the CDQ Program allocation contemplated in section 305(i)(1)(B)(ii)(I) would take effect when fishing under one of these types of programs commences.

### **C. Inclusion of provisions consistent with section 305(i)(1)(B)(ii)(I) in Amendment 85**

Sections 304(a) and (b) of the Magnuson-Stevens Act require that FMPs, FMP amendments, and regulations be consistent with the provisions of the Magnuson-Stevens Act and other applicable law. Section 305(i)(1)(B)(ii)(I) became effective on July 11, 2006, the date of enactment of the Coast Guard Act. Therefore, any FMP, FMP amendment, or regulation submitted to the Secretary that is a quota program, fishing cooperative, sector allocation, or other rationalization program now must include provisions for a directed fishing allocation of 10 percent to the CDQ Program to be consistent with the Magnuson-Stevens Act, as amended by the Coast Guard Act. Because Amendment 85 would allocate specific percentages of BSAI Pacific cod among a number of fishing sectors, Amendment 85 is a sector allocation program. As such, it must include measures that are consistent with the changes mandated by section 305(i)(1)(B)(ii)(I) when it is submitted to the Secretary for review in accordance with section 304(a).

Although the statutory language is clear, a statement is included in the legislative history for the Coast Guard Act that says, with respect to Pacific cod, “the new CDQ allocations under section 416 are not intended to take effect until full rationalization of that fishery, or January 1, 2009, whichever date is earlier.” 152 CONG. REC. S6,042 (daily ed. June 19, 2006) (statement of Sen. Stevens). The rules of statutory construction provide that if the statutory language is clear and unambiguous, the language of the statute controls.<sup>13</sup> Additionally, the Supreme Court has recognized that:

statutory language might not be conclusive if there is a ‘clearly expressed legislative intention to the contrary,’ to which the Court usually adds two propositions: this would be a ‘rare and exceptional’ circumstance; and Congress expresses itself in the language of the statute.

*Southeast Shipyard Ass’n v. U.S.*, 979 F.2d 1541, 1545 (D.C. Cir. 1992) (Emphasis added).

The floor statement made by Senator Stevens quoted above appears to express his intention for Pacific cod, contrary to the statutory language of section 305(i)(1)(B)(ii)(I). Even so, the statutory language (1) makes no reference to the two triggers identified in the statement, (2) can be rationally implemented as currently worded, and (3) is not

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<sup>13</sup>Sutherland Stat. Construction §45:02 (6<sup>th</sup> Ed.).

inconsistent with other provisions of the Magnuson-Stevens Act. To give meaning to the statement, many additional words would have to be added to the statutory language, contrary to the tenets of statutory construction.<sup>14</sup> Congress clearly expressed itself in the language of the statute, and therefore the statutory language is controlling.

## CONCLUSION

For the reasons explained above, “directed fishing allocation” means an amount of fish allocated to the CDQ program that is for directed fishing and does not include incidental catch or bycatch; such amounts would be in addition to the 10 percent directed fishing allocation. “Establishment” as used in section 305(i)(1)(B)(ii)(I) means the date on which fishing commences under an approved quota program, fishing cooperative, sector allocation or other rationalization program. Finally, Amendment 85 is a sector allocation program and as such it must include measures that are consistent with section 305(i)(1)(B)(ii)(I) when it is submitted to the Secretary for review in accordance with sections 304(a) and (b). If Amendment 85 is approved by NMFS, the CDQ Program will receive a 10 percent directed fishing allocation of Pacific cod, amounts of Pacific cod necessary for incidental catch and bycatch will be in addition to the 10 percent directed fishing allocation, and the directed fishing allocation of Pacific cod to the CDQ Program will not take effect until the date on which fishing under the Amendment 85 BSAI Pacific cod allocations commences.

cc: GCAK, GCF

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<sup>14</sup>Sutherland Stat. Construction §47:38 (6<sup>th</sup> Ed.).



Table 1. AFA trawl CP sector retained BSAI Pacific cod harvest (round weight mt), with and without meal

Year	AFA CP sector meal (mt)	retained catch (mt) excluding meal	retained catch (mt) including meal	meal as % of retained catch	AFA CP % of total retained catch by all sectors (no meal)	AFA CP % of total retained catch by all sectors including AFA CP meal ( <b>and w/only AFA CP meal included in denominator</b> ) <sup>1</sup>	difference in percentage points
1995	377	4,300	4,677	8.1%	2.5%	2.6%	-0.1%
1996	489	3,228	3,717	13.2%	1.7%	1.9%	-0.2%
1997	120	4,556	4,676	2.6%	2.2%	2.2%	0.0%
1998	1,245	4,354	5,599	22.2%	2.7%	3.4%	-0.7%
1999	994	3,686	4,680	21.2%	2.6%	3.2%	-0.7%
2000	684	1,709	2,393	28.6%	1.1%	1.5%	-0.4%
2001	980	1,432	2,412	40.6%	0.9%	1.6%	-0.6%
2002	1,382	1,287	2,669	51.8%	0.8%	1.6%	-0.8%
2003	816	1,409	2,225	36.7%	0.8%	1.2%	-0.4%

Source: Weekly production reports and ADF&G fishtickets, 1995 - 2003.

**Note: The AFA 9 are not included.** AFA 9 meal data are confidential, as the data indicate only one AFA 9 vessel had cod meal product in one year.

<sup>1</sup>Annual retained harvest data for every sector including meal was not available at the time this table was produced. **Thus, only meal from the AFA trawl CP sector is included in the denominator for this calculation (the denominator = total retained catch by all sectors).** These percentages would either stay the same or decrease if meal from all sectors was included.

Table 2. Percent of total retained BSAI Pacific cod (round weight mt) harvested by AFA trawl CP sector, with and without meal, during various series of years

Series of years	% retained harvest by AFA CP (no meal)	% retained harvest by AFA CP (with meal) <sup>1</sup>	Range of potential AFA CP sector allocations under Am. 85 (as % of BSAI Pcod ITAC)
1995 - 2002	1.8%	2.2%	
1997 - 2000	2.1%	2.6%	
1997 - 2003	1.6%	2.1%	0.9% - 3.7%
1998 - 2002	1.6%	2.1%	
1999 - 2003	1.2%	1.8%	
2000 - 2003	0.9%	1.5%	

Note: Retained harvest data are from weekly production reports and ADF&G fishtickets, 1995 - 2003.

**The AFA 9 are not included.** AFA 9 meal data are confidential, as the data indicate only one AFA 9 vessel had cod meal product in one year.

Note: The series of years mirror the series of years used for allocation options under Am. 85. No drop year was applied.

<sup>1</sup>Annual retained harvest data for every sector including meal was not available at the time this table was produced. **Thus, only meal from the AFA trawl CP sector is included in the denominator for this calculation (the denominator = total retained catch by all sectors).** These percentages would either stay the same or decrease if meal from all sectors was included.

DRAFT

Comparison of BSAI Pacific cod harvest share of total retained catch (mt) by AFA trawl CP sector, including and excluding meal and using WPR versus Blend/Catch Accounting data, 1998 - 2003

Year	WPR - excluding meal		WPR - including meal for AFA CP sector only		Blend/Catch Accounting - includes meal for all sectors	
	Retained catch excluding meal - WPR (mt)	AFA trawl CP % of total retained catch	Retained catch including meal - WPR (mt)	AFA trawl CP % of total retained catch*	Retained catch including meal - blend (mt)	AFA trawl CP % of total retained catch
1998	4,354	2.7%	5,599	3.4%	8,459	4.6%
1999	3,686	2.6%	4,680	3.2%	6,324	4.0%
2000	1,709	1.1%	2,393	1.5%	3,542	2.0%
2001	1,432	0.9%	2,412	1.6%	4,003	2.5%
2002	1,287	0.8%	2,669	1.6%	3,509	2.0%
2003	1,409	0.8%	2,225	1.2%	3,831	not avail.

\* Denominator includes meal of AFA CP sector only.

Note: AFA 9 are not included.

WPR = weekly production report.