

**Additional Written Materials**  
**Submitted for the December 31, 2008 Meeting**  
**Regarding Proposals 369-374**  
*(received by 12:00 p.m. 12/30/08)*

RC 101	Ivar's Inc.
RC 102	Clem Tillion
RC 103	Blue North Fisheries
RC 104	Jody Cook
RC 105	Unalaska/Dutch Harbor AC
RC 106	North Pacific Fishery Management Council
RC 107	American Seafoods Company
RC 108	Department of Law comments (12/29/08 memo)



RC 101

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DEC 10 2008

BOARDS

Alaska Board of Fisheries  
Juneau, AK 99811

2 December 2008

Re: Board of Fish proposals 371 and 372

I am writing on behalf of Ivar's seafood restaurants with regard to two proposals by the Alaska Board of Fisheries to change how the state cod fishery is managed in the Aleutian Islands. Ivar's owns and operates almost more than 50 seafood restaurants around Puget Sound, north to the Canadian border, and as far south as California. We are proud to promote and serve nutritious seafood that is harvested from sustainably managed wild stocks of fish found in the pristine waters off the coast of Alaska—and we promote that in our stores.

Some of the most important products on our restaurant menus are those made from Pacific cod caught in the Aleutian Islands. For more than 10 years the vast majority of the cod we use, as much as one million pounds per year, has been purchased from American Seafoods, which operates the catcher-processor *Katie Ann*. The *Katie Ann* fishes for cod and produces a highly specialized deepskin shatter pack fillet product that we feature in our fish and chip and other meals. The *Katie Ann's* cod is processed and frozen at sea within hours of being harvested to meet or exceed our unique quality standards—the highest in the world. Over the past decade, we have worked with American and the crew of the *Katie Ann* to develop proprietary procedures to skin, bone, cut, and prepare the cod to preserve its best qualities. The response from our customers to these cod offerings has been overwhelmingly enthusiastic and are our most popular entrees purchased, outselling any other item by a margin of three-to-one.

Smaller size limits for harvesting vessels and lower daily catch limits could have a significant negative impact on the *Katie Ann's* ability to remain a viable, independent market for fishermen. The amount of cod we have bought from the *Katie Ann* over the years has been the bare minimum necessary for Ivar's to maintain cod on our menu. Anything less than that would put our program in jeopardy, since no other supplier has been able to match the quality of the product we purchase from the *Katie Ann*. Our market research firm tells us the scores customers give us on the quality of our fish and chips is higher than it has ever measured, and we attribute a great deal of this customer satisfaction to the unique product we have specified and the *Katie Ann* produces for us. It is so important to Ivars that we even feature the *Katie Ann* in our promotions and every store features a banner with a photo of the *Katie Ann* at sea.

This collaborative effort between Ivar's and the *Katie Ann* has been a true American success story, which was the one of the primary purposes of the original Magnuson Act. The cod caught and processed by the *Katie Ann* comes from a U.S. fishery resource that is sustainably managed by the state of Alaska and North Pacific Fishery Management Council, caught and processed by a U.S. vessel with U.S. crew, and bought and consumed by the American public.

Thank you for considering our views as you deliberate whether to change how the state waters cod fishery is managed in the Aleutian Islands. Call when you are next in Seattle and we'd be glad to compare notes over orders of fish and chips!

Keep Clam,

Bob Donegan  
President



RC 102

December 13<sup>th</sup>, 2008

Alaska Board of Fisheries (BOF)  
Alaska Department of Fish and Game  
Boards Support Section  
P.O. Box 25526  
Juneau, AK 99802-5526

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DEC 14 2008  
BOARDS

Dear Chairman Jensen,

We are sending this letter to provide additional information concerning proposals #371 and #372.

We believe there is a difference between the "A-season" and the "B-season." When the Board created the statewater fishery, the A season was basically an extension of the federal "A-season" with existing participants, however the "B-season" was a fundamentally new fishery that provided more opportunity for development of a local small boat fleet.

When the Aleuts proposed #371 limiting vessel size to those vessels 60' and less, we recognize that the Katie Ann was a long time consistent participant in the western Aleutians. However, new participants with larger vessels coming west to engage in the statewater fishery for 3% of the BSAI cod quota have nullified the state action to help the community of Adak.

As Coastal Villages now is in partnership with American Seafoods, the Board has been reluctant to limit vessel size to 60'. While the "A-season" portion of the statewater fishery is primarily harvested by trawlers, the "B" or summer season has been small boats until this last season. Now, larger crab vessels without consistent Aleutian Island history, who with the Crab Rationalization program have leased their crab quota to other boats and installed freezer equipment and cod gear, have moved into the summer season this year. What had been a three month season has turned into a one month derby, impacting the small boat resident Adak fleet who depended on having a longer season in our region.

Coastal Villages and American Seafoods have no interest in the B season and will support the Aleut Corporation request that vessels fishing with any gear (jig, longline, pot or trawl) be subject to a 60' limit.

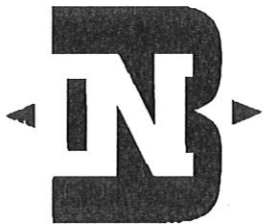
In exchange, the Aleut group agrees to drop any request for a change to the A season as proposed in #371 or #372.

We hope that the Board of Fish will see fit to enact a 60' limit for all gear in just the B season at your December 31<sup>st</sup> teleconference.

Sincerely,

Clem Tillion

RECEIVED TIME DEC. 12. 3:03PM



# BLUE NORTH FISHERIES

2930 Westlake Ave. N. • Suite 300 • Seattle, WA 98109 • (206) 352-9252 • Fax (206) 352-9380  
Tollfree 1-877-TRUECOD • email: bluenorth@bluenorthfisheries.com

Bill Brown  
9150 Skywood Drive  
Juneau, AK 99801

Bill,

I am writing to follow-up on a few critical issues that were touched on in my testimony to the Board of Fisheries on December 5th, 2008 with respect to proposal 373 for the management plan for parallel groundfish fisheries.

One of the most important facts that came out during the Board's December meeting is that proposal 373 is not actually allocative neutral, as it claims to be. The proposal's sponsors incorrectly assert:

*This is an entirely allocative neutral request. The fleet that has historically participated in the state parallel fishery will continue to fish in the Bering Sea and Aleutian Islands fishery. This only prevents larger hook and line vessels from becoming reliant on this seasonal fishery.*

This statement could not be less true. As the ADF&G comments to Proposal 373 confirm, over half of the fleet that currently harvests Pacific cod with hook and line gear in the parallel fishery would be eliminated from the fishery if proposal 373 is adopted. Over the past three years, between 12 and 15 catcher vessels and 4 to 5 catcher processors have prosecuted this fishery. In 2008, all 5 of the catcher-processor vessels and 6 of the 14 catcher vessels that fished in the parallel fishery exceeded 55 feet. This is hardly an "allocative neutral" impact – as the ADF&G comments correctly note, over half of the current vessels will bear the cost of this proposal when they are permanently eliminated from the fishery and their owners are forced to acquire smaller vessels or quit the fishery all together.

A second, but equally important factor to consider is the detrimental impact on the Alaska fishery that proposal 373 will have. Proposal 373 does not seek to conserve and develop fishery resources (which it should, to be a valid Board action, per Article VIII, Section 15 of the Alaska Constitution), but instead limits the development of the Alaska parallel fishery to preserve the exclusive access of those vessels operating in the Federal fishery. Alaska has created an open access fishery for Pacific cod in State waters that parallels the Federal fishery, but the State and Federal fisheries share the same TAC. Under its management regime, the Federal government has limited access to the resource and allocated percentages of that TAC to individual gear and vessel types, and the



Federal catcher/processors want to take this a step further and guarantee themselves individual allocations of the TAC. The only way they can do this is to eliminate competition from the parallel fishery. Please do not misunderstand their intent – the Freezer Longline Coalition needs to permanently eliminate the ability of the Alaska parallel fleet to harvest Pacific cod to accomplish its objective, and that is exactly what proposal 373 would do. By limiting vessel size to 55 feet, proposal 373 eliminates half of the current Alaska parallel fleet and would permanently restrict the ability of many entrants to participate in this fishery.

Another very important point to keep in mind is that the North Pacific Fishery Management Council is in the process of addressing this issue, and will likely devise a solution that will mitigate any potential conservation problem that proposal 373 addresses. The Council has prepared analysis and is currently considering a motion that would manipulate Federal licensing requirements to severely restrict the ability of vessels to transfer to the parallel waters fishery, which is the problem that proposal 373 purports to address. The Board should not take action on proposal 373 until it has a better idea of what management measures the Council will enact – to do otherwise makes it likely that proposal 373 will either be out of sync with or even contradictory to the solution that the Council ultimately adopts. This is especially important since proposal 373 is primarily intended to facilitate the Federal management regime and not as a State conservation measure.

Finally, I urge you to consider including a grandfather provision in proposal 373 if you believe that vessel length restrictions must be implemented. Though this parallel fishery is relatively new, the available data indicates that it is currently prosecuted by a fleet that will be cut in half by the restrictions of proposal 373. Even the sponsors of the proposal assert that it is their intention to preserve the ability of this fleet to continue fishing in the State parallel fishery. For that reason, it is crucial that the language of Proposal 373 be modified to permit historical participants in the fishery to continue that participation without having to acquire a new vessel that meets the 55 foot size limitation. Accordingly, we request that if adopted, the language of proposal 373 be modified to permit past participants in the parallel fishery to utilize a vessel of over 55 feet if they deployed such a vessel in the parallel fishery prior to December 31, 2008.

Thank you for the opportunity to share my concerns with you, both at the December meeting of the Board, and through this letter, and please do not hesitate to contact me if I may provide additional information about this issue or answer any questions you may have.

Regards,



Patrick Burns  
Blue North Fisheries, Inc.

RC 104

12/26/08

Dear Mr. Brown,

My name is Jody Cook. I operate a 58' trawler, "Cape Reliant", out of Petersburg, Alaska. I am writing in regards to Proposals 371, 372, and 373, on the current BOF agenda for the 12/31/08, teleconference.

I am hoping that this letter reaches each of you before the conference. I realize it is late. I had hoped to stop in Cordova and testify earlier this month as I was running the boat to Kodiak. Weather held us up and we missed our chance. It is my fear that as is often the case, big corporations will have the resources to make their interests sound much more appealing to you. Last year I attended and testified at the BOF meeting in Homer. Later after the Cod season I attended and testified at the April NPFMC meeting in Anchorage. Each time I saw the same faces representing big corporate interests. Each time I saw the paid lobby working after hours with drinks and dinners. I know the squeaky wheel eventually gets greased or replaced. Unfortunately most normal fishermen don't have the resources to lobby like the bigger businesses do.. This is my squeak..

It is my understanding that the Aleutian Island state fishery was established to provide opportunity to small boat operators in State waters. That about 3% of the existing federal quota was equal to what about ten 58' vessels had been catching near Adak, so that was the figure that was chosen. Since then, the area has been targeted more heavily by the mid-size 60-100 foot vessels and the 58' vessels are only catching 25% of the allowable catch. This year several 58' vessels and three larger traditional producers from the area were awarded LLPs for the area. The 58' vessels will probably not get to use their LLPs much, because of other fisheries they are in, but because their lobbyist was paid by Trident, they are not comfortable lobbying for this 60' limit. They would be lobbying against Trident, who has some B&N boats involved in the fishery. Their market is also Trident, so they don't want to compromise that.

American Seafoods claims to be 46% owned by the Coastal Villages CDQ group. 46% means that they are at the mercy of big corporations decisions. It may be a wonderful program and the concept is great, but some past testimonies from other CDQ programs have shown that a lot of money has a way of disappearing, before it actually reaches any village. American Seafoods is claiming that they will feel great hardship if, after harvesting the 97% of the Total allowable Catch, they can't have access to the remaining 3% that was originally set aside for a smaller sized fleet. I would be a bit worried about their survival, period, if that is the case. I believe it is just big business trying to maximize profits. I don't blame them for that, but I suggest they work on being more competitive, as they work on that 97% of the pie they already have access to.

Trident would love to see Adak Fisheries die. With their captive fleet of 58' vessels, they would be able to name their price. American Seafoods owns their own boats, so their profits will mostly go straight to the top with left overs trickling back to Alaska. If there is no action taken on this proposal, I believe that

Trident will be the only processor for the smaller boats eventually. It is too long of a trip for most 58' vessels, to risk only eight days of fishing, minus a couple weather days. And, if I wasn't committed to Trident, in some way, I would be on the "B" list, which would also be risky in a short season.

I believe that more 58' vessels would come and fish near Adak if this proposal passed. This would take pressure off of the State Pot Seasons near King Cove and Sand Pt. and Kodiak. It would restore the original intent of the fishery. Peter Pan, Ocean Fresh, and SnoPac, are just a couple of the processors who have either already been to Adak, or have expressed interest in going there. They each have fleets of 58' vessels that salmon fish for them. We need to preserve the independent fisherman. The guy or gal who owns their boat and is not owned by a big corporation. The State fisheries have been a wonderful tool for creating opportunities for this. Please don't let Adak be the first Corporate owned State Fishery. The B&N boats make the Bunderants lots and lots of money elsewhere. The American Seafoods boats fish during the regular federal season for 97% of the TAC. Pretty much all of the United Catcher Boats have LLPs now, like Windjammer, Lonestar, etc, and also fish for 97% of the TAC.

I know Adak fisheries isn't a model citizen, but the plant is unfortunately the lifeblood of the community. I think the smaller vessel limit would bring more boats that would consider selling fish there. I sold my fish there last year and was paid within a month. I have heard others haven't been as fortunate, but I know that Trident was very successful at almost putting them out of business last year, and that this very proposal may be the life or death of the plant and community.

The Sea Lion issue has pushed the 58' vessel away from a lot of areas that were close to shelter. Especially trawlers... At the same time there has been increased effort from other gear types. The increased price in cod has increased effort. We have moved West for more opportunity and breathing room. Adak looked like a perfect fit for the extra effort to spread out a bit. It offers protection for the smaller vessel, and a support facility in Adak.

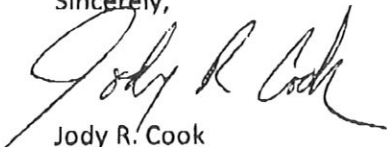
I also would be in favor of proposal 372. The smaller 75,000 lb catch limit would slow the fishery down. That would spread out the wealth a bit and make it less risky to catch nothing for the season, by hopefully adding a couple days to the season. It would also have potential for improving quality by cutting down on product getting backed up at the processors.

I am opposed to proposal 373, as it would eliminate my vessel from any future opportunity in longlining there, and I am not aware of a conflict of interest in regards to 55' vs 58' at this time.

If you have any questions for me, please feel free to e-mail me at [jcook839@comcast.net](mailto:jcook839@comcast.net).

Thanks for your service on the board. Regardless of this outcome, I respect your positions and the time you are dedicating towards the fisheries issues and the people involved..

Sincerely,



Jody R. Cook

RC 105

UNALASKA /DUTCH HARBOR, FISH AND GAME ADVISORY COMMITTEE  
PO Box 162, Unalaska, AK 99685

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DEC 23 2008

BOARDS

UNALASKA/DUTCH HARBOR FISH & GAME  
ADVISORY COMMITTEE MEETING MINUTES  
NOVEMBER 22, 2008  
UNALASKA PUBLIC LIBRARY MEETING ROOM

Review and Comment on Supplemental Proposals 369-375 by the Unalaska Advisory Committee, with input by Forrest Bowers, Alaska Department of Fish & Game (ADFG) staff .

**Proposal 369, 5AAC 39.164(b) (7) Non-Pelagic Trawl Gear Restrictions; and 5 AAC 39.165(3) Trawl Gear Unlawful.** Motion to adopt by Rowland with second by Graves. Discussion: this proposal clarifies state regulations on non-pelagic trawl closure in the Bristol Bay area. This housekeeping issue passed 6-0 by the committee. ADFG staff also provided comments in support.

**Proposal 370- 5AAC 39.167 Commercial Fishing Gear Prohibited in Waters of Alaska Surrounding Essential Fish Habitat Areas.** Motion to adopt by Graves with second by Goodfellow. Discussion: this proposal adds two areas of state waters for closure to non-pelagic trawl gear to complement the recent EFH closures in federal waters by the federal government in the Bering Sea. This is housekeeping issue that brings the state in compliance with new federal regulations passed 6-0 by the committee. ADFG staff provided comments also in support.

**Proposal 371-5AAC 28.647(d)(3) Aleutian Island District Pacific Cod Management Plan.** Motion to adopt by Graves with second by MacDonald. Discussion: this proposal reduces all vessels to 60 feet in length for all gear types in the Aleutian Island District Pacific Cod fishery. Committee members expressed concern about safety since majority of this fishery takes place in the A season making it a winter time fishery. Unalaska would be impacted by larger vessels that harvest cod and make landings in Unalaska and that will be shut out of the fishery. Local processing plants, city revenues and support sector businesses would be seriously impacted. It was also pointed out that if cod did not come back to Unalaska for processing, secondary products such as cod milt, which is very valuable product, may not be processed for shipping out fresh to markets overseas. Historically, this is not a small boat fishery; most of the fish has been harvested by medium sized trawlers. The committee felt small boats would not do well in a winter time fishery. This proposal would hurt larger vessels and their investments in their operations. It should be pointed out that the larger vessels that have fished this area have pioneered the cod fishery in this area. Motion to adopt failed 6-0; ADFG staff comments were neutral on this proposal.

**Proposal 372- 5AAC 28.647 (d)(7) Aleutian Island District Pacific Cod Management Plan.** Motion to adopt by Rowland with second by Graves. Discussion: this proposal

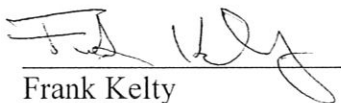


reduces daily catch limit from 150,000 lbs. to 75,000 lbs. Another proposal aimed at restricting large vessels operations in the Adak area is not justifiable. The fishery is manageable as is. If the trip limit is lowered, we could see more vessels getting fines for being over the smaller trip limit. With vessels facing high fuel costs and other expenses at this time, lowering the cod trip limit does not make sense and should not be approved. Motion to adopt failed 6-0; ADFG staff comments were neutral on this proposal.

**Proposal 373-5AAC 28.087 Management Plan for Parallel Groundfish Fisheries.** Motion to adopt by Rowland with second by Brewer. This will limit longline vessels to 55 feet in the Bering Sea/Aleutian Island Pacific cod state water parallel fishery. Discussion: the committee spilt on this issue. Some did not want to restrict new entrants into the cod fishery. The large freezer longliners CPs already control the majority of the Cod TAC, so it was not clear why they need more. This proposal would stop new entrants in the fishery from double-dipping on two cod sector allocations. The new entrants that do business with local processing plants and contribute to the local economy and support local businesses in Unalaska should be supported. Motion to adopt failed 3-2 and 1 abstention. ADFG staff comments were neutral on this proposal.

**Proposal 374, 5 AAC 28.087 Management Plan for Parallel Groundfish Fisheries.** Motion to adopt by Rowland with second by Brewer. This proposal seeks to amend the management plan to allow the commissioner to compel additional reporting requirements for catcher processors during the state water parallel fishery. Discussion: this is a good proposal in that it levels the playing field and gets needed information to the department, thereby helping management of the fishery. Motion to adopt passed 6-0; ADFG staff comments in support of the proposal.

**Proposal 375, 5AAC 28.075 Utilization of Pollock as Well as Pacific Cod Harvested in a Commercial Fishery.** Motion to adopt by Rowland with second by Graves. This proposal seeks to amend this regulation to require that all groundfish taken in a commercial fishery be reported on the fish ticket. This is a housekeeping issue for the state. The committee supports proposal, but is still worried that a loophole exists: if a vessel splits its offloads between two plants, it is not clear how the bycatch will be reported between the plants. In addition, it is not clear how the bycatch will be reported if the vessel dumps its bycatch before moving on to finish its offload at the second plant. Motion to adopt passed 6-0: ADFG staff comments in support.



Frank Kelty  
Chairmen of Unalaska/Dutch Harbor  
Fish & Game Advisory Committee

11-26-08  
Date

# North Pacific Fishery Management Council

RC 106

Eric A. Olson, Chairman  
Chris Oliver, Executive Director



605 W. 4th Avenue, Suite 306  
Anchorage, AK 99501-2252

Telephone (907) 271-2809

Fax (907) 271-2817

Visit our website: <http://www.fakr.noaa.gov/npfmc>

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DEC 22 2008

BOARDS

December 22, 2008

Alaska Board of Fisheries  
Boards Support Section  
Alaska Department of Fish and Game  
P.O. Box 115526  
Juneau, AK 99811

Dear Board Members:

At its December 2008 meeting the Council reviewed proposals which are scheduled for action by the Board of Fisheries later this month and the Council wishes to forward to the Board its support for the following four proposals:

#369 Clarify Bristol Bay non-pelagic trawl regulations - The Council has discussed this loophole in the regulations and supports Board approval to address concerns raised by the Quiaasic Walrus Commission. The Council will be considering their proposals for federal waters in 2009.

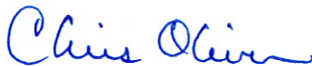
#370 Close certain Bering Sea areas to non-pelagic trawling - The Council reiterates its supports detailed in its September 1, 2008 letter for this proposal by ADF&G on behalf of NMFS, which seeks to close two areas in state waters of the Bering Sea to non-pelagic trawl gear to complement our recent EFH closures in adjacent federal waters.

#373 Restrict vessel size in BSAI parallel Pacific Cod fishery - The Council finds that the proposal is consistent with proposed actions we will be considering in 2009.

#374 Management Plan for Parallel Groundfish Fisheries - The Council supports this proposal by ADF&G on behalf of NMFS, which would help resolve a catch accounting problem that NMFS and ADFG staff have addressed informally.

Thank you for the opportunity to consult with the Board on proposals of mutual interest. Please give me a call if you need additional clarification on any of these recommendations.

Sincerely,



Chris Oliver  
Executive Director



**American Seafoods Company**

RC 107

December 30, 2008

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DEC 30 2008  
BOARDS

Alaska Department of Fish and Game  
Boards Support Section  
P.O. Box 115526  
Juneau, Alaska 99811-5526

Re: Alaska Board of Fisheries Proposal # 371 and 372

Dear Board of Fish Members:

We are submitting supplemental comments on Board of Fisheries Proposals # 371 (length limits) and 372 (trip/daily limits), now scheduled for final action at a teleconference on December 31, 2008. As we testified at the Board of Fisheries meeting in Cordova on Friday, December 5, American Seafoods Company is the owner of the KATIE ANN, a trawl catcher processor, and the FORUM STAR, a 90 ft trawl catcher vessel. These vessels have a long and continuous history of participation in the Aleutian Islands Pacific cod fishery. The State waters Pacific cod A season fishery is a critical part of our operations and any further restrictions on this fishery will put our operations in jeopardy. This would have devastating impacts on our vessel crew that includes a large number of residents from western Alaska communities and on our Alaskan owners. At the meeting in Cordova, we strongly urged you to reject Proposals # 371 and 372.

We understand that the Aleut Corporation (the party that originally requested proposals 371 and 372) has now requested that the Board of Fisheries: (1) reject proposal 372 entirely and reject proposal 371 with respect to the Aleutian Islands State waters A season, but (2) adopt proposal 371 (60 ft vessel length limit) with respect to the Aleutian Islands State waters B season. American Seafoods does not object to this revised proposal. Our historic participation in the Aleutian Islands cod fishery has been limited to the spring fishery when the cod are sufficiently schooled to allow for an efficient trawl fishery. We have not historically conducted an Aleutian Islands summer cod fishery. As long as the vessel length limit in proposal 371 is applied only to Aleutian Islands State waters B season cod fishery, American Seafoods Company does not object to the proposal. We remain vigorously opposed to any further restrictions on the Aleutian Islands State waters A season cod fishery.

Thank you in advance for your consideration of our comments.

Very truly yours,

AMERICAN SEAFOODS COMPANY LLC

Michael J. Hyde



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DEC 29 2008

RC 108

MEMORANDUM

STATE OF ALASKA  
*Department of Law*

To: Jim Marcotte  
Executive Director  
Alaska Board of Fisheries

Date: December 29, 2008

File No.: 993-09-0031

Thru:

Tel. No.:

Fax:

From: <sup>S.D.</sup> Steven A. Daugherty  
Assistant Attorney General  
Natural Resources Section  
Department of Law

Subject: **Comments on Specific  
Proposals for December 31,  
2008 Board of Fisheries  
Meeting: Groundfish Issues**

The Department of Law has reviewed the proposals that will be before the Board of Fisheries at the December 31 regulatory teleconference continuing issues from the December 1-7 Prince William Sound and Upper Copper River/Upper Susitna finfish meeting, and we submit the following comments for the Board's consideration on specific proposals. We have previously submitted general comments that should also be referred to as appropriate. We intend to have an Assistant Attorney General present at the meeting to expand on these comments or address other legal issues that may arise.

**Proposals 369-374:** Board members may reference and incorporate earlier preliminary deliberations from their discussions during the December 1-7 meeting in Cordova. If Board members choose to rely on their earlier deliberations they should make it clear on the record that they have reviewed all written comments received after that meeting and explain whether those new comments change their positions or analysis.

Several of these proposals involve vessel size limits. At the December 1-7 meeting the Board asked for a summary of existing definitions of "overall length" definitions in ADF&G statutes and regulations. A brief summary is attached. The most common definition, found in both statute and regulation, and the only definition used in the existing groundfish regulations is the definition used in the statutory salmon seine and hair crab vessel length limitation: "overall length" means the straight line length between the extremities of the vessel excluding anchor rollers." For purposes of consistency and avoiding confusion this definition should probably be used in the groundfish proposals under consideration unless the Board expresses a rationale for use of another definition.

The Board has adopted another regulation at 5 AAC 39.117 that allows a bulbous bow to exceed a maximum vessel length in any fishery other than the Bering Sea hair



crab fishery, and unless modified, this provision would also apply to any new vessel length limitation.

**Proposal 370, RC 87:** The original proposal for closures to nonpelagic trawl gear needed some modification because we learned that the corresponding federal closures to non-pelagic trawl gear are based on protection of potentially important bottom habitat, but are in areas that have not been designated as essential fish habitat. We also learned that the federal government has proposed additional areas for inclusion. The Board substitute language in RC 87 addresses the first issue and places the new nonpelagic trawl closures in 5 AAC 39.164 not 39.167.

**Proposal 372.** This proposal would change the trip limit to 75,000 pounds in the Aleutian Islands State water Pacific cod fishery. At the December 1-7 Board meeting, the Board requested conceptual language as a possible amendment to this proposal to make the regulation more enforceable and to reduce future trips based on overages in prior trips. It was noted during the prior discussions that existing provisions have not proven effective in this fishery because the surrender of proceeds for overages is not an effective deterrent for many fishermen and particularly for vertically integrated processing/fishing operations since the processor still benefits from any overage. It is also difficult to determine whether the true value of the overage is being surrendered to the state. Two conceptual options are provided below. The overage reduction provision (Option 2) would be complex and difficult to administer and we do not believe that it will be supported by the department -- if implemented, it is likely that there would be little or no inseason enforcement -- the Board lacks administrative, budgetary, and fiscal authority, and thus cannot require the department review the reported information to determine if there have been violations. Post season enforcement will be complicated by difficulties in locating fishermen after they have left the fishing grounds; many fishermen may leave the state and even the country after a season. The Board may want to consider whether Option 1, making it clear that Board intends for vessels to comply with harvest/trip limits and be subject to additional penalties for overages, would be sufficient to improve compliance. The Board may also consider other options for making trip limits more enforceable.

**Option 1: Express intent to have current regulations enforced:**

Add a new (h) to read:

(h) The Board intends for vessels to generally harvest less than their allowable harvest limits and to possess less than their allowable possession limits and to limit their fishing activities if there is a possibility of exceeding those limits; nothing in this section is intended to preclude or discourage additional enforcement action under AS 16.05.722, AS 16.05.723, or other applicable law for any violation of this section.

**Option 2: Comprehensive addition of provisions for reduction of overages from trip limits and improved enforceability:**

Amend sections of 28.647 to read:

**5 AAC 28.647. Aleutian Islands District Pacific Cod Management Plan.**

...

(d) During a state waters season.

...

(7) a vessel may harvest up to 75,000 [150,000] pounds of Pacific cod per day, **or a lesser amount as provided in (10) of this subsection,** and may not have more than 75,000 [150,000] pounds of unprocessed Pacific cod, **or a lesser amount as provided in (10) of this [on] subsection, on** board the vessel at any time; a vessel may not have on board the vessel more processed fish than the round weight equivalent of the fish reported on ADF&G fish tickets during the seasons specified in (1)(A) and (B) of this section; a validly registered vessel must report daily to the department the pounds of Pacific cod taken and on board the vessel;

(8) all Pacific cod taken must be retained;

(9) any overage of a limit specified in (7) of this subsection [.] must be immediately reported to the department by the vessel operator; **if the same price per pound is not paid for all Pacific cod offloaded from a vessel, the Pacific cod receiving the highest price per pound, up to the amount of the overage, will be considered the Pacific cod taken in excess of the limit specified in (7);** all proceeds from the sale of Pacific cod in excess of a limit specified in (7) of this subsection shall be immediately surrendered to the state;

**(10) a vessel that exceeded a limit provided in (7) of this section during any prior trip of the season may not harvest or have on board the full limits provided under (7) of this section and shall:**

**(i) maintain a log book documenting its allowable harvest and possession limits and estimated harvest for each two day period;**

**(ii) have reduced harvest and possession limits consisting of the limits provided in (7) of this section reduced by the amount of cumulative outstanding overage from its prior trips;**

**(11) if a log book is required under (10) of this subsection the logbook shall be updated following each retrieval of gear prior to redeploying that gear;**

**(12) a vessel that has exceeded a harvest or possession limit provided in (7) of this section by more than 10% during any prior**

trip of the season may not deploy fishing gear if it currently has on board more than 80% of its allowable harvest or possession limit;

(13) in addition to the immediate reporting of overages and surrender of proceeds required above, a vessel that exceeds a limit provided in (7) of this section during any trip shall provide a post-season report to the department, on a form approved by the department, signed subject to penalty for unsworn falsification, within 90 days after the close of the season documenting all overages for the season, documenting surrender of overage proceeds, and providing a copy of any log book required under (10) of this section.

(e) The Aleutian Islands District is a nonexclusive registration area for Pacific cod during a state waters season.

(f) The commissioner may, by emergency order, impose bycatch limitations and retention requirements based on conservation of the resource, to avoid waste of a bycatch species, to prevent over harvest of bycatch species, or to facilitate consistency of the regulations in an area where state and federal jurisdictions overlap.

(g) In the state waters season, all closure areas specified in the parallel season shall apply as specified by gear group in 50 C.F.R. 679, revised as of October 1, 2005, as modified by 71 Federal Register 36,694-36,714 (July 28, 2006).

(h) The Board intends for vessels to generally harvest less than their allowable harvest limits and to possess less than their allowable possession limits and to limit their fishing activities if there is a possibility of exceeding those limits; nothing in this section is intended to preclude or discourage additional enforcement action under AS 16.05.722, AS 16.05.723, or other applicable law for any violation of this section.

(i) [H] For the purposes of this section,

(1) “overall length” means the straight line length between the extremities of the vessel, excluding anchor rollers;

(2) “state waters A season” means the state waters season conducted from January 1 through June 9;

(3) “state waters B season” means the state waters season conducted from June 10 through December 31;

(4) “cumulative outstanding overage” means the total of the actual harvests for each trip minus the total of the applicable harvest limits for each trip;

(5) “day” means calendar day.

**Proposal 374, RC81.** The original proposal sought to create a new reporting requirement in the groundfish regulatory chapter. It was subsequently discovered that this would be largely duplicative with an existing provision relating to groundfish reporting in 5 AAC 39.130(h) and that this could be avoided by simply amending 39.130(h) to incorporate current federal regulations. It was also determined that the existing incorporation by reference of all of 50 CFR 679 in 39.130(h) is overly broad and that the Board could achieve the desired purpose by incorporating only 50 CFR 679.5. The Board amended proposal 374 through substitute language in RC 81 to achieve these purposes. The federal regulatory provision has been updated since the Board's December 1-7 meeting, and the Board may want to consider further amendment of RC 81 to incorporate the most recent federal regulations. 50 CFR 679.5, revised as of December 15, 2008, (73 Fed. Reg. 76136).

Attachment: Summary of "overall length" provisions.



Varying Fish and Game definitions of “overall length”:

**Statutory:**

**AS 16.05.530. Renewal of vessel license.** . . . (fee based on “overall length, as defined by the United States Coast Guard.”)

**AS 16.05.835. Maximum length of salmon seine and certain hair crab vessels.**

. . .

(c) In this section, "overall length" means the straight line length between the extremities of the vessel excluding anchor rollers.

**Regulatory:**

**Bristol Bay Area:**

**5 AAC 06.631. Vessel specifications and operations.**

(a) No vessel registered for salmon net fishing may be more than 32 feet in overall length. An anchor roller may not extend more than eight inches beyond the 32-foot overall length, and any portion that extends beyond the 32-foot overall length may not be more than eight inches in width or height.

(b) For the purposes of this section,

(1) "anchor roller" means a device used solely in aid of deploying and retrieving anchor gear, and does not provide any additional flotation, planing surface, or structural support to the vessel;

(2) "fish drop-out basket" means a device used solely to prevent the loss of fish from a gillnet after the fish leaves the water and before it is brought on board the vessel; a "fish drop-out basket" does not provide any additional flotation, planing surface, or structural support to the vessel;

(3) "gillnet roller" means a device used solely in aid of deploying and retrieving drift gillnet gear; a "gillnet roller" does not provide any additional flotation or planing surface to the vessel;

(4) "outdrive" means part of the propulsion system of a vessel used for either steering or thrust; an "outdrive" does not provide any additional flotation or planing surface to the vessel;

(5) "outdrive guard" means a device of skeletal construction used solely to protect the outdrive unit of a vessel; an "outdrive guard" does not provide any additional flotation or planing surface and is not used for any other purpose such as a bench, platform, or storage area;

(6) **"overall length" means the straight-line measurement between the extremities of the vessel, but does not include fish drop-out baskets, anchor rollers, gillnet rollers, trim tabs, outdrives, or outdrive guards;**

(7) "trim tabs" means an extension of the bottom of a vessel, at the transom, which is no more than 18 inches long at its longest point; "trim tabs" do not provide any increased flotation, and their sole function is to provide trim to a vessel while underway.

**Kuskokwim Area:**

**5 AAC 27.893. Vessel specifications and operations for the Kuskokwim Area.**

(a) In the Goodnews Bay, Nelson Island, and Cape Avinof Districts, a vessel used to take herring may not be more than 30 feet in overall length. For the purpose of this section, "overall length" means the straight-line measurement between the extremities of the vessel.

**Groundfish Fishery.**

**5 AAC 28.055, 28.367(c)(3), 28.537(c)(4), 28.577(e)(3)(D), 28.647(d)(1)(B)(i), 28.690(c);** "overall length" means the straight line length between the extremities of the vessel, excluding the anchor rollers.

**King Crab Fishery.**

**Area M (Alaska Peninsula)**

**5 AAC 34.590.** "overall length" means the straight line length between the extremities of the vessel, excluding the anchor rollers.

**Registration Area Q (Bering Sea)**

**5 AAC 34.925(k).** "overall length" means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments.

**Tanner Crab Fishery.**

**Registration Area J.**

**5 AAC 35.525(f).** "overall length" means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments.

**Registration Area J (Westward) Eastern Aleutian District**

**5 AAC 35.590 (c).** Vessel length restrictions. "overall length" means the straight line length between the extremities of the vessel, excluding anchor rollers.

**Fish and Game Habitat.**

**State Game Refuges.**

**5 AAC 95.542(b)(3).** "overall length" means the straight line length between the extremities of the boat, excluding any part of the boat's motor;

**Bulbous Bow Provision:**

**5 AAC 39.117. Vessel length; bulbous bow.** (a) Notwithstanding any other provision in 5 AAC 01 - 5 AAC 39, the addition of a bulbous bow may cause a vessel, other than a vessel engaged in the Bering Sea hair crab fishery, to exceed an established vessel overall length limitation. Only that portion of the vessel comprising the bulbous bow may cause the vessel to exceed a vessel overall length limitation.

(b) For the purposes of this section, "bulbous bow" means a bulbous extension of the bow, below or predominately below the water line of a vessel, that is designed to increase stability or fuel efficiency and does not contain storage space or equipment that can be accessed from within the vessel.

**Definitions in other regulations. Other definitions may be found in DNR regulations and Coast Guard regulations. Some regulations also use "U.S. Coast Guard registered length" instead of "overall length."**