

Feb.'09


Public Testimony Sign-Up Sheet

Agenda Item D-2(f) AI P.cod Processing Sideboards

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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

MEMORANDUM

TO: AP and Council Members
FROM: Chris Oliver 
Executive Director
DATE: February 2, 2009
SUBJECT: AI Pacific cod processing sideboards

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|---------------------------|
| ESTIMATED TIME 8 HOURS |
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ACTION REQUIRED

(f) Review discussion paper on Aleutian Islands Pacific cod processing sideboards

Background

At its December 2008 meeting, the Council reviewed two separate discussion papers on potential options to establish processing sideboards for catcher vessel harvests in the Eastern and Central Aleutian Islands of: 1) Pacific cod, and 2) Atka mackerel and Pacific ocean perch.¹ Note that a sideboard is a collective limit for all vessels subject to the sideboard; it does not represent a guaranteed allocation. The actions would essentially limit the amount of catcher vessel harvests of these species that could be processed by catcher processors and motherships that participate in a rationalization program with a processing element. The purpose of each paper was to review the Council's draft problem statement and provide a preliminary assessment of the proposed options.

In December, the Council approved a motion to revise the proposed alternatives and options relative to the Pacific cod processing sideboards, and requested that the discussion paper be updated with the results of those changes. The Council also approved a motion to table the Atka mackerel and Pacific ocean perch proposal indefinitely, due to the short time period in which the BSAI trawl limited access allocation has existed (2008 is the first year) and the currently limited shoreside markets for these species in the Aleutians. Thus, at this February meeting, the Council's action is limited to a review of the revised discussion paper on AI Pacific cod processing sideboards.

Specifically, the action proposes to limit the amount of catcher vessel Pacific cod harvest in Areas 541 and 542 that can be processed by a processing vessel (catcher processor/floater/mothership) that is part of an identified rationalization program (American Fisheries Act, BSAI crab rationalization, and BSAI Amendment 80). The Council's problem statement is on page 1 of the discussion paper and the alternatives and options are provided on page 22. Generally, however, the problem statement notes that recent rationalization programs provide benefits to processing vessels participating in these programs and afford opportunities for consolidation, thus freeing some processing capacity to target the non-rationalized BSAI Pacific cod catcher vessel fishery. This is one of the few remaining primary fisheries in the BSAI that is not operating under a rationalization program. While there are limitations on the amount

¹Note that a June 2008 Council motion redirected staff from providing a formal analysis, as requested in April 2008, to developing discussion papers.

harvested by the rationalized sectors, there are no limits on the amount harvested by catcher vessels that can be delivered to catcher processors or floating processors that operate under these rationalized programs. In the recent past, representatives from Adak have proposed Council action to provide such processing limits (sideboards) in the Eastern and Central AI Pacific cod fisheries, in order to protect shoreside processing opportunities for these species.

Alternatives and options

The suite of options provides various sets of qualifying years by which to establish a processing sideboard for the rationalized sectors, based on each sector's cod processing history (acting as a mothership) in Area 541 and 542. In brief, the sideboards are proposed to be based on either the greatest amount of the species delivered within the range of qualifying years, or the average annual amount. The qualifying years are generally based on either: recent years ranging from 2003 to 2007; or the 3-year or 5-year period prior to each of the three rationalization programs. In addition, the proposed action includes a sideboard date for consideration (i.e., prior to a specified date, these processing vessels could not take catcher vessel deliveries of Pacific cod harvested in the Eastern or Central Aleutians).

The sideboards can be constructed as one processing sideboard that applies to all three rationalized sectors combined, or a separate sideboard for each of the three rationalized sectors. Note that data confidentiality issues preclude staff from providing the sideboard amounts resulting from the proposed options that would establish separate sideboards for each of the three rationalized sectors. There are too few vessels participating in each individual sector to provide these data.

Revisions from December 2008

Upon review of the discussion paper in December, the Council approved a motion to exempt AFA processing vessels from the proposed sideboards, if they had continuous processing participation in the Area 541/542 Pacific cod fishery since the implementation of the AFA (1999). Note that while the Council discussion during the motion was relative to exempting AFA vessels that had been acting as motherships, receiving and processing Pacific cod harvested by catcher vessels, the wording of the exemption is not specific to that activity. One could interpret 'continuous processing participation' to mean catcher processor activity, i.e., processing cod caught by the same vessel. Staff suggests clarifying the wording, as the expressed intent was to limit the exemption to vessels that have acted as motherships, which is consistent with the proposed action.

The exemption was based on a review of the December 2008 discussion paper and public testimony that showed that one AFA catcher processor has been receiving and processing cod harvested by catcher vessels in Areas 541 and 542 since long before the implementation of the AFA. In effect, the one exempted AFA CP's history is not used to calculate the proposed sideboards, nor is it subject to those sideboards. This is consistent with the approach used in other sideboard exemptions created in the AFA and the crab rationalization programs. Excluding the exempted vessel's history clearly results in processing sideboards that are lower than would result otherwise.

The Council also added an option for consideration that would limit the entire action to Area 542. Thus, the revised discussion paper evaluates each option for the sideboard amount and sideboard date for both Areas 541 and 542 combined, and also for Area 542 separately. Overall, the great majority of the catcher vessel harvest of Pacific cod from these two areas comes from Area 541.² Thus, should the Council limit the proposed processing sideboard only to catcher vessel cod landings in Area 542, it would represent a

²On average from 1994 to 2008, 85% of the catcher vessel Pacific cod landings from these two areas were harvested in Area 541, as opposed to Area 542. The most recent nine years (2000 – 2008) result in the same average distribution between areas.

much smaller effect on the affected mothership sectors, as well as smaller 'protections' for the onshore processing sector.

The Council also requested additional information such as borough tax data and additional background tables on the relative amount of Pacific cod harvested and processed by each rationalized sector (i.e., operating as CPs). These are included in the attached paper, with discussion provided as time allowed.

Finally, the Council was interested in the results of an Alaska Board of Fisheries (Board) meeting on December 31, 2008, prior to initiating a formal analysis of this action. Specifically, the Council noted interest in Board Proposals 371 and 372, which were proposed by the Aleut Enterprise LLC. At its recent meeting, the Board took action on Proposal 371 to establish a vessel size limit of 60 feet for all gear types in the State waters AI Pacific cod fishery. While the original proposal requested this change for both the A and B season, the proponents subsequently supported, and the Board recommended, that this action apply only to the B season (opens June 10). The intent is to provide additional opportunity for a relatively new, local, small boat fleet in Adak by preventing larger vessels from prosecuting this fishery later in the year.

The Board did not take action on Proposal 372, which would have reduced the daily catch limit to 75,000 pounds for the State waters AI Pacific cod fishery (the existing limit of 150,000 pounds was maintained, with clarification on the Board's enforcement intent). The intent of the proposal was to slow harvest rates and lengthen the season, in order to provide sufficient fishing time for small vessels to base operations in Adak, and potentially deliver to the onshore processor.

The discussion paper was sent to you on January 16 and is also attached as **Item D-2(f)(1)**. The Council is scheduled to review the paper at this February Council meeting. Note that NMFS Sustainable Fisheries Division has provided a letter (**Item D-2(f)(2)**), summarizing a discussion with NOAA GC relative to National Standards in the Magnuson-Stevens Act that the Council should carefully evaluate with respect to the proposed action. Upon review of the discussion paper and the letter, the Council could initiate a formal analysis (EA/RIR/IRFA), or request additional information prior to taking this step. The Council could also determine that further action is not warranted at this time.

**Measures to support community protections for Eastern Aleutian Islands communities:
Pacific cod processing sideboards**

February 2009

At its June 2008 meeting, the Council requested that staff provide a discussion paper on potential options to establish processing sideboards for Pacific cod harvests in the Eastern and Central Aleutian Islands (Areas 541 and 542, respectively). The Council motion redirected staff from providing a formal analysis, as requested in April, to developing a discussion paper. The purpose of the paper was to review the Council's draft problem statement and provide a preliminary assessment of the proposed options.

Upon review of this paper at its December 2008 meeting, the Council revised the options and requested a second review of the discussion paper. This paper provides a preliminary assessment of the revised options, as well as additional background information requested by the Council. The purpose of the paper is to provide sufficient information for the Council to determine whether to initiate a formal analysis of the proposed action at this time. At this February meeting, the Council could initiate a formal analysis, request additional information prior to taking this step, or determine that the action is not warranted.

Problem Statement & Background

The problem statement and additional statements regarding the affected area and sectors from the June and December 2008 Council motions are as follows:

Draft problem statement:

The American Fisheries Act, BSAI crab rationalization program, and BSAI Amendment 80 program each provide benefits to processing vessels that were intended to protect investments in and dependence on the respective fishery resource. Each of these rationalization programs has afforded opportunities for consolidation, thus freeing some processing capacity to target the non-rationalized BSAI Pacific cod fishery at the expense of other industry and community investments.

Affected resource and areas:

Pacific cod harvested in Areas 541 and 542 from the Federally-managed and State parallel fisheries.

Affected vessels:

Vessels that received benefits under a rationalization program with a processing element, including: AFA catcher processors and motherships that have not shown continuous processing participation in the Area 541 and 542 Pacific cod fishery since the implementation of the AFA; processing vessels that contributed history to *C. opilio* BSAI crab processing quota share allocations, and catcher processors that qualified under Amendment 80.

*Underlined language reflects additions resulting from the December 2008 Council motion.

The draft problem statement above notes three specific rationalization programs: American Fisheries Act (AFA), BSAI crab rationalization, and BSAI Amendment 80, which provide benefits to processing vessels and afford opportunities for consolidation, thus freeing some processing capacity to target the non-rationalized BSAI Pacific cod fishery. Pacific cod harvested by catcher vessels is one of the primary remaining fisheries in the BSAI that is not operating under a rationalization program. And while there are limitations on the amount of Pacific cod harvested by the rationalized sectors, there are no limits on the amount of Pacific cod harvested by catcher vessels that can be delivered to catcher processors or floating processors that operate under these rationalized programs. In the recent past, representatives from Adak

have proposed Council action to provide such processing limits (sideboards) in the Eastern and Central Al Pacific cod fisheries, in order to protect shoreside processing opportunities for Pacific cod.

A sideboard is a collective limit for all vessels subject to the sideboard; it does not represent a guaranteed allocation. Vessels subject to a sideboard are allowed to fish up to the sideboard limit but cannot exceed it. While harvesting sideboards have been included as part of each rationalization program established in the North Pacific, processing sideboards are not as common. Processing sideboards were included in the AFA, but not adopted in either the BSAI Crab Rationalization Program or the BSAI Amendment 80 program.

The AFA, effective in 1999, created exclusive allocations of Bering Sea pollock for catcher vessels (CVs), catcher processors (CPs), and motherships, and included harvest sideboards for both the AFA catcher vessel and catcher processor sectors in the BSAI and the GOA. Regulations implementing the AFA prohibit AFA CPs from fishing in the GOA, and limit their processing of pollock and other groundfish.¹ The AFA also included crab processing sideboards, the regulations for which were based on the structure defined in the Act under Section 211(c)(2)(A).² This section of the Act is specific to shorebased and mothership processors. (Recall that catcher/processors are precluded from processing any crab under the AFA.) The AFA crab processing sideboards were eventually subsumed by the processing quota share allocations established under BSAI crab rationalization. The Council also established pollock processing limits for the AFA fleet, set at 30 percent of the BSAI pollock TAC available to the AFA sector.³ Additional measures to protect non-AFA processors through groundfish processing sideboards have been considered by the Council, but further discussions and decisions have been tabled until negative impacts are realized (NPFMC, April 2002).⁴

The BSAI Crab Rationalization Program, effective in 2005, allocates BSAI crab resources among harvesters, processors, and coastal communities. Share allocations to harvesters and processors, together with incentives to participate in fishery cooperatives, were intended to increase efficiencies, provide economic stability, and facilitate compensated reduction of excess capacities in the harvesting and processing sectors. Regional landing and processing requirements were included, as well as other community protection measures. Most king and Tanner crab fisheries in the BSAI are now rationalized crab fisheries. This includes the IFQ/IPQ fisheries; the CDQ crab fisheries (except in Norton Sound), and the allocation of golden king crab to Adak. A few BSAI king and Tanner crab fisheries remain under the License Limitation Program.⁵

¹ 50 CFR 679.7(k)(1)(ii) It is unlawful for any person to use a listed AFA catcher/processor to harvest any species of fish in the GOA; and 50 CFR 679.7(k)(1)(iv) It is unlawful for any person to use a listed AFA catcher/processor to process any pollock harvested in a directed pollock fishery in the GOA and any groundfish harvested in Statistical Area 630 of the GOA.

²Section 211(c)(2)(A): (2) *BERING SEA CRAB AND GROUND FISH.*—(A) *Effective January 1, 2000, the owners of the motherships eligible under section 208(d) and the shoreside processors eligible under section 208(f) that receive pollock from the directed pollock fishery under a fishery cooperative are hereby prohibited from processing, in the aggregate for each calendar year, more than the percentage of the total catch of each species of crab in directed fisheries under the jurisdiction of the North Pacific Council than facilities operated by such owners processed of each such species in the aggregate, on average, in 1995, 1996, 1997. For the purposes of this subparagraph, the term "facilities" means any processing plant, catcher/processor, mothership, floating processor, or any other operation that processes fish. Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity for the purposes of this subparagraph.*

³50 CFR 679.7(k)(7) Excessive processing shares. It is unlawful for an AFA entity to process an amount of BS pollock that exceeds the 30-percent excessive share limit specified under § 679.20(a)(5)(i)(A)(7). The owners and operators of the individual processors comprising the AFA entity that processes BS pollock will be held jointly and severally liable for exceeding the excessive processing share limit.

⁴*Report to the U.S. Congress and Secretary of Commerce: Impacts of the American Fisheries Act*, NPFMC, April 2002.

⁵Source: <http://www.fakr.noaa.gov/sustainablefisheries/crab/rat/progfaq.htm#wicr>

BSAI Amendment 80 allocates several BSAI non-pollock⁶ groundfish fisheries among trawl fishing sectors, and facilitates the formation of harvesting cooperatives in the non-AFA trawl catcher processor sector. In effect, the program establishes a limited access privilege program⁷ for a subset of the non-AFA trawl catcher processor sector. Many of the elements of Amendment 80 were effective on October 15, 2007; the remaining portions of the final rule were effective January 2008.⁸

Each of these three programs is considered a limited access privilege program, or rationalization program, created to allow members to form cooperatives and thus improve both resource conservation and economic efficiency for harvesters who participate in those specific fisheries. Generally, these programs are intended to allow members of the specified sectors to more nearly optimize when and where they fish, which would potentially reduce bycatch, minimize waste, and improve utilization of fish resources. The intended results include increased operational efficiency for vessels in the program, by allowing them to alter their historic fishing patterns and operate under a cooperative structure. The flexibility introduced under these programs, and the ability to operate under a cooperative system, potentially provide these vessels a competitive advantage over participants in other fisheries that are not currently operating under a rationalized system.

All of these rationalization programs included other broad goals to limit the ability of these sectors to expand their harvesting capacity into other fisheries not managed under a limited access privilege program. The Council recognized this need by establishing harvesting sideboards in various other fisheries and areas. However, while the AFA, crab rationalization, and Amendment 80 allow for consolidation of rationalized harvesting and processing sectors, BSAI groundfish processing sideboards were not established for these sectors, with the exception of the 30% pollock processing (excessive share) limits for the AFA fleet.

In sum, the Council may want to consider whether the proposed action resolves an unintended consequence of any of the three rationalization programs at issue, thus furthering the original goals of those programs. The AFA clearly required the protection of participants in other U.S. fisheries that could be negatively impacted by the BSAI pollock fleet, as previously discussed. Additional measures to protect non-AFA processors through groundfish processing sideboards have been considered by the Council, but further discussions and decisions were tabled until negative impacts are realized (NPFMC, April 2002).⁹

BSAI groundfish processing sideboards were not considered when the BSAI crab rationalization program was being developed. This issue did not appear to be anticipated as a result of crab rationalization.

Finally, consolidation of processing operations and the ability for Amendment 80 CPs to receive unsorted catch from catcher vessels was anticipated under the development of the BSAI Amendment 80 Program. Due to lack of clarity in the Council's motion, the proposed rule for Amendment 80 prohibited any Amendment 80 vessel from catching, receiving, or processing fish assigned to the BSAI trawl limited access sector, due to a potential shift in processing operations from onshore to offshore. The 'trawl limited access sector' consists of non-AFA trawl CVs and AFA vessels for the purpose of Amendment 80 species, which includes BSAI Pacific cod. While trawl catcher vessel cod harvests accrue toward the general 'trawl catcher vessel' Pacific cod allocation, the proposed rule language was construed such that it would have prohibited deliveries of catcher vessel cod harvests to the eligible Amendment 80 CPs.

⁶The groundfish species in the BSAI directly affected by Amendment 80 include Atka mackerel, AI Pacific ocean perch, Flathead sole, Pacific cod, rock sole, and yellowfin sole.

⁷The Magnuson Stevens Act (as amended through Jan. 12, 2007) defines the term: "'limited access privilege'— (A) means a Federal permit, issued as part of a limited access system under section 303A to harvest a quantity of fish expressed by a unit or units representing a portion of the total allowable catch of the fishery that may be received or held for exclusive use by a person; and (B) includes an individual fishing quota; but (C) does not include community development quotas as described in section 305(i)."

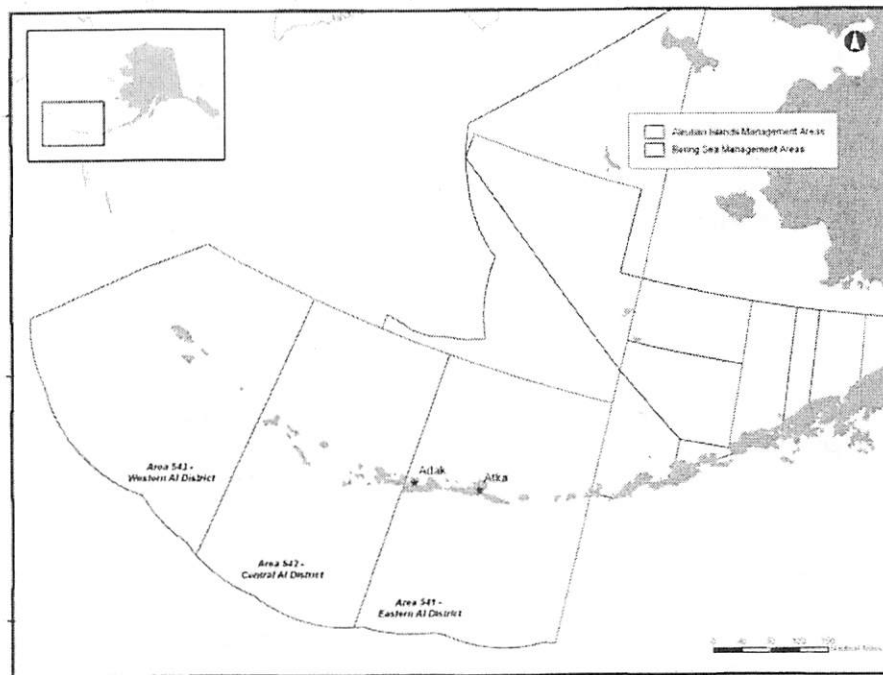
⁸The final rule is published at 72 FR 52668 (September 14, 2007).

⁹*Report to the U.S. Congress and Secretary of Commerce: Impacts of the American Fisheries Act*, NPFMC, April 2002.

However, the Amendment 80 final rule reversed the proposed prohibition on Amendment 80 vessels receiving and processing catch from catcher vessels. NMFS based its decision to remove the proposed prohibition based on public comment and additional analysis that indicated that it would have limited the ability of one entity to continue its historic operations (i.e., using its non-Amendment 80 catcher vessel to deliver unsorted catch, primarily catch from the directed cod fishery, to its Amendment 80 CP). Thus, the proposed and final rules for Amendment 80 clearly anticipated and analyzed this issue, and concluded that future potential impacts on the non-Amendment 80 sectors and onshore processing sectors were not likely to be substantial.

The Council motion from June 2008 notes that the action under consideration to establish Pacific cod processing sideboards is intended to protect two Aleutian Islands communities. These are Atka and Adak, both of which are located in Area 541, the Eastern Aleutian Islands (see Figure 1).

Figure 1 Map of Federal Reporting Areas 541, 542, and 543 (Aleutian Districts)



Proponents of the proposed action from Adak contend that lack of sideboards on processing of Pacific cod harvested in the Eastern and Central Aleutian Islands preempts a significant opportunity for Pacific cod harvests to benefit vessels operating out of Adak and delivering their catch to its shorebased processor. The transient markets provided by mobile floating processors (motherships) undermine community stability by operating only during the most profitable part of the season. They contend that this makes it difficult for shorebased processors to remain in business and provide the year-round markets necessary for smaller vessels engaged in a suite of different fisheries.

This concern was prompted in 2008, due to perceived negative impacts on Adak from additional processing by motherships in the Eastern and Central AI during the 2008 BSAI Pacific cod A season; however, proponents of the action have related concerns that the cumulative effect of several management actions that restrict the expansion of fishing opportunities has contributed to the problem. Specifically, with the advent of several rationalization programs (e.g., AFA, BSAI crab rationalization, and

Amendment 80), there is a concern that mobile, floating processors (i.e., vessels operating as motherships) could increase effort in any remaining open fishery.

Affected resource and areas

The Council motion clarifies that the action would affect Pacific cod harvested in Areas 541 and 542 from the Federally-managed and State parallel fisheries. The proposed action focuses on limiting catcher vessel deliveries of Pacific cod in Area 541 (Eastern Aleutian District) and Area 542 (Central Aleutian District) to the three rationalized sectors (see the following section for details on these sectors).

The Council confirmed staff assumptions in December 2008 that the processing sideboard would apply to all non-CDQ Pacific cod harvested by catcher vessels in these two areas in the Federal fishery, which includes the Pacific cod fishery in Federal waters and the parallel fishery that occurs in State waters. Thus, the CDQ BSAI Pacific cod fishery is not included in the proposed action, nor are any catcher vessel harvests in the CDQ fisheries used to calculate the proposed options for cod processing sideboards in this paper. Note that currently, the vast majority of CDQ Pacific cod is harvested by hook-and-line CPs, thus, there would not likely be any practical effect of their inclusion regardless.

The State parallel fishery is opened at the same time as the Federal fishery in Federal waters. State parallel fishery harvests accrue toward the Federal total allowable catch (TAC) and Federally-permitted vessels move between State and Federal waters during the concurrent parallel and Federal fisheries. The State opens the parallel fisheries through emergency order by adopting the groundfish seasons, bycatch limits, and allowable gear types that apply in the adjacent Federal fisheries.¹⁰ This action would affect catcher vessel Pacific cod harvest in both Federal waters and the parallel fishery.

Note that the proposed action would not affect the State-managed Pacific cod fishery that occurs in State waters in the AI. This fishery was established by the Alaska Board of Fisheries in 2006, and comprises 3% of the Federal BSAI Pacific cod ABC. This fishery is managed by the State and has different sector requirements and seasons than the Federal Pacific cod fishery. During the first three years of this fishery, the majority of the harvest has been taken by trawl gear. Regarding catcher vessel deliveries, more cod was delivered to floating processors than shorebased processors in 2006 and 2008, while shorebased plants processed the majority in 2007. Summary harvest data on the State water AI Pacific cod fishery, by gear and processing type, are provided in **Appendix 1**. The State-managed AI Pacific cod fishery would not be affected by the proposed action, nor are the harvests in this fishery used to calculate the proposed options for cod processing sideboards.

Affected processing sectors

The Council motion identifies three sectors that would potentially be subject to a processing sideboard limit on Pacific cod harvested in Areas 541 and 542. These are vessels that received benefits under a rationalization program that included a processing element. The motion identifies:

- AFA processing vessels that do not have continuous processing participation in the Area 541 and 542 Pacific cod fishery since the implementation of the AFA
- Processing vessels that contributed history to *C. opilio* BSAI crab processing quota share allocations
- Catcher processors that qualified under BSAI Amendment 80

¹⁰In some cases, the State may establish additional gear or vessel size restrictions in State waters that would apply even during the parallel fishery (i.e., if the State establishes a general prohibition on trawl gear in State waters, that continues to apply during the parallel fishery).

There are 20 AFA CPs and 3 motherships listed in the AFA, and one unlisted CP that is also eligible. The unlisted AFA CP is also eligible under Amendment 80. Because this vessel's harvest of Pacific cod accrues toward the Amendment 80 Pacific cod allocation under Federal regulations,¹¹ this vessel is included in the Amendment 80 sector for purposes of this action.

Note that in December 2008, the Council modified the part of the motion that identifies the AFA vessels affected by this action such that the proposed processing sideboards only affect AFA catcher processors and motherships that have not shown 'continuous processing participation in the Area 541 and 542 Pacific cod fishery since the implementation of the AFA.' In effect, the motion exempts AFA processing vessels that have documented continuous processing participation in the Aleutians in this manner since 1999. Note that while the Council discussion during the motion was relative to exempting AFA vessels that had been acting as *motherships*, receiving and processing Pacific cod harvested by catcher vessels, the wording of the exemption is not specific to that activity. One could interpret 'continuous processing participation' to mean catcher processor activity, i.e., processing cod caught by the same vessel. Staff suggests clarifying the wording if the intent is to limit the exemption to vessels that have acted as motherships (receiving and processing Pacific cod harvested by catcher vessels), which is consistent with the proposed action.

This change was based on a review of the December 2008 discussion paper and public testimony that showed that one AFA catcher processor has been receiving and processing cod harvested by catcher vessels in Areas 541 and 542 since before the implementation of the AFA. Public testimony indicated that this catcher processor participated long prior to the implementation of the AFA in 1999, and the data show that it has received deliveries each year from 1997 – 2008. Since 2000, this has been the only AFA vessel that has been taking cod deliveries annually from these areas. While the harvest data for a single vessel are confidential, it was clear to the Council that this vessel had long-term, continuous participation as a processing vessel in this capacity in the Area 541 and 542 cod fisheries. The Council noted that while this is the only AFA vessel currently acting in this capacity, it did not want to exempt the entire AFA processing sector from this action, due to the future possibility of other AFA processing vessels moving into this fishery. The intent is to limit the action to those who may increase or have increased participation due to consolidation of processing capacity realized through the implementation of a rationalization program. The Council also noted that 'continuous' participation should not be interpreted to mean processing catcher vessel deliveries of Pacific cod each day or each season. The intent was to reflect annual participation.

In sum, as only one AFA CP has continuous participation in this regard, the action is limited to the remaining 19 AFA CPs and 3 motherships listed in the AFA. These are the vessels whose history (amount of Pacific cod delivered to these vessels by other catcher vessels) is used to calculate the proposed options for the cod processing sideboard. In effect, the exempted AFA CP's history is not used to calculate the proposed sideboards, nor is it subject to those sideboards. This is consistent with other sideboard exemptions created in the AFA and the crab rationalization programs, in that history from exempted vessels is not included in the numerator of the sideboard calculation. A list of all vessels eligible under the AFA is provided as **Appendix 2**, including the vessel exempt from this action and the unlisted vessel. Note that the AFA CP sector currently has a Pacific cod harvest allocation of 2.3 percent of the BSAI Pacific cod ITAC, and thus is not subject to a harvest sideboard for Pacific cod.

Appendix 3 lists the 28 processing vessels that may be construed to have contributed history to *C. opilio* BSAI crab processing quota share (PQS) allocations under the crab rationalization program. Fifteen of those vessels are floating processors, and thirteen are catcher processors. Under the crab rationalization program, a company that processed crab in 1998 or 1999 (or had a substantial processing history in the Bering Sea *C. opilio* fishery and met an investment requirement) was eligible to receive an allocation of

¹¹See 50 CFR 679.2.

PQS. Any processing vessel owned by a company meeting the eligibility criteria that received deliveries during a fishery's qualifying period (1997 to 1999, inclusive, for Bering Sea *C. opilio*) contributed history toward the company's allocation of PQS in that fishery. In addition, vessels that met the processing eligibility criteria that processed their own catch as catcher processors also were eligible to receive catcher processor QS based on qualified catcher processor history (1996 to 2000, inclusive, for Bering Sea *C. opilio*).

Since catcher processor QS is severable into catcher vessel QS and PQS, any vessel receiving catcher processor QS under the program might be considered to have effectively received PQS. In addition, catcher processor QS was based on crab that was caught and processed, indicating that the vessels operated as a processing platform historically, and could again in the future. This paper assumes that all 28 processing vessels, whether floaters or catcher processors, fall under the category identified in the Council motion. The Council should clarify if that is not the intent. The estimates in this paper include deliveries to all vessels that contributed history to a PQS allocation in the Bering Sea *C. opilio* fishery or received an allocation of catcher processor QS in the Bering Sea *C. opilio* fishery.

NOAA Fisheries has completed its determination of the qualifying vessels under Amendment 80. The license tied to the Amendment 80 quota, as well as all other LLPs assigned to the qualifying vessel at the time of Amendment 80 program implementation, are restricted from being used by a non-Amendment 80 vessel. Congress determined that the qualification period for Amendment 80 vessels is based on harvests from 1997 through 2002; a total of 28 vessels are qualified for the Amendment 80 program.¹² The specific amount of QS that each of these qualified vessels may generate was developed by the Council and is based primarily on catch during 1998 through 2004. The list of catcher processors that qualified under Amendment 80 is provided as **Appendix 4**. The 28 licenses originally assigned to the Amendment 80 vessels are listed in the final rule.¹³ The Amendment 80 sector currently has a Pacific cod harvest allocation of 13.4 percent of the BSAI Pacific cod ITAC, and thus is not subject to a harvest sideboard for Pacific cod.

Background data on the BSAI Pacific cod fishery

The Federal Pacific cod TAC allocations and apportionments recommended by the Council for 2009 and 2010 are attached as **Appendix 5** for reference. These are the draft tables that would be included in the groundfish specifications typically published in the Federal Register in early 2009. Note that the 2008 BSAI Pacific cod TAC was 170,720 mt, with the CDQ allocation of 10.7 percent, or 18,267 mt. Thus, the 2008 BSAI Pacific cod ITAC was 152,453 mt. The 2009 BSAI Pacific cod TAC increased to 176,540 mt, with an ITAC of 157,650 mt.

The BSAI Pacific cod ITAC is currently fully distributed among nine competing harvest sectors, five of which are catcher vessel sectors: hook-and-line CV $\geq 60'$; pot CV $\geq 60'$; hook-and-line or pot CV $< 60'$; trawl CV; and jig vessels. The CP sectors are: hook-and-line CP; pot CP; AFA trawl CP; and Amendment 80 trawl CP. (The Amendment 80 CP sector is further divided between Am. 80 cooperatives and the Am. 80 limited access sector.) The BSAI Pacific cod TAC has been apportioned among different gear sectors since 1994, with the most recent amendment to the allocations effective in 2008 (BSAI

¹²The non-AFA trawl CP sector (universe of Amendment 80 vessels) was defined by the Consolidated Appropriations Act of 2005, Section 219(a)(7), which required a CP to have harvested with trawl gear and processed not less than a total of 150 mt of non-pollock groundfish during the period January 1, 1997, to December 31, 2002.

¹³On May 19, 2008, in the case *Arctic Sole Seafoods v. Gutierrez*, the Western District of Washington ruled that a qualified owner of an Amendment 80 vessel may "replace a lost vessel with a single substitute vessel." This ruling would allow a person to replace an Amendment 80 vessel that has suffered an actual total loss, constructive total loss, or permanent ineligibility to receive a fishery endorsement under 46 U.S.C. 12108. For example, a person could replace a lost Amendment 80 vessel with another vessel that had historically been active processing AI Atka mackerel or POP. Thus, the Council should clarify whether an Amendment 80 replacement vessel would be subject to the proposed sideboard restriction, or if the restriction is intended to apply only to the list of Amendment 80 vessels originally identified to be used in the fishery as listed in Table 31 to part 679.

Amendment 85). Currently, 34.1 percent of the total non-CDQ allocation of BSAI Pacific cod is to catcher vessel sectors. The majority (22.1 percent of the non-CDQ BSAI Pacific cod TAC) is allocated to the trawl CV sector.

Note that there continues to be one combined BSAI Pacific cod TAC, although the Council previously considered different methodologies by which to maintain sector allocations should the BSAI Pacific cod TAC be apportioned between the BS and the AI during a future harvest specifications process. The issue of whether to split the combined TAC has been raised at Plan Team, SSC, and Council meetings during the last several years, with recognition that management implications complicate the issue of adopting separate area TACs in the near future. At its February 2009 meeting, the Council is scheduled to discuss potential timing for an analysis of alternatives to divide sector allocations between the BS and AI, should a TAC split occur in a future specifications process.

The first tables provide background information on the BSAI Pacific cod for reference. Table 1 shows retained harvest of Pacific cod in the BSAI by year and operating type (CP or CV), from 2000 through early December 2008. Note that this table does not include CDQ harvest or harvests from the State water Pacific cod fishery in the AI, as those fisheries would not be affected by the proposed action. This table provides information on how much of the retained BSAI Pacific cod harvest is attributed to catcher processors, broken out by the rationalized sectors at issue and 'other catcher processors/motherships'. It also shows the amount of Pacific cod harvest attributed to catcher vessels, which may deliver to vessels acting as motherships, stationary floating processors, or shoreside processors.

Table 1 Retained harvest of BSAI Pacific cod in the BSAI, 2000 – 2008

| Year | Harvest sector ¹ | Processing sector | vessels | tons | % of BSAI |
|------|-----------------------------|---------------------|---------|---------|-----------|
| 2000 | CP | AFA | 15 | 3,545 | 2.0% |
| | | Am80 | 23 | 27,685 | 15.9% |
| | | Crab | 8 | 6,395 | 3.7% |
| | | Other CP/mothership | 40 | 77,823 | 44.8% |
| | | Total | 86 | 115,447 | 66.4% |
| | CV | Total | n/a | 58,360 | 33.6% |
| 2001 | CP | AFA | 16 | 4,003 | 2.5% |
| | | Am80 | 22 | 24,494 | 15.2% |
| | | Crab | 6 | 8,155 | 5.0% |
| | | Other CP/mothership | 42 | 89,672 | 55.5% |
| | | Total | 86 | 126,324 | 78.2% |
| | CV | Total | n/a | 35,204 | 21.8% |
| 2002 | CP | AFA | 17 | 3,509 | 2.0% |
| | | Am80 | 22 | 31,721 | 17.7% |
| | | Crab | 7 | 7,947 | 4.4% |
| | | Other CP | 38 | 81,668 | 45.6% |
| | | Total | 84 | 124,846 | 69.7% |
| | CV | Total | n/a | 54,365 | 30.3% |
| 2003 | CP | AFA | 17 | 3,831 | 2.0% |
| | | Am80 | 22 | 29,005 | 15.0% |
| | | Crab | 5 | 9,978 | 5.2% |
| | | Other CP | 37 | 85,203 | 44.1% |
| | | Total | 81 | 128,017 | 66.2% |
| | CV | Total | 247 | 65,353 | 33.8% |
| 2004 | CP | AFA | 17 | 3,310 | 1.7% |
| | | Am80 | 23 | 37,548 | 19.4% |
| | | Crab | 5 | 11,655 | 6.0% |
| | | Other CP | 36 | 85,502 | 44.1% |
| | | Total | 81 | 138,016 | 71.2% |
| | CV | Total | 230 | 55,700 | 28.8% |
| 2005 | CP | AFA | 17 | 4,877 | 2.6% |
| | | Am80 | 22 | 30,006 | 16.0% |
| | | Crab | 5 | 12,528 | 6.7% |
| | | Other CP | 36 | 89,553 | 47.8% |
| | | Total | 80 | 136,964 | 73.0% |
| | CV | Total | 228 | 50,574 | 27.0% |

Table 1 continued.

| Year | Harvest sector ¹ | Processing sector | vessels | tons | % of BSAI |
|------|-----------------------------|-------------------|---------|---------|-----------|
| 2006 | CP | AFA | 17 | 5,960 | 3.5% |
| | | Am80 | 22 | 28,700 | 16.7% |
| | | Crab | 6 | 10,068 | 5.9% |
| | | Other CP | 36 | 77,132 | 44.8% |
| | | Total | 81 | 121,860 | 70.8% |
| | CV | Total | 217 | 50,240 | 29.2% |
| 2007 | CP | AFA | 17 | 4,554 | 2.9% |
| | | Am80 | 22 | 32,668 | 21.1% |
| | | Crab | 6 | 9,449 | 6.1% |
| | | Other CP | 34 | 61,310 | 39.6% |
| | | Total | 79 | 107,981 | 69.8% |
| | CV | Total | 229 | 46,753 | 30.2% |
| 2008 | CP | AFA | 17 | 4,601 | 3.3% |
| | | Am80 | 22 | 14,899 | 10.6% |
| | | Crab | 6 | 7,554 | 5.4% |
| | | Other CP | 37 | 66,611 | 47.3% |
| | | Total | 82 | 93,666 | 66.5% |
| | CV | Total | 236 | 47,206 | 33.5% |

Source: NMFS blend/catch accounting database, 2000 – 2008. 2008 data are preliminary, and include harvest through week-ending date 12/6/08.

Retained catch only. Excludes CDQ harvests and State-managed AI P. cod fishery.

¹Harvest sector indicates whether a vessel was acting as a CV or CP during a given landing. A given vessel may operate as both a CV and CP. CV includes deliveries to shoreside plants and motherships; CP includes landings caught and processed by the same vessel.

n/a = not available. Unique CV counts in these data are not reliable prior to 2003.

Table 1 includes harvest from any gear type, although the vast majority is from vessels using hook-and-line CPs or trawl gear. All gear types are included, as the proposed action does not differentiate between gear types. The harvest of BSAI Pacific cod has been relatively stable during this time period, with TACs around 200,000 mt until 2007. During this period, total retained harvest reached a low of about 155,000 mt (2007) and a high of about 194,000 mt (2004).

The majority of the harvest has been by CPs, most notably hook-and-line CPs, which are represented under the 'other CP/mothership' category. Of the three rationalized sectors at issue, the Amendment 80 sector has caught and processed the majority of Pacific cod, ranging from about 11% to 21% annually during this time period. Note that the lowest year during this time period is 2008, the first year in which new Pacific cod allocations were implemented under BSAI Amendment 85. As stated previously, the non-AFA trawl CP (Amendment 80) sector was allocated 13.4% of the total BSAI Pacific cod ITAC under Amendment 85. Thus, in recent years, the Amendment 80 sector has been harvesting a greater share than it was allocated under Amendment 85. The level of Pacific cod allocation to the Amendment 80 sector has been cited as one of the primary reasons that the Amendment 80 sector would like to continue to have the ability to act as motherships in the AI cod fishery.

The AFA sector has harvested and processed an estimated 1.7% to 3.5% annually; this sector is allocated 2.3% of the BSAI Pacific cod ITAC under Amendment 85. In both of these sectors, the Pacific cod allocation is used toward a directed fishery and incidental catch in other directed fisheries. Processing vessels eligible under crab rationalization also harvested and processed an estimated 3.7% to 6.7%. This harvest was attributed to relatively few vessels (5 to 8 annually). While this sector does not receive an exclusive allocation of Pacific cod, the pot CP sector is allocated 1.5% of the BSAI Pacific cod ITAC.

Pacific cod CV harvest has also been relatively steady, with a high of over 65,000 mt in 2003. Catcher vessel harvest comprised about 21% to 34% annually, and 33.5% in 2008. Recall that under Amendment 85, the CV sectors receive an allocation of 34.1% of the BSAI Pacific cod ITAC.

Table 2 Retained harvest of Pacific cod from the Eastern and Central AI, 2000 – 2008

| Year | Harvest sector ¹ | Eastern and Central AI tons | Eastern and Central AI vessel count | Percent AI/BSAI |
|------------------------|-----------------------------|-----------------------------|-------------------------------------|-----------------|
| 2000 | CP | 14,485 | 41 | 12.5% |
| | CV | 13,761 | n/a | 23.6% |
| | Total | 28,246 | | 16.3% |
| 2001 | CP | 13,896 | 33 | 11.0% |
| | CV | 6,804 | n/a | 19.3% |
| | Total | 20,700 | | 12.8% |
| 2002 | CP | 11,847 | 28 | 9.5% |
| | CV | 15,184 | n/a | 27.9% |
| | Total | 27,031 | | 15.1% |
| 2003 | CP | 11,751 | 25 | 9.2% |
| | CV | 17,242 | 56 | 26.4% |
| | Total | 28,993 | | 15.0% |
| 2004 | CP | 11,158 | 23 | 8.1% |
| | CV | 13,498 | 38 | 24.2% |
| | Total | 24,656 | | 12.7% |
| 2005 | CP | 9,215 | 20 | 6.7% |
| | CV | 8,000 | 33 | 15.8% |
| | Total | 17,215 | | 9.2% |
| 2006 | CP | 7,334* | 24 | 6%* |
| | CV | 6,201 | 40 | 12.3% |
| | Total | 13,536* | | 7.9%* |
| 2007 | CP | 10,636 | 24 | 9.8% |
| | CV | 12,301 | 53 | 26.3% |
| | Total | 22,937 | | 14.8% |
| 2008 (thru 12/6/08) | CP | 4624* | 22 | 5.6%* |
| | CV | 11,268 | 65 | 24.1% |
| | Total | 15892* | | 12.3%* |

Source: NMFS blend/catch accounting database, 2000 - 2008. 2008 data are preliminary, and include harvest through week-ending date 12/6/08. Retained catch only. Excludes CDQ harvest and State-managed AI P. cod fishery.

¹Harvest sector indicates whether a vessel was acting as a CV or CP during a given landing. A given vessel may operate as both a CV and CP. N/a = not available. Unique CV counts in these data are not reliable prior to 2003.

*Totals (2006 and 2008) do not include all harvest data for the CP sectors, due to confidentiality issues when combined with Table 3.

Table 2 shows the retained harvest of Pacific cod in Areas 541 and 542 (Eastern and Central AI, respectively) by year and operating type (CP or CV), from 2000 through December 6, 2008. The last column of Table 2 provides the percentage of total retained BSAI Pacific cod harvest attributed to the Eastern and Central AI, from a low of 7.9% in 2006 to a high of 16.3% in 2000. While 2008 data are preliminary, the data to-date show about 12% of the total BSAI Pacific cod catch was harvested in the Eastern and Central AI. Note that a higher percentage of the total annual CV harvest (12% - 28%) was from the Eastern and Central AI during this time period, compared to the CP sectors (6% - 13%). Like the

previous table, Table 2 does not include CDQ harvest or harvest from the AI State water Pacific cod fishery.

Note that Table 2 excludes some harvest data for the CP sectors (and thus, the totals) for 2006 and 2008. This was done in order to preserve confidentiality for one CP sector (the AFA sector) when comparing Table 2 and Table 3. However, exclusion of these data does not misrepresent the general results.

Table 3 provides the retained harvest of Pacific cod in Areas 541 and 542 (Eastern and Central AI, respectively) by year and operating type (CP or CV), from 2000 through December 6, 2008. Table 3 also breaks out the CP sectors by rationalized sector (AFA, Amendment 80, or crab) and 'other CP' or 'other mothership' sector, as requested by the Council. The data in Table 3 is provided for Areas 541 and 542 combined, as a substantial portion of the data is confidential if broken out separately by area.

Tables 1 through 3 are intended to provide context regarding the share of retained Pacific cod harvest that each sector has realized in the past nine years, in both the BSAI overall and in Areas 541 and 542 only. These tables represent retained harvest by sector; thus, the CV data include all CV harvest, regardless of whether the landings were made to shoreside plants, motherships, CPs, etc. The CP data includes only landings caught and processed by the same vessel, and thus does not include Pacific cod that was delivered by CVs to CPs acting as motherships. **The amount of Pacific cod harvested by CVs and delivered to the mothership/CP sectors, which is the central issue of the proposed action, is provided further in the paper.**

Note that the AFA sector's harvest and processing data are confidential in Table 3, as only one AFA CP has participated in the Pacific cod fishery in Area 541 and 542 in recent years. Other sectors also have confidential data that cannot be provided. With the exception of 2006 and 2008, all of the totals by year can be provided. For 2006 and 2008, the 'total' columns exclude confidential data from the AFA sector, thus, the percentages will be necessarily be slightly skewed.

The last column of Table 3 provides the percentage of retained Area 541/542 Pacific cod harvest attributed to each sector. The CV sector harvested about half of the Pacific cod harvest from Areas 541/542 each year, with the exception of 2008, in which the CV sector harvested about 70% of the total Area 541/542 cod harvest. (Note that 2008 is one of the years in which confidential data from the AFA CP sector is excluded, however.)

Table 3 Retained harvest of Pacific cod from the Eastern and Central AI, by rationalized CP sector, 2000 – 2008

| Year | Harvest Sector | Processing sector | # vessels | tons | % of AI |
|-------------------|----------------|-------------------|-----------|----------------|--------------|
| 2000 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 12 | 4,897 | 17.3% |
| | | Crab | 4 | 915 | 3.2% |
| | | Other CP | 22 | 6,821 | 24.1% |
| | CV | Other mothership | 1 | conf. | conf. |
| | | | | 13,761 | 48.7% |
| 2000 Total | | | | 28,246 | 100% |
| 2001 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 11 | 5,442 | 26.3% |
| | | Crab | 2 | conf. | conf. |
| | | Other CP | 18 | 6,186 | 29.9% |
| | CV | Other Mothership | 1 | conf. | conf. |
| | | | | 6,804 | 32.9% |
| 2001 Total | | | | 20,700 | 100% |
| 2002 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 12 | 8,951 | 33.1% |
| | | Crab | 1 | conf. | conf. |
| | | Other CP | 14 | 1,558 | 5.8% |
| CV | | n/a | 15,184 | 56.2% | |
| 2002 Total | | | | 27,031 | 100% |
| 2003 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 13 | 9,341 | 32.2% |
| | | Crab | 2 | conf. | conf. |
| | | Other CP | 9 | 125 | 0.4% |
| CV | | 56 | 17,242 | 59.5% | |
| 2003 Total | | | | 28,993 | 100% |
| 2004 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 14 | 7,456 | 30.2% |
| | | Crab | 1 | conf. | conf. |
| | | Other CP | 7 | 2,123 | 8.6% |
| CV | | 38 | 13,498 | 54.7% | |
| 2004 Total | | | | 24,656 | 100% |
| 2005 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 12 | 5,511 | 32.0% |
| | | Crab | 2 | conf. | conf. |
| | | Other CP | 5 | 369 | 2.1% |
| CV | | 33 | 8,000 | 46.5% | |
| 2005 Total | | | | 17,215 | 100% |
| 2006 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 14 | 5,416 | 40.0% |
| | | Crab | 3 | 1,060 | 7.8% |
| | | Other CP | 6 | 859 | 6.3% |
| CV | | 40 | 6,201 | 45.8% | |
| 2006 Total | | | | 13,536* | 100%* |
| 2007 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 15 | 8,550 | 37.3% |
| | | Crab | 1 | conf. | conf. |
| | | Other CP | 7 | 730 | 3.2% |
| CV | | 53 | 12,301 | 53.6% | |
| 2007 Total | | | | 22,937 | 100% |
| 2008 | CP | AFA | 1 | conf. | conf. |
| | | Am80 | 10 | 2,269 | 14.3% |
| | | Crab | 3 | 768 | 4.8% |
| | | Other CP | 9 | 1,587 | 10.0% |
| CV | | 65 | 11,268 | 70.9% | |
| 2008 Total | | | | 15,892* | 100%* |

Source: NMFS blend/catch accounting database, 2000 - 2008. 2008 data are preliminary, and include harvest through week-ending date 12/6/08. Retained catch only. Excludes CDQ harvest and State-managed AI P. cod fishery.

*Harvest sector indicates whether a vessel was acting as a CV or CP during a given landing. A given vessel may operate as both a CV and CP. N/a = not available. Unique CV counts in these data are not reliable prior to 2003.

*Totals (2006 and 2008) do not include all harvest data, due to confidentiality issues.

The BSAI Pacific cod allocations are seasonally allocated for each sector, with the exception of the hook-and-line/pot <60' sector. Refer to Appendix 5 for the current seasonal apportionments for each sector. Note that unharvested seasonal allocations roll to the sector's next season within the same year. The temporal dispersion measures in the BSAI Pacific cod fishery, primarily a result of the 2001 Biological Opinion on Steller sea lions, were established to meet a seasonal target of 70% harvest in the first half of the year (January 1 – June 10) and 30% in the second half (June 10 – December 31). 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.

Note that a new Biological Opinion is currently being developed by NMFS, Protected Resources Division, and is scheduled for release in August 2009. This Biological Opinion consults, among other things, on the effect of the existing (status quo) Pacific cod fishery on Steller sea lions. Any proposed changes to the existing Pacific cod fishery would require either an informal or formal consultation with Protected Resources.

Most gear sectors prefer to take the majority of their harvest in the first (A) season, as a result of higher catch per unit effort due to increased aggregation of cod, as well as market and weather conditions. As with most sectors, the Pacific cod trawl CV A season has been shorter in recent years, due to various factors. Some of these factors affect all CV sectors, including: additional cod effort in the BSAI; allocation of 3% of the BSAI Pacific cod ABC to a State waters AI cod fishery starting in 2006; and an increase in the CDQ allocation from 7.5 percent to 10.7 percent in 2008. In addition, Amendment 85 reduced the trawl CV cod allocation from 23.5 percent of the BSAI Pacific cod ITAC (in 2007) to 22.1 percent (starting in 2008). Recently, the A season for BSAI trawl CV cod, which starts January 20, has been open less than 2 months, closing around mid-March (see Table 4 below).

Table 4 Length of BSAI Trawl CV A season, 2000 - 2008

| Year | Length of A season for BSAI trawl CV Pacific cod allocation (days) |
|------|--|
| 2008 | 46 |
| 2007 | 51 |
| 2006 | 47 |
| 2005 | 52 |
| 2004 | 63 |
| 2003 | 72 |
| 2002 | 72 |
| 2001 | 72 |
| 2000 | 73 |

Source: NOAA Fisheries, RAM Division.

Background data on State and Municipal Fishery Taxes

In December, the Council requested that background information be provided on State and municipal fisheries taxes, and which sectors are assessed those taxes. The State of Alaska levies taxes on fishery resources processed outside of and first landed in Alaska, as well as on fishery resources processed in Alaska. Alaska statutes provide that a percentage of revenue collected from these taxes shall be shared with qualified municipalities in Alaska. The amount of money available to distribute is based upon fisheries business and fishery resource landing taxes collected during the program base year as defined in Alaska statute.¹⁴ Essentially, the tax is levied against fishery resources processed or landed two years before. For example, fiscal year 2007 payments were based on taxes collected in fiscal year 2006 for fish that were processed or landed during calendar year 2005.

¹⁴Refer to 3 AAC 134.160(11).

The following sections describe the State Fisheries Business tax and State Fishery Resource Landing tax, and **Appendix 6** provides the current amounts shared to municipalities in Alaska. The last section describes the Municipal Raw Fish tax, revenues from which are provided in **Appendix 7**.

State Fisheries Business Tax

The fisheries business tax ('raw fish tax') is levied on businesses that process fisheries resources in Alaska or export fisheries resources from Alaska. The tax is based on the value of the raw fishery resource, and the tax rates vary from 1% to 5%, depending on whether the fishery resource is considered 'established' or 'developing,' and whether it was processed by a shore-based or floating processor. Currently, the tax rates for established fisheries are 3% for fishery resources processed at shorebased plants and 5% for those processed at floating processors (AS 43.75.015). Revenues are deposited into the State of Alaska's General Fund, and 50% of revenues are distributed to qualified municipalities (see Appendix 6). In 2008, the shared amount to municipalities was approximately \$20.2 million.¹⁵

State Fishery Resource Landing Tax

The fishery resource landing tax is levied on fishery resources processed outside of and first landed in Alaska, and is based on the unprocessed statewide average price of the resource. The tax is primarily collected from floating processors and catcher processors that process fish outside the State's 3-mile limit and bring products into Alaska for transshipment, or any processed fishery resource subject to Section 210(f) of the AFA. Tax rates range from 1% to 3% (AS 43.77.010). All revenues are deposited in the State of Alaska's General Fund, and 50% of revenues are distributed to qualified municipalities (see Appendix 6). In 2008, the shared amount to municipalities was approximately \$6.4 million.

Most catcher processors offload processed fish in Alaska communities and pay a 3% fishery resource landing tax to the State. The tax is based on the unprocessed value of the resource, which is determined by multiplying a statewide average price (determined by ADF&G) by the unprocessed weight. The tax is primarily collected from floating processors which process fish outside State waters and bring their product into Alaska for transshipment.

Revenues from the fishery resource landing tax are allocated to municipalities within Alaska in a two stage process. First, revenues are allocated among the 19 Fisheries Management Areas (FMA) within Alaska based on the ratio of the management area's fishery resource landing tax production value to the value for all management areas combined. Second, payments to municipalities within each FMA are determined under one of two methods. If available funds are less than \$4,000 multiplied by the number of municipalities in the FMA, then 50% of funds are divided equally among communities and 50% are distributed based on the population of each community. If available funds are more than \$4,000 multiplied by the number of municipalities in the FMA, then municipalities apply for funds based on the cost of fisheries business impacts experienced by the community and other considerations.

Council staff does not have access to tax records or offload information for individual vessels or entities, and cannot estimate the amount of fishery resource landing tax paid by each of the processing sectors for Pacific cod offloads. If Pacific cod product is offloaded in Alaska communities, the processing sectors would pay taxes to the State in proportion to the unprocessed value of their annual retained catch.

Municipal Raw Fish Tax

In addition to the State taxes described above, municipalities may collect their own raw fish taxes on landings. (All political subdivisions within the State of Alaska are termed 'municipalities'.) Municipal

¹⁵Alaska Dept. of Revenue, Tax Division, Revenue Sources Book, Fall 2008, pp. 66 – 67.

raw fish taxes vary by community, and range from approximately 1% to 3% of the unprocessed value of the fishery resources. Refer to Appendix 7 for a list of municipalities that levy a raw fish tax, and the amount of revenue generated from such taxes in 2007.

Background data on Adak and Atka

Adak and Atka are the two communities located in the eastern AI with shoreside processing plants that the processing sideboards are intended to protect, by limiting the amount of Pacific cod deliveries that each of the rationalized sectors (AFA, crab processing vessels, Amendment 80 CPs) can receive from catcher vessels harvesting cod in the Eastern and Central AI. Note that a separate action has been proposed to establish processing sideboards on the amount of Atka mackerel and Pacific ocean perch that Amendment 80 CPs can receive from these same areas.

Limited profiles of Atka and Adak are provided here for reference from two sources.¹⁶ Atka is located on Atka Island towards the end of the Aleutian Island archipelago. It is one of the western most fishing communities in the Aleutian chain, and has a 2000 U.S. Census population of 92. Residents of Atka are primarily Alaska Native (Aleut), and the economy is predominantly based on subsistence living as well as commercial fishing. Atka is a CDQ community, represented by APICDA, and has a small onshore processor (Atka Pride Seafoods) which serves the local fleet and employs local residents. The primary species processed are halibut and sablefish, and the commercial fleet delivering to Atka is involved mainly in those fisheries. According to the CFEC, 4 permits were held by 3 permit holders in Atka in 2006, and 2 permits were held by 2 permit holders in 2007.

Note that the Council received a letter from city leaders in Atka at its April 2008 meeting, related to a proposal from Adak Fisheries for NMFS to develop an emergency rule to require that all trawl Pacific cod harvested in the region be delivered onshore in the 2009 A season.¹⁷ While that proposal is not being developed, Atka noted that such processing restrictions would reduce their revenue opportunities. They currently depend upon a floating processor (M/V Independence, Trident Seafoods) to purchase and process Pacific cod. Trident pays a local sales tax to Atka, as well as raw fish taxes. The letter notes that Atka is planning to transition to processing crab and Pacific cod at its shoreplant in the future.

Both APICDA and Atxam Corporation, the village corporation in Atka, recently purchased processing quota share for Western AI golden king crab, with APICDA purchasing the maximum amount of shares under the cap. APICDA also holds Eastern AI golden king crab PQS, and Atxam holds Western AI red king crab PQS. Atka plans to use Trident's floater to process that crab this season, with plans to reconstruct its onshore processor and add a crab processing line in time for the 2009/2010 crab season.¹⁸ The intent is to reconstruct the plant and add Pacific cod capacity as well, but representatives of Atka have emphasized that the ability to use a stationary floating processor in Atka is necessary in both the short and long-term for the viability of that community. Anecdotal evidence suggests that a high volume of cod is necessary to make cod operations economically viable, whether the operation is a shorebased plant or floating processor. Atka recognizes it would need to substantially increase its shoreplant capacity in order to make cod processing economically feasible. Note that a representative of APICDA testified at the December 2008 Council meeting that APICDA does not support the proposed action.¹⁹

¹⁶Community information on Atka is from the "Community Profiles for North Pacific Fisheries – Alaska", U.S. Dept. of Commerce, NOAA Fisheries, NMFS, AFSC. December 2005, pp. 297 – 300. Community information on Adak is from the "Comprehensive Baseline Commercial Fishing Community Profiles: Sand Point, Adak, St. Paul, and St. George, Alaska", prepared for the NPRB and NPFMC by EDAW, June 2008.

¹⁷Letter from L. Prokopeuff, M. Snigaroff, and L. Lokanin, to E. Olson, Council Chair, April 2, 2008.

¹⁸Larry Cotter, APICDA, personal communication, August 15, 2008.

¹⁹Testimony provided by Everette Anderson, APICDA, December 16, 2008.

Adak is located on Kuluk Bay on Adak Island in the Aleutian chain. It is the southernmost community in Alaska, with a 2000 U.S. Census population of 316, although estimates of year-round residents vary. According to City of Adak staff estimates, in 2007, the population was about 120 year-round residents. Unlike Atka, Adak is not a CDQ community. Most are aware of Adak's significant role during World War II as a U.S. military operations base, and the Aleut Corporation's current efforts to develop Adak as a commercial center and civilian community with a private sector economy focused heavily on commercial fishing. Through Congressional action, Adak currently receives an exclusive allocation of Western AI golden king crab²⁰ (allocated to a non-profit entity representing Adak) and an allocation of the AI pollock fishery (allocated to the Aleut Corporation). Adak is pursuing a broader range of fisheries for a resident fleet to be able to deliver to Adak Fisheries, the shoreside processor located on Adak.

As a relatively new civilian community, the local fleet in Adak is fairly small, composed primarily of vessels 32' or less in length overall. According to the CFEC, 10 permits were held by 6 permit holders in Adak in 2006, and 6 permits were held by 3 permit holders in 2007. Of the six permit holders in Adak in 2006, five had a permit for groundfish, with one also having a halibut/sablefish permit. One permit holder had a salmon permit, which was combined with a crab/other permit. The community profiles document (EDAW, June 2008) reports that at the time of fieldwork in 2007, five small vessels were considered 'local' by residents and actively engaged in, or attempting to be engaged in, local fisheries. Additionally, there are a number of other vessels that spend time in Adak and may have the community name painted on their vessel, but are not considered part of the local fleet by Adak residents, as they have stronger homeporting and fishing effort ties elsewhere.

The following tables show various species or categories of species delivered to the shoreside plant in Adak (Adak Fisheries) during 2002 through mid-October 2008. While cod processing occurred at the physical shoreside plant in Adak starting in 1999, the plant was owned by Norquest Seafoods at the time. In August 2001, the plant changed ownership and has since been owned by Adak Fisheries.²¹ A waiver of confidentiality was offered by and obtained from a representative of Adak Fisheries in order to provide the ADF&G fishticket data for this processor.²² The following tables differentiate harvest in the Aleutian Islands from that in the Bering Sea, and Pacific cod data are provided separately. Harvest amounts from fewer than three vessels cannot be reported due to confidentiality rules. Note that some crab landings that were custom processed at the Adak facility under another processor name are not included, as the confidentiality waiver only applies to Adak Fisheries. Similar information is not provided for the shoreside processor in Atka, due also to confidentiality limitations. However, as stated previously, the two primary species processed in Atka are halibut and sablefish.

Table 5 shows that the majority of the deliveries to Adak Fisheries during this time period have been Pacific cod, ranging from a low in 2005 of 6,438 mt to a high of 12,435 mt in 2007. Note that the State water Pacific cod fishery in the AI was established by the Alaska Board of Fisheries in 2006, and this harvest is broken out for 2006 through 2008. The allocation to the State water Pacific cod fishery is 3% of the BSAI Pacific cod ABC. The State water AI Pacific cod fishery, CDQ Pacific cod, and Federal Pacific cod are all included, in order to provide the total amount of cod processed in Adak in recent years.

Typically, as stated previously, the majority of the BSAI trawl CV Pacific cod harvest occurs in the A season, with additional landings in the B and C seasons. As with most sectors, the A season has been shorter in recent years, the shortest of which has been 2008. Adak Fisheries has testified to the Council at

²⁰In addition, fifty percent of the class A IFQ (i.e., IFQ that must be delivered to a processor with matching IPQ) for the Western Aleutian Islands golden king crab fishery must be delivered to a shorebased or stationary floating crab processor west of 174 degrees west. Only two communities, Adak and Atka, are located within this geographic area.

²¹While identified in the fisheries data as having one owner since 2001, other company names during this period have been Adak Seafoods or Adak Fisheries Development Corporation. The company is currently identified as Adak Fisheries LLC.

²²Received by ADF&G, signed by William Tisher, July 30, 2008. This waiver applies to Adak Seafoods, Adak Fisheries Development Corporation, and Adak Fisheries LLC.

numerous meetings that substantial investments in plant capacity have occurred in recent years in response to the shortened cod seasons.

Table 5 Number of vessels delivering and amount (mt) to Adak Fisheries, by species or species group, 2002 – October 2008

| Year | FMP Area | Species | Vessel count | Metric tons |
|------|---------------|---------------------------|--------------|-------------|
| 2002 | AI | Pacific cod | 24 | 8,498 |
| | AI | crab, golden (brown) king | 7 | 784 |
| | AI | crab, red king | 12 | 77 |
| | AI | other AI groundfish | na | 568 |
| | AI | halibut | 30 | 1,004 |
| | BS | halibut | 3 | 19 |
| | WG | halibut | 1 | conf. |
| | BS | sablefish (blackcod) | 1 | conf. |
| 2003 | AI | Pacific cod | 23 | 8,706 |
| | AI | crab, golden (brown) king | 6 | 861 |
| | AI | crab, red king | 10 | 65 |
| | AI | halibut | 29 | 610 |
| | AI | other AI groundfish | na | 294 |
| | BS | Pacific cod | 1 | conf. |
| | BS | other BS groundfish | na | 2 |
| 2004 | AI | Pacific cod | 19 | 9,430 |
| | AI | crab, golden (brown) king | 7 | 679 |
| | AI | halibut | 25 | 393 |
| | | halibut | 1 | conf. |
| | AI | Atka mackerel | 4 | <1 |
| | AI | POP | 4 | 3 |
| | AI | other AI groundfish | na | 159 |
| | BS | halibut | 3 | 21 |
| BS | BS groundfish | na | 2 | |
| 2005 | AI | Pacific cod | 16 | 6,438 |
| | AI | crab, golden (brown) king | 2 | conf. |
| | AI | halibut | 21 | 326 |
| | AI | other AI groundfish | na | 292 |
| | BS | BS groundfish | na | 1 |
| 2006 | AI | State Waters PCod | 12 | 873 |
| | AI | Pacific cod | 17 | 5,576 |
| | AI | halibut | 11 | 117 |
| | AI | POP | 1 | conf. |
| | AI | other AI groundfish | na | 971 |
| | WG | halibut | 1 | conf. |
| 2007 | AI | State Waters PCod | 31 | 2,832 |
| | AI | Pacific cod | 29 | 9,603 |
| | AI | halibut | 13 | 187 |
| | AI | crab, golden (brown) king | 2 | conf. |
| | AI | POP | 2 | conf. |
| | AI | other AI groundfish | na | 1,377 |
| 2008 | AI | State Waters PCod | 26 | 1,319 |
| | AI | Pacific Cod | 35 | 4,263 |
| | BS | Pacific Cod | 1 | conf. |
| | AI | POP | 4 | 258 |
| | AI | Atka Mackerel | 1 | conf. |
| | AI | Other AI groundfish | na | 546 |

Source: ADF&G Fishtickets, 2002 – 2007. 2008 data are preliminary data, through 10/11/08, from the NMFS catch accounting system and only include groundfish (not halibut or crab). Retained catch only. Harvest (mt) is rounded to the nearest metric ton. Includes deliveries of any species to Adak Fisheries, including CDQ and AI State water Pacific cod fisheries. Note: Small amounts of custom processed crab species that were physically processed in Adak under another plant name are not included.

Note that preliminary data for 2008 are provided through October 11. Adak Fisheries received about 4,407 mt of Federal Pacific cod from 35 unique catcher vessels, and an additional 1,319 mt from 26 vessels in the AI State waters cod fishery, for a total of 5,726 mt in 2008 thus far. Adak Fisheries previously provided the Council with a summary of the 2002 through 2008 A season for trawl CV Pacific cod in Adak, stating that early in 2008, the level of harvest was greater than normal, until mothership vessels arrived near Adak in mid-February. Adak asserts that this resulted in a diversion of landings that would have otherwise been processed at the shoreside plant in Adak, and that this reduction in landings continued for the remainder of the A season (about a month) and into the State water AI season. Adak Fisheries representatives have stated that the plant realized a 60 percent reduction in 2008 A season landings compared to 2007.

It may be beneficial to understand more about the existing fleet that delivers to Adak and Atka. Table 6 shows the number of unique vessels that delivered to Adak and Atka during 2002 – 2008, in order to provide an idea of the size of the recent fleet delivering to these two communities. Metric tons (retained catch) landed are provided for Adak, as Adak Fisheries waived confidentiality of these data. However, landings data for Atka are masked. Note that while Table 6 shows deliveries from all FMP areas delivered to these communities, the vast majority is from Areas 541 and 542.

Table 6 Number of unique vessels delivering any species to Adak and Atka during 2002 – October 2008, and tons landed

| Year | FMP Area | City | Vessels | Metric tons |
|-------------------------|----------|------|---------|-------------|
| 2002 | AI | Adak | 69 | 10,931 |
| | BS | Adak | 4 | 19 |
| | WG | Adak | 1 | ** |
| | – | Atka | 5 | ** |
| | AI | Atka | 9 | ** |
| 2003 | AI | Adak | 70 | 10,536 |
| | BS | Adak | 3 | 2 |
| | – | Atka | 2 | ** |
| | AI | Atka | 7 | ** |
| 2004 | AI | Adak | 48 | 10,665 |
| | BS | Adak | 5 | 23 |
| | – | Adak | 1 | ** |
| | – | Atka | 3 | ** |
| | AI | Atka | 6 | ** |
| 2005 | AI | Adak | 34 | 7,222 |
| | BS | Adak | 2 | ** |
| | – | Atka | 1 | ** |
| | AI | Atka | 5 | ** |
| 2006 | AI | Adak | 27 | 7,567 |
| | WG | Adak | 1 | ** |
| | AI | Atka | 7 | ** |
| 2007 | AI | Adak | 48 | 14,138 |
| | AI | Atka | 3 | ** |
| 2008 (thru 10/11/08) | AI | Adak | 44 | 6,386 |
| | BS | Adak | 1 | ** |
| | AI | Atka | 1 | ** |

Source: ADF&G Fish tickets, 2002 - 2008. 2008 data are preliminary data, through 10/11/08, from the NMFS catch accounting system and only include groundfish (not halibut or crab). Includes retained catch from all stat areas. Note that some catch records are missing stat area information. **Confidential data. The 'city' column refers to landings processed under the Adak or Atka plant names. A small amount of crab landings that were custom processed in Adak under another plant name are excluded.

Table 6 shows that 27 to 70 vessels annually delivered species harvested in the Aleutian Islands to Adak during 2003 – 2008, with those annual harvests ranging from about 7,000 mt (2005) to 14,000 mt (2007). While 2008 data are provided, it is not yet a complete data set (preliminary data are through October 11, 2008, from the NMFS catch accounting system). A few vessels also delivered species harvested in the Bering Sea. Table 6 also shows that 3 to 7 vessels annually delivered species harvested in the AI to Atka. There are also a few catch records for each community without statistical area information.

The CFEC data (not provided) also show that there are two Adak vessels delivering to Adak and two Atka vessels delivering to Atka during 2003 – 2007. This means that Adak and Atka are reported as the vessel owner's residence, based on CFEC vessel ownership records. However, 'homeport' information, or vessel owner residence information, may not provide a complete picture of the fleet of vessels delivering to these communities. As mentioned previously, additional vessels can be considered 'local' by residents and actively engaged in local fisheries. Table 7 and Table 8 provide some information on the fleet of vessels that deliver various levels of landings to each of these communities, even though they may not be 'homeported' in these communities.

Table 7 provides a summary of participation patterns during 2003 – 2007. This table shows that of the 116 unique vessels that have made landings in Adak during 2003 – 2007, 5 of those have delivered all five years; 9 have delivered in four of the five years; 17 have delivered in three of the five years; 31 have delivered in two of the five years; and about half (54) have delivered in only one of the five years. These are unique numbers, thus, there are 31 vessels that have delivered in *at least three* of the five years during 2003 – 2007.

Table 7 Participation pattern of vessels that delivered to Adak and Atka, 2003 - 2007

| Community | Number of vessels that delivered 1, 2, 3, 4, or 5 years during 2003 – 2007 | | | | | Total # of unique vessels with landings in 2003 - 07 |
|-----------|--|---------|---------|---------|-------------|--|
| | 1 year | 2 years | 3 years | 4 years | All 5 years | |
| Adak | 54 | 31 | 17 | 9 | 5 | 116 |
| Atka | 2 | 3 | 1 | 3 | 1 | 10 |

Source: ADF&G Fishtickets & CFEC records (retained catch only), 2003 – 2007. Includes catch from all areas. The 'city' column refers to landings processed under the Adak or Atka plant names.

In Atka, there are significantly fewer vessels delivering shoreside. Table 7 shows that of the 10 unique vessels that have reported deliveries to Adak during 2003 – 2007, 1 of those has made landings in Atka all five years; 3 have delivered in four of the five years; 1 has delivered in three of the five years; 3 have delivered in two of the five years; and two have delivered in only one of the five years. Thus, half of the vessels (5) have made landings in Atka in *at least three* of the five years during 2003 – 2007.

Finally, Table 8 shows that of the total number of unique vessels (116) that made landings in Adak during 2003 – 2007, a range of 4 to 10 vessels annually made 10 landings or more; and 9 to 23 vessels annually made 5 or more landings. Vessels with 10 or more annual landings made up 40 percent to 58 percent of the total landings to Adak. Vessels that made at least 5 landings in a given year comprised the majority of the annual catch – from 62 percent in 2007 to a high of 90 percent in 2003. In any one year, a low of 27 vessels and a high of 70 vessels made landings in Adak during 2003 – 2007.

In Atka, there were significantly fewer vessels delivering overall; ten unique vessels delivered shoreside during 2003 – 2007. Two to 6 vessels made at least 10 annual landings in 2003 – 2005, and 1 to 7 vessels made at least 5 landings annually. Vessels that made at least 5 landings in a given year comprised the vast majority of the annual catch – more than 95 percent in most years. In any one year, a low of 3 vessels and a high of 7 vessels delivered shoreside to Atka during 2003 – 2007.

Table 8 Number of vessels with at least one, five, or ten landings in Adak and Atka annually and percent of harvest, 2003 - 2007

| ADAK | Number of vessels with at least one landing per year | % of harvest | Number of vessels with at least 5 landings per year | % of harvest | Number of vessels with at least 10 landings per year | % of harvest |
|------|--|--------------|---|--------------|--|--------------|
| 2003 | 70 | 100% | 23 | 90% | 10 | 58% |
| 2004 | 54 | 100% | 19 | 80% | 4 | 36% |
| 2005 | 35 | 100% | 9 | 74% | 4 | 47% |
| 2006 | 27 | 100% | 12 | 75% | 6 | 54% |
| 2007 | 48 | 100% | 16 | 62% | 9 | 40% |
| ATKA | Number of vessels with at least one landing per year | % of harvest | Number of vessels with at least 5 landings per year | % of harvest | Number of vessels with at least 10 landings per year | % of harvest |
| 2003 | 7 | 100% | 7 | 100% | 6 | 99% |
| 2004 | 6 | 100% | 6 | 100% | 5 | 59% |
| 2005 | 5 | 100% | 4 | 99% | 2 | conf. |
| 2006 | 7 | 100% | 5 | 95% | 0 | 0% |
| 2007 | 3 | 100% | 1 | conf. | 0 | 0% |

Source: ADF&G Fish tickets, 2003 - 2007 (retained catch only) and CFEC records. Includes catch from all areas.

Review and clarification of the proposed sideboard options

There are several overlapping options proposed to establish processing sideboard limits on Pacific cod harvested in Areas 541 and 542. These were approved in the June and December 2008 Council motions:

Alternative 1. No action.

Alternative 2. Establish processing sideboards on Pacific cod harvested by catcher vessels in Area 541 or 542.

Component 1. Options for establishing processing sideboards

Option 1. Sideboard limit

Limit the amount of Pacific cod harvested in Areas 541 or 542 that may be delivered to the affected Federally permitted processing vessels by other vessels to:

- Suboption 1. the greatest amount delivered within the range of qualifying years
- Suboption 2. the average annual amount delivered within the range of qualifying years

Option 2. Sideboard date

Limit the date that the affected Federally permitted processing vessels may begin taking deliveries of Pacific cod harvested in Areas 541 or 542 to:

- Suboption 1. the earliest date a delivery was taken in any qualifying year
- Suboption 2. the average earliest date a delivery was accepted in each year, across all qualifying years

****Option 3. The sideboard limit and/or date would only be established in Area 542.**

Component 2. Options for qualifying years

Recent history:

- Suboption a. 2005 – 2007 (3-year period prior to 2008)
- Suboption b. 2003 – 2007 (5-year period prior to 2008)

Years prior to implementation of the respective rationalization program:

- Suboption c. 3-year period prior to program implementation
- Suboption d. 5-year period prior to program implementation

Component 3. Options for calculating and applying sideboards

Option 1. Single sideboard

All affected vessels that accept deliveries of Pacific cod harvested in Areas 541 or 542 would be combined under a single sideboard.

Option 2. Program-specific sideboards

A separate sideboard would be established and managed for each of the three groups of rationalized vessels (*i.e.*, AFA, BSAI crab, and BSAI Amendment 80) that accept deliveries of Pacific cod harvested in Areas 541 or 542.

****Option 3 was added at the December 2008 Council meeting.**

At the December 2008 Council meeting, staff reviewed several questions surrounding the options that needed clarifying, as well as some assumptions that may be well understood but not explicit in the language of the options. In December, the Council clarified the following assumptions. The first issues pertain to how the sideboards are structured:

- CDQ harvests of Pacific cod would not count toward the Pacific cod processing sideboard.
- All threshold amounts specified in the above options are the actual amounts delivered. Retained catch (i.e., actual deliveries) is used, instead of total catch as the basis for estimations, as it seems the appropriate approach to quantifying deliveries.
- Component 1, Option 1, Suboption 1 means the greatest annual amount delivered within 2005 – 2007 (not the total amount aggregated across all three years).
- All sideboard limits to date have been expressed as percentages of an ITAC or allocation. A percentage approach results in a sideboard that fluctuates with the TAC. While the options propose a processing sideboard ‘amount’, this amount would be based on the amount of Area 541 and 542 cod delivered to the rationalized processing sectors during the qualifying years, and then converted to a percentage of the total CV catch of Pacific cod in the BSAI (excluding AI State waters and CDQ). This is because the sideboard percentage ultimately would be multiplied by the combined BSAI Pacific cod CV allocations in order to determine the annual processing limit, as there is no AI-specific Pacific cod allocation.
- The sideboard would be applied to the total combined Pacific cod allocations to CVs each year. (As opposed to being applied to each individual gear-specific BSAI Pacific cod CV allocation).²³
- The Pacific cod processing sideboards are to be established in the aggregate for Areas 541 and 542 if the Council chooses to apply a sideboard to both areas. In effect, under Component 3, Option 1, there would be one processing sideboard for all Pacific cod harvested in Areas 541 and 542 (combined) that would apply to all three rationalized sectors. Under Component 3, Option 2, there would be a total of three processing sideboards: one processing sideboard for all Pacific cod harvested in Areas 541 and 542 (combined) that would apply to each of the three rationalized sectors.

The following bullets pertain to which sector(s) the sideboard is applied:

- The processing sideboard would apply to all eligible Amendment 80 CPs, whether they are in a cooperative or the Amendment 80 limited access fishery.

The central idea of this action is that rationalization programs, including Amendment 80, created surplus processing capacity by allowing for consolidation of a rationalized processing sector. Since Amendment 80 CPs that do not join an Amendment 80 cooperative can participate in the Amendment 80 limited access fishery, those vessels will continue to compete with each other. The final rule notes that participants in the Amendment 80 limited access fishery will not realize the same potential benefits from consolidation and coordination and will not receive an exclusive harvest privilege that accrues to members of an Amendment 80 cooperative.²⁴ NMFS manages the Amendment 80 limited access fishery similar to the way the fisheries were managed prior to implementation of the program. Thus, it spurs the

²³The CV sector allocations are: hook-and-line CV $\geq 60'$; pot CV $\geq 60'$; hook-and-line or pot CV $< 60'$; trawl CV; and jig vessels. Note that the jig allocation includes both CV and CP vessels using jig gear, but very few jig CPs have operated.

²⁴NMFS assigns the Amendment 80 limited access fishery the amount of the Amendment 80 sector's allocation of Amendment 80 species ITAC and crab and halibut PSC that remains after allocation to all of the Amendment 80 cooperatives.

question as to whether the Council intends to apply the Pacific cod processing sideboard to all eligible Amendment 80 CPs, or to limit its application to Amendment 80 CPs participating in cooperatives.

Eligible Amendment 80 quota share holders can form a cooperative with other Amendment 80 quota share holders on an annual basis, provided they meet specific criteria. In 2008, seven Amendment 80 vessels chose not to participate in a cooperative and instead participated in the Amendment 80 limited access fishery. Six of these vessels are owned by the same company. Even if Amendment 80 vessels choose not to participate in a cooperative, there is the potential for such a limited universe of vessels in the Amendment 80 limited access fishery that it is possible to gain some benefits similar to rationalization. The limited number of participants facilitates the ability to create harvest agreements with one another. In addition, one company may own all of the vessels participating in the Amendment 80 limited access fishery, or there may only be one or two vessels that focus on a particular species (e.g., Pacific cod), thus reducing competition that would otherwise be associated with an (unrationalized) limited access fishery.

For these reasons, the current assumption is that the processing sideboard would apply to all eligible Amendment 80 CPs, as the current language of the motion does not discern between those in cooperatives and those in the Amendment 80 limited access fishery.

- The sideboards would apply to vessels acting as motherships or stationary floating processors.

At this point, staff assumes that the sideboard would apply to all processing vessels, whether they were acting as true motherships or as stationary floating processors. While it may be unlikely that some vessels would act as stationary floating processors, the potential remains, and the implementing regulations would need to clearly articulate the vessels to which the sideboard applies.

Federal regulations currently define a mothership as “a vessel that receives and processes groundfish from other vessels” (50 CFR 679.2).²⁵ The same regulations define a stationary floating processor as “a vessel of the United States operating as a processor in Alaska State waters that remains anchored or otherwise remains stationary in a single geographic location while receiving or processing groundfish harvested in the GOA or BSAI.” Thus, one interpretation is that stationary floaters are a subset of motherships that operate in State waters in a single geographic location, and thus are included in the definition of mothership, even if the common understanding of a ‘true’ mothership is that it is a mobile floating processor.

Of the three rationalized processing sectors at issue, only vessels in the crab sector have been identified in the data acting as stationary floating processors at any time during the years under consideration (1994 – 2007).²⁶ With the exception of 2001, during 2000 through 2007, one to two crab vessels acted as stationary floating processors each year (three unique vessels). In 2008, two crab vessels acted as stationary floaters.

If it is not the Council’s intent to include vessels acting as stationary floating processors, it should clarify the sector to which the sideboard should apply. As currently stated, staff assumes that the proposed cod processing sideboard would apply to all of the affected rationalized vessels (AFA, crab processing vessels that contributed to *C. opilio* PQS, and Amendment 80 CPs) receiving and processing groundfish from other vessels harvesting Pacific cod in Areas 541 and 542, regardless of whether they were acting as a ‘true’ mothership or a stationary floating processor.

²⁵A second part of the definition states: “With respect to subpart E of this part, a processor vessel that receives and processes groundfish from other vessels and is not used for, or equipped to be used for, catching groundfish.” Subpart E refers to the regulations implementing the Groundfish Observer Program.

²⁶NMFS catch accounting system and personal communication, M. Furuness, October 2008.

The last issue pertains to the scope of the sideboards:

- The proposed Pacific cod processing sideboard would apply to Pacific cod harvested in the Eastern and Central AI from all gear types.

The language of the motion does not specify whether the sideboard limits are gear specific. The motion proposes to limit CV deliveries of any gear type (hook-and-line, pot, jig, and trawl) to the rationalized processing sectors at issue. As stated in a previous bullet, staff calculated the sideboard amount based on the amount of Area 541 and 542 cod delivered by catcher vessels to the rationalized processing sectors during the qualifying years, converted to a percentage of the total CV catch of Pacific cod in the BSAI.

Preliminary analysis of sideboard options

Generally, the options to establish sideboards focus on the amount of Pacific cod harvested in Areas 541 and 542 that have been delivered by catcher vessels to the AFA, crab processing vessels, and Amendment 80 sectors in recent years or the years prior to the implementation of their respective rationalization programs. Note that in December 2008, the Council approved the addition of Component 1, Option 3, which would confine this action only to catcher vessel deliveries (to motherships/CPs) of cod harvested in Area 542. Thus, the preliminary analysis of the options shows the amount of mothership deliveries of Pacific cod harvested in: 1) Areas 541 and 542 combined, and 2) Area 542 only.

Recall also that in December 2008, the Council modified the motion such that the proposed processing sideboards only affect AFA catcher processors and motherships that have not shown continuous processing participation in the Area 541 and 542 Pacific cod fishery since the implementation of the AFA. In effect, the motion exempts AFA processing vessels that have documented continuous processing participation in the Aleutians in this manner since 1999. As only one AFA CP has continuous participation in this regard, the AFA sector affected by this action is comprised of the remaining 19 AFA CPs and 3 motherships listed in the AFA. Thus, while the one exempted AFA CP's processing history is provided in the background tables (e.g., Table 9 and Table 10), in order to provide context for the action (i.e., annual percentage of Pacific cod processed offshore versus onshore), its history is not used in the numerator of any of the calculations for the proposed sideboards.

Table 9 is provided in order to show the amount of catcher vessel cod landings in total for both areas that have been processed offshore versus onshore, broken out by rationalized processing sector when possible. Table 9 shows the unique number of processors receiving deliveries of Pacific cod harvested in Areas 541 and 542 (combined) in 1994 through 2008. With the exception of 2008, these are the qualifying years covered under the options in Component 2. The processing sectors shown are: AFA (CPs and motherships), crab (CPs and floaters), Amendment 80 (CPs acting as motherships/floaters), 'other' mothership/floaters, and shoreside plants. If a sector is not shown under a particular year, that means there was no activity for that sector in that year (i.e., no sectors are lumped together except where noted).

Note that the harvest data in Table 9 are confidential if there are not more than 3 processors or 3 vessels in any one category, thus, in many years the harvest data cannot be shown separately for each sector. CDQ and AI State water Pacific cod harvest are not included, as these fisheries are not affected by the proposed action. Note also that the data represent retained catch, and 2008 data are considered preliminary.

Table 9 Number of processing vessels or shoreside plants receiving Pacific cod harvested in the Central and Eastern AI combined, 1994 – 2008

| Year | Sector | Tons | % of total | Vessel count | Processor count |
|------|------------------|--------|------------|--------------|-----------------|
| 1994 | Other Mothership | conf. | - | | 1 |
| | Shoreside | conf. | - | 16 | 3 |
| | Total | 78 | 100% | | |
| 1995 | Other Mothership | conf. | - | | 1 |
| | Shoreside | conf. | - | 33 | 7 |
| | Total | 303 | 100% | | |
| 1996 | AFA | 1,440 | 35% | | 3 |
| | Crab | conf. | - | | 2 |
| | Other Mothership | conf. | - | | 2 |
| | Shoreside | 539 | 13% | 22 | 6 |
| | Total | 4,082 | | | |
| 1997 | AFA | 2,492 | 44% | | 3 |
| | Other Mothership | 2,973 | 52% | | 5 |
| | Shoreside | 212 | 4% | 17 | 7 |
| | Total | 5,676 | | | |
| 1998 | AFA | 1,213 | 21% | | 5 |
| | Other Mothership | 4,433 | 78% | | 7 |
| | Shoreside | 44 | 1% | 7 | 4 |
| | Total | 5,690 | | | |
| 1999 | AFA | 5,304 | 56% | | 5 |
| | Am80 | conf. | - | | 2 |
| | Crab | conf. | - | | 1 |
| | Other Mothership | 273 | 3% | | 3 |
| | Shoreside | 3,413 | 36% | 45 | 7 |
| | Total | 9,430 | | | |
| 2000 | AFA | conf. | - | | 1 |
| | Crab | 4,613 | 32% | | 3 |
| | Other Mothership | conf. | - | | 2 |
| | Shoreside | 8,104 | 57% | 77 | 11 |
| | Total | 14,314 | | | |
| 2001 | AFA | conf. | - | 2 | 1 |
| | Crab | conf. | - | 9 | 1 |
| | Other Mothership | conf. | - | 2 | 1 |
| | Shoreside | 3,831 | 51% | 46 | 8 |
| | Total | 7,520 | | | |
| 2002 | AFA | conf. | - | 2 | 1 |
| | Crab | conf. | - | 7 | 2 |
| | Other Mothership | conf. | - | 1 | 1 |
| | Shoreside | 9,828 | 65% | 32 | 5 |
| | Total | 15,140 | | | |

Table 9 continued.

| Year | Sector | Tons | | Vessel count | Processor count |
|------------------------|------------------|--------|------|--------------|-----------------|
| 2003 | AFA | conf. | - | 3 | 1 |
| | Crab | conf. | - | 15 | 2 |
| | Shoreside | 9,019 | 53% | 32 | 6 |
| | Total | 17,031 | | | |
| 2004 | AFA | conf. | - | 2 | 1 |
| | Am80 | conf. | - | 1 | 1 |
| | Crab | conf. | - | 9 | 2 |
| | Shoreside | 9,497 | 70% | 22 | 3 |
| | Total | 13,657 | | | |
| 2005 | AFA | conf. | - | 2 | 1 |
| | Crab | conf. | - | 7 | 2 |
| | Shoreside | 6,481 | 82% | 19 | 5 |
| | Total | 7,939 | | | |
| 2006 | AFA | conf. | - | 2 | 1 |
| | Crab | conf. | - | 4 | 2 |
| | Other Mothership | | | 2 | 1 |
| | Shoreside | 5,783* | 85%* | 27 | 6 |
| | Total | 6,818 | | | |
| 2007 | AFA | conf. | - | 2 | 1 |
| | Am80 | conf. | - | 3 | 1 |
| | Crab | conf. | - | 8 | 2 |
| | Other Mothership | | | 1 | 1 |
| | Shoreside | 9,900* | 87%* | 36 | 6 |
| | Total | 11,429 | | | |
| 2008 (thru 12/6/08) | AFA | conf. | - | 3 | 1 |
| | Am80 | conf. | - | 5 | 2 |
| | Crab | 5,468 | | 15 | 3 |
| | Other Mothership | | | 1 | 1 |
| | Shoreside | 4,754* | 42%* | 55 | 7 |
| | Total | 11,268 | | | |

Source: ADF&G Fish Tickets for shoreside deliveries 1994-2007 and mothership deliveries 2001-2007, & NMFS Blend data for mothership deliveries 1994-2000. Retained catch only. 2008 data are preliminary, from NMFS catch accounting data through December 6, 2008. All data exclude CDQ harvest and State AI cod fishery harvest.

Note: Vessel and processor counts show number of unique vessels delivering and processors receiving Pacific cod harvested from Areas 541 or 542, respectively. One processing vessel is eligible under both the AFA and Am. 80 programs; it is included under the Am. 80 sector for the purposes of cod.

Note: Vessel counts are not available for mothership deliveries in the Blend data (1994 - 2000).
Conf. = confidential data.

*2006, 2007, and 2008 data are combined for the 'other mothership' and shoreside sectors due to confidentiality issues when combined with Table 9 or discussed in the text.

Note: Within the 'shoreside' sector, there is one stationary floating processor in the data (1999 and 2000).

Overall, Table 9 indicates that the shoreside sector received a relatively small share of catcher vessel cod landings from Areas 541/542 during 1994 to 1998, ranging from 1% to 13% for the years in which the data are not confidential. The remaining harvest was processed offshore. In 1999, when the processing plant opened in Adak, there was a marked increase in the shoreside processing share (36%). Since 2000, the shoreside processing share has continued to increase, to about 87% in 2007. In 2008, that share declined to an estimated 42%.²⁷

²⁷Note that the 2006, 2007, and 2008 data combine the 'other mothership' and shoreside sectors due to confidentiality issues when combined with other tables. However, the majority is attributed to the shoreside sector.

During 1996 – 1999, the AFA sector had 3 to 5 processing vessels receiving cod deliveries each year. These deliveries were made to 6 unique vessels (5 AFA CPs and 1 AFA mothership). Since 2000, only one AFA CP has been taking cod deliveries every year from Areas 541 and 542. This vessel is exempt from the proposed processing sideboards, due to its continuous participation in these fisheries. Thus, while this vessel's processing history is included in Table 9 for background information, it is not included in calculating the proposed processing sideboards further in this paper.

The crab sector had 1 to 3 processing vessels receiving cod deliveries during 1996 – 2001 (six unique vessels), and then two vessels each year starting in 2002 (three unique vessels total, and all are floaters), with the exception of 2008. In 2008, three crab processors received cod deliveries from Areas 541 and 542. Note that some of the crab processing vessels aggregated in Table 9 have acted as stationary floating processors. With the exception of 2001, during 2000 through 2008, one to two crab floaters have acted as stationary floating processors each year (four unique vessels). No other stationary floating processors were identified in the data for the other two rationalized sectors (AFA and Amendment 80) at issue.

The Amendment 80 sector had two CPs receive some cod in 1999, one CP received a negligible amount of cod in 2004, and that same vessel received cod deliveries in 2007 and 2008. One other Amendment 80 CP received deliveries in 2008, for a total of 2. Harvest data for this sector cannot be shown in any year, due to the small number of participants.

There were several (a maximum of 7 in one year) 'other' motherships that received cod deliveries in the earlier years (1994 – 2001) that were not part of any of the rationalized sectors at issue, but note that the majority of these were 'AFA 9' vessels. 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. Thus, the last year these vessels participated in this activity is 1998, and they cannot participate in the future. During 1995 to 1998, all but two of the vessels in the 'other mothership' category are AFA 9 vessels, as they represented the primary cod vessels for this sector at the time. Note also that there were no deliveries to 'other' motherships' in 2003 through 2005. Since 2006, one 'other' mothership has received cod harvested each year from Areas 541/542 (one unique vessel).

Several shoreside processor companies received deliveries of Pacific cod in Areas 541 or 542 during 1994 – 2008, but most frequently deliveries were made to nine processors located in Dutch Harbor, Akutan, Adak, King Cove, Chignik and Sand Point.²⁸ The data show that some of these processors received relatively low amounts (<1 mt), which may represent incidental catch when delivering another target species in some cases. In any one year, the minimum number of shoreside processors was 3 (1994 and 2004), and the maximum was 11 (2000). The percentage of Pacific cod harvested in Areas 541 and 542 delivered shoreside increased dramatically starting in 1999, when the processing plant opened in Adak. In 2008, seven shoreside processors received cod deliveries harvested from the Central and/or Eastern AI. However, the majority of cod harvested from these areas in 2008 thus far has been delivered to motherships or floaters (58%).

Table 10 is similar to Table 9, but it breaks out the data by Area 541 and 542. Table 10 shows the unique number of processors receiving deliveries of Pacific cod and the number of vessels delivering, by Area 541 and 542, in 1994 through 2008. This table is provided at the request of the Council, because in December 2008, the Council added an option that would apply this action only to cod harvested in Area 542. Unfortunately, after the table was completed, it was evident that very little harvest data could be provided by sector, year, and area, due to confidentiality. In addition, the vast majority of the data could not be provided, specifically for the rationalized processing sectors, due to the potential for: 1) calculating

²⁸Note also that within the 'shoreside' sector category, there is one stationary floating processor in 1999 and 2000.

confidential data when using Table 10 in combination with Table 9, and 2) providing misleading data due to a great deal of aggregation. Thus, the decision was made to provide only the number of processors participating in the fishery, by processing sector and unique number of catcher vessels delivering to those sectors. The Council must rely on the fact that the options it developed are based on actual mothership/CP processing history over a series of years, without having the data provided at this level of detail.

The processing sectors shown are: AFA (CPs and motherships), crab (CPs and floaters), Amendment 80 (CPs acting as motherships/floaters), 'other' mothership/floaters, and shoreside plants. If a sector is not shown under a particular year, that means there was no activity for that sector in that year (i.e., no sectors are lumped together except where noted). Similar to Table 9, Table 10 includes the one exempted AFA CP for background information and context. However, the history of this CP is not used to calculate the proposed options for the cod processing sideboard further in this paper.

Table 10 Number of processing vessels or shoreside plants receiving catcher vessel landings of Pacific cod harvested in the AI, by area, 1994 – 2008

| Year | Area | Processing sector | # vessels | # processors |
|------|------|-------------------|-----------|--------------|
| 1994 | 541 | Other Mothership | | 1 |
| | 541 | Shoreside | 16 | 3 |
| | | Total | | |
| 1995 | 541 | Other Mothership | | 1 |
| | 541 | Shoreside | 25 | 7 |
| | | Total | | |
| 1996 | 542 | Shoreside | 14 | 3 |
| | 541 | AFA | | 3 |
| | 541 | Crab | | 2 |
| | 541 | Other Mothership | | 2 |
| | 541 | Shoreside | 16 | 5 |
| | | Total | | |
| 1997 | 542 | AFA | | 1 |
| | 542 | Shoreside | 9 | 4 |
| | | Total | | |
| | 541 | AFA | | 3 |
| | 541 | Other Mothership | | 5 |
| | 541 | Shoreside | 10 | 6 |
| 1998 | | Total | | |
| | 542 | AFA | | 2 |
| | 542 | Other Mothership | | 1 |
| | 542 | Shoreside | 11 | 6 |
| | | Total | | |
| | | Total | | |

Table 10 continued.

| Year | Area | Processing sector | # vessels | # processors | |
|------|------|-------------------|-----------|--------------|---|
| 1998 | 541 | AFA | | 2 | |
| | 541 | Other Mothership | | 6 | |
| | 541 | Shoreside | 4 | 3 | |
| | | Total | | | |
| | 542 | AFA | | 3 | |
| | 542 | Other Mothership | | 4 | |
| | 542 | Shoreside | 3 | 1 | |
| | | Total | | | |
| | 1999 | 541 | AFA | | 5 |
| | | 541 | Am80 | | 2 |
| 541 | | Other Mothership | | 1 | |
| 541 | | Shoreside | 39 | 7 | |
| | | Total | | | |
| 542 | | AFA | | 1 | |
| 542 | | Crab | | 1 | |
| 542 | | Other Mothership | | 2 | |
| 542 | | Shoreside | 11 | 2 | |
| | | Total | | | |
| 2000 | 541 | AFA | | 1 | |
| | 541 | Crab | | 3 | |
| | 541 | Shoreside | 70 | 11 | |
| | | Total | | | |
| | 542 | AFA | | 1 | |
| | 542 | Crab | | 1 | |
| | 542 | Other Mothership | | 2 | |
| | 542 | Shoreside | 24 | 6 | |
| | | Total | | | |
| | 2001 | 541 | AFA | 2 | 1 |
| 541 | | Crab | 8 | 1 | |
| 541 | | Other Mothership | 2 | 1 | |
| 541 | | Shoreside | 41 | 8 | |
| | | Total | | | |
| 542 | | AFA | 1 | 1 | |
| 542 | | Crab | 5 | 1 | |
| 542 | | Other Mothership | 1 | 1 | |
| 542 | | Shoreside | 23 | 7 | |
| | | Total | | | |

Table 10 continued.

| Year | Area | Processing sector | # vessels | # processors | |
|-----------|-----------|-------------------|-----------|--------------|---|
| 2002 | 541 | AFA | 2 | 1 | |
| | | Crab | 7 | 2 | |
| | | Other Mothership | 1 | 1 | |
| | | Shoreside | 30 | 5 | |
| | | Total | | | |
| | 542 | AFA | 2 | 1 | |
| | | Crab | 2 | 1 | |
| | | Shoreside | 15 | 2 | |
| | | Total | | | |
| | 2003 | 541 | AFA | 3 | 1 |
| Crab | | | 15 | 2 | |
| Shoreside | | | 30 | 6 | |
| Total | | | | | |
| 542 | | AFA | 2 | 1 | |
| | | Crab | 5 | 2 | |
| | | Shoreside | 17 | 3 | |
| | | Total | | | |
| 2004 | | 541 | AFA | 2 | 1 |
| | | | Crab | 9 | 2 |
| | Shoreside | | 21 | 3 | |
| | Total | | | | |
| | 542 | AFA | 2 | 1 | |
| | | Am80 | 1 | 1 | |
| | | Crab | 3 | 1 | |
| | | Shoreside | 15 | 2 | |
| | | Total | | | |
| | 2005 | 541 | AFA | 2 | 1 |
| Crab | | | 7 | 2 | |
| Shoreside | | | 19 | 5 | |
| Total | | | | | |
| 542 | | AFA | 2 | 1 | |
| | | Crab | 1 | 1 | |
| | | Shoreside | 8 | 1 | |
| | | Total | | | |
| 2006 | | 541 | AFA | 2 | 1 |
| | | | Crab | 4 | 2 |
| | Shoreside | | 25 | 6 | |
| | Total | | | | |
| | 542 | AFA | 2 | 1 | |
| | | Other Mothership | 2 | 1 | |
| | | Shoreside | 14 | 2 | |
| | | Total | | | |

Table 10 continued.

| Year | Area | Processing sector | # vessels | # processors |
|------|-------|-------------------|-----------|--------------|
| 2007 | 541 | AFA | 3 | 2 |
| | 541 | Am80 | 3 | 1 |
| | 541 | Crab | 8 | 2 |
| | 541 | Other Mothership | 1 | 1 |
| | 541 | Shoreside | 28 | 6 |
| | | Total | | |
| | 542 | AFA | 1 | 1 |
| | 542 | Am80 | 1 | 1 |
| | 542 | Crab | 4 | 2 |
| | 542 | Shoreside | 18 | 1 |
| | Total | | | |
| 2008 | 541 | AFA | 3 | 1 |
| | 541 | Am80 | 5 | 2 |
| | 541 | Crab | 15 | 3 |
| | 541 | Shoreside | 50 | 7 |
| | | Total | | |
| | 542 | Am80 | 4 | 2 |
| | 542 | Crab | 1 | 1 |
| | 542 | Shoreside | 24 | 5 |
| | Total | | | |

Source: ADF&G Fish Tickets for shoreside deliveries 1994-2007 and mothership deliveries 2001-2007, & NMFS Blend data for mothership deliveries 1994-2000. Retained catch only. 2008 data are preliminary, from NMFS catch accounting data through December 6, 2008. Excludes CDQ harvest and State AI cod fishery harvest. Note: Vessel and processor counts show number of unique vessels delivering and processors receiving Pacific cod harvested from Areas 541 or 542, respectively. Note: Vessel counts are not available for mothership deliveries in the Blend data (1994 – 2000).

While there is a limited amount of information provided on an individual processing sector basis, the table indicates that each rationalized mothership/CP sector has received catcher vessel deliveries from cod harvested in both Areas 541 and 542. In addition, while the harvest data cannot be provided in Table 10, the percentage of CV cod harvest from Area 542 that was delivered onshore versus to motherships/CPs varies significantly on an annual basis. Because the total annual harvest in Area 542 is relatively small, even a few deliveries greatly influence the results and provide substantial annual variability.

Table 11 condenses the data in Table 10, in order to show how much of the Pacific cod catcher vessel landings are harvested in each area without violating confidentiality. One can discern a few general points from the provided data. Overall, the great majority of the CV harvest of Pacific cod from these areas comes from Area 541. On average from 1994 to 2008, 85% of the CV Pacific cod landings from these two areas were harvested in Area 541 (Eastern AI), as opposed to Area 542 (Central AI). The most recent nine years (2000 – 2008) result in the same average distribution between areas. Thus, should the Council limit the proposed processing sideboard only to CV cod landings in Area 542, it would represent a much smaller effect on the affected mothership sectors, as well as smaller ‘protections’ for the onshore processing sector. Overall, it may be relatively easy to circumvent the intent of a processing sideboard limited to Area 542, as the rationalized mothership/CP sector and associated catcher vessels could choose to harvest cod only in Area 541 (or other areas within the BSAI), where the majority of the cod harvest has been taken to date.

Table 11 Catcher vessel Pacific cod landings (mt) in Area 541 and 542, 1994 – 2008

| Year | Area 541 | % Area 541 (of total 541/542) | Area 542 | % Area 542 (of total 541/542) | Total Area 541 & 542 |
|--------------|----------------|-------------------------------------|---------------|-------------------------------------|-------------------------|
| 1994 | 78 | 100% | 0 | 0% | 78 |
| 1995 | 288 | 95% | 15 | 5% | 303 |
| 1996 | 3,620 | 89% | 462 | 11% | 4,082 |
| 1997 | 5,011 | 88% | 665 | 12% | 5,676 |
| 1998 | 4,273 | 75% | 1,417 | 25% | 5,689 |
| 1999 | 8,656 | 92% | 774 | 8% | 9,430 |
| 2000 | 12,262 | 86% | 2,052 | 14% | 14,314 |
| 2001 | 5,849 | 78% | 1,671 | 22% | 7,520 |
| 2002 | 12,367 | 82% | 2,773 | 18% | 15,140 |
| 2003 | 13,810 | 81% | 3,221 | 19% | 17,031 |
| 2004 | 11,191 | 82% | 2,466 | 18% | 13,657 |
| 2005 | 6,649 | 84% | 1,290 | 16% | 7,939 |
| 2006 | 5,918 | 87% | 900 | 13% | 6,818 |
| 2007 | 10,434 | 91% | 996 | 9% | 11,429 |
| 2008 | 10,601 | 94% | 667 | 6% | 11,268 |
| TOTAL | 111,006 | 85% | 19,370 | 15% | 130,376 |

Source: ADF&G Fish Tickets for shoreside deliveries 1994-2007 and mothership deliveries 2001-2007, & NMFS Blend data for mothership deliveries 1994-2000. Retained catch only. 2008 data are preliminary, from NMFS catch accounting data through December 6, 2008. All data exclude CDQ harvest and State AI cod fishery harvest.

Table 12 Amount of CV Pacific cod harvested in Area 541 and 542, by processing sector, 2003 - 2008

| YEAR | AFA/Crab/Am. 80 mothership/floater landings in Areas 541 and 542 | | | Shoreside landings in Area 541 and 542 ¹ | | | CV cod landings in Areas 541 and 542 | Total CV cod catch in BSAI |
|------------------|--|--------------|-------------|---|--------------|--------------|--------------------------------------|----------------------------|
| | mt | % of AI | % of BSAI | mt | % of AI | % of BSAI | | |
| 2003 | 8,013 | 47.0% | 12.2% | 9,019 | 53.0% | 13.7% | 17,031 | 65,936 |
| 2004 | 4,160 | 30.5% | 7.4% | 9,497 | 69.5% | 16.9% | 13,657 | 56,055 |
| 2005 | 1,458 | 18.4% | 2.9% | 6,481 | 81.6% | 12.7% | 7,939 | 50,921 |
| 2006 | 1,035 | 15.2% | 2.0% | 5,783 | 84.8% | 11.4% | 6,818 | 50,600 |
| 2007 | 1,529 | 13.4% | 3.2% | 9,900 | 86.6% | 21.0% | 11,429 | 47,220 |
| 2008* | 6,514 | 57.8% | 13.8% | 4,754 | 42.2% | 10.1% | 11,268 | 47,206 |
| Average | | | | | | | | |
| 2003 - 07 | 3,239 | 28.5% | 6.0% | 8,136 | 71.5% | 15.0% | 11,375 | 54,146 |

Source: ADF&G fishtickets, 2003 – 2007, retained catch only, except for the last column. Data for total CV cod catch in BSAI is total catch (retained & discarded) from the NMFS catch accounting database. Excludes CDQ harvest and State AI cod fishery harvest.

*2008 data are preliminary through 12/6/08, from NMFS catch accounting database.

¹Harvest attributed to 'shoreside landings' includes deliveries to one 'other' mothership in 2006 and 2007 that is not part of a rationalization program, in order to preserve confidentiality and separate deliveries to the AFA/Crab rationalization/Am. 80 sectors.

Finally, Table 12 shows the total retained catcher vessel harvest of Pacific cod harvested in Areas 541 and 542, by the processing sector to which the fish were delivered, during the most recent years (2003 through 2008). Note that 2008 data are preliminary and from the NMFS catch accounting database, thus, they are not provided in the 2003 – 2007 average, which is based on ADF&G fishtickets. All data are based on Table 9, and the mothership/floater processing category combines all motherships, CPs, and floating processors in the three rationalization programs, due to confidentiality limitations. Harvest attributed to 'shoreside landings' includes cod delivered shoreside as well as cod delivered to the one 'other mothership' that participated in 2006 and 2007 that is not part of a rationalization program. This grouping was necessary in order to preserve confidentiality and separate deliveries to the AFA/crab processors/Am. 80 sectors. Note that deliveries to this mothership made up a small percentage of the total.

While Table 12 cannot provide data on an individual sector level, it provides a summary of how much of the Pacific cod harvest from Areas 541 and 542 is being delivered shoreside versus to CPs/motherships/floaters. It was difficult to show data prior to 2003 in Table 12, due to confidentiality issues when combined with other tables, and the potential for providing misleading data due to aggregation. However, percent harvest by processing sector is provided in Table 9 where possible, so that the Council and the public can understand the distribution of Pacific cod processing onshore versus offshore since 1994.

The “percent of BSAI” column shows the retained harvest by each sector in Areas 541 and 542 as a percentage of the total CV Pacific cod catch in the BSAI. The processing sideboards are calculated as a percentage of the total CV Pacific cod catch in the BSAI in this paper, since it is assumed they would be applied annually to the combined BSAI CV Pacific cod allocations (which account for all catch).²⁹ Thus, retained Area 541/542 catch divided by total BSAI catch appears to be the most appropriate approach. The Council should clarify if a different method is desired.

Table 12 shows that the shoreside sector received an increasing share of the Eastern and Central AI Pacific cod deliveries during 2003 - 2007, from 53% in 2003 to almost 87% in 2007, with an average share of about 72%. The rationalized mothership/floater sector received a high of 47% in 2003 and a low of 13% in 2007, with an average share of about 29%.

Recall that the 2008 fishery was one of the primary impetuses for the proposed action.³⁰ In 2008, the shoreside share was reduced to about 42%, with the remaining 58% delivered to the mothership/floater sector. The amount of harvest delivered to each individual rationalized sector cannot be provided due to confidentiality issues, but Table 9 shows that one AFA CP, two Am. 80 CPs, three crab processing vessels, and one ‘other mothership’, received cod deliveries totaling about 6,514 mt thus far in 2008. The shoreside sector received about 4,754 mt, with the great majority of that harvest delivered to Adak.

Note that including Pacific cod harvest in Areas 541 and 542 from the State managed AI fishery changes those overall percentages by less than one percentage point. About 3,200 mt of Pacific cod harvested by catcher vessels in Areas 541 and 542 from the State AI fishery were reported through 2008; motherships/floaters/CPs from each rationalized sector and the ‘other mothership’ sector received deliveries from this fishery. The majority of the shoreside deliveries from the State fishery were to Adak Fisheries.³¹

A similar table specific to Area 542 cannot be provided due to confidentiality in many individual years. However, Table 13 shows the average mothership deliveries versus onshore deliveries from cod harvested in Area 542 is about evenly distributed during the same time period. On average during 2003 – 2007, the mothership/CP sector received about 48% of the CV cod harvested in Area 542, and the shoreside sector received about 52%. (Excluding the one AFA CP that is exempt from the proposed action does not change these percentages substantially.) Thus, the distribution between processing sectors of cod harvested in Area 542 during 2003 – 2007 is much different from that of Areas 541 and 542 combined.

In 2008, the processing distribution in Area 542 does not vary from the five-year average as much as in Areas 541/542 combined. On average during 2003 – 2007, the shoreside sector received about 52% of

²⁹Note that some, but not all, of the Pacific cod CV sectors have a separate incidental catch allowance. Hook-and-line and pot gear (CP and CV sectors combined) have a 500 mt annual ICA. The Council would need to clarify whether the sideboard should be applied to the combined BSAI CV Pacific cod allocation plus the ICA or without the ICA. The retained catch data used in the tables includes all targets, so it includes incidental catch.

³⁰In 2008, the BSAI Pacific cod trawl CV fishery opened on January 20. The directed fishery was closed on March 6 and the fishery was put on bycatch status. The B season opened on April 1 and was placed on bycatch status on April 4. The C season opened on June 10 and closed on November 1 by regulation.

³¹The dates for the 2008 Pacific cod AI State water A season were March 10 – 18; the B season was June 10 – July 9.

catcher vessel cod deliveries, and the mothership/CP sector received about 48%. In 2008, the shoreside sector received about 41% of catcher vessel cod deliveries, and the mothership/CP sector received about 59% (Table 13). Recall that the total amount of cod harvested by catcher vessels in Area 542 in 2008 is only several hundred metric tons, far less than that harvested in Area 541.

Table 13 Amount of CV Pacific cod harvested in Area 542 (Central AI), by processing sector, average 2003 – 2007, and 2008

| AFA/Crab/Am. 80 mothership & floater CV landings in Area 542 | | | | Shoreside landings in Area 542 | | | CV cod landings in Area 542 | Total CV cod catch in BSAI |
|--|-----|---------------|-----------|--------------------------------|---------------|-----------|-----------------------------|----------------------------|
| YEAR | Mt | % of Area 542 | % of BSAI | Mt | % of Area 542 | % of BSAI | | |
| Average 2003 - 07 | 852 | 48% | 1.6% | 953 | 52% | 1.7% | 1,775 | 54,146 |
| 2008 | 394 | 59% | 0.8% | 274 | 41% | 0.6% | 667 | 47,206 |

Source: ADF&G fishtickets, 2003 – 2007, retained catch only, except for the last column. Data for total CV cod catch in BSAI is total catch (retained & discarded) from the NMFS catch accounting database. Excludes CDQ harvest and State AI cod fishery harvest.

*2008 data are preliminary through 12/6/08, from NMFS catch accounting database.

¹Harvest attributed to 'shoreside landings' includes deliveries to one 'other' mothership in 2006 that is not part of a rationalization program, in order to preserve confidentiality and separate deliveries to the AFA/Crab rationalization/Am. 80 sectors.

The vast majority of the shoreside deliveries shown in Table 12 and Table 13 have been to Adak Fisheries, and the majority of the Adak deliveries have been from cod harvested in Area 541. Table 14 shows that on average during 2003 – 2007, 89% of the catcher vessel deliveries of Pacific cod to Adak have been harvested from Area 541 and 11% from Area 542. In 2008, the share attributed to Area 541 was about 94%. In addition, Table 14 shows that the total percentage of CV cod harvested in Areas 541 and 542 (combined) has increased each year from 2003 to 2007, with a five-year average of 70%. In 2008, the share was reduced to an estimated 38%. Note that the averages only include 2003 – 2007, as these data are provided from the same source.

Also note that State AI cod landings are excluded from this table. Pacific cod harvested in the Central and Eastern AI from the AI State managed Pacific cod fishery represents additional Pacific cod delivered to Adak Fisheries. State water cod landings to Adak Fisheries from these combined areas are reported as: 2006 – 873 mt; 2007 – 2,832 mt; and 2008 – 1,318 mt.

Table 14 Amount of CV Pacific cod harvested in the Central and Eastern AI and delivered to Adak Fisheries, 2003 – 2008

| Year | Area 541 | | Area 542 | | Total Adak landings | % of total CV cod landings to Adak | Total CV cod landings |
|-------------------|----------|-----|----------|-----|---------------------|------------------------------------|-----------------------|
| | mt | % | mt | % | | | |
| 2003 | 7,776 | 89% | 930 | 11% | 8,706 | 51% | 17,031 |
| 2004 | 8,453 | 90% | 975 | 10% | 9,428 | 69% | 13,657 |
| 2005 | 5,280 | 82% | 1,156 | 18% | 6,435 | 81% | 7,939 |
| 2006 | 4,986 | 89% | 591 | 11% | 5,576 | 82% | 6,818 |
| 2007 | 8,733 | 91% | 870 | 9% | 9,603 | 84% | 11,429 |
| 2008* | 3,998 | 94% | 272 | 6% | 4,270 | 38% | 11,268* |
| 2003 - 07 Average | 7,046 | 89% | 904 | 11% | 7,950 | 70% | 11,375 |

Source: ADF&G fishtickets, 2003 – 2007. Retained catch only.

*2008 data are preliminary through 12/6/08, from NMFS catch accounting database.

Excludes CDQ harvest and State AI cod fishery harvest.

Note: A confidentiality waiver was procured from Adak Fisheries in order to provide these data.

The preliminary results of the proposed sideboard options are based on the data in Table 9 and Table 10, excluding 2008, and excluding the history from the one AFA CP that is exempted from this action from the numerator of the calculations. ADF&G fish tickets were used for Pacific cod harvest data because processors are identified on nearly all fish ticket records. The NMFS Blend data identifies the catcher vessel processing sector (mothership or shoreside) of all processors, but is missing some data on the individual processing vessel or facility. Fish ticket data prior to 2001 was supplemented with Blend mothership data, because motherships were not required to fill out fish tickets until 2000. When Blend mothership data was used to supplement the fish ticket data, the individual processing vessel information was researched to ensure that landings were assigned to the correct sector for the purposes of this action.

Note that Component 3 includes two options for applying the cod processing sideboard: Option 1) a single sideboard that applies to all affected vessels that accept deliveries of Pacific cod harvested in Areas 541 or 542; or Option 2) program-specific sideboards that would be established and managed for each of the three groups of rationalized vessels (*i.e.*, AFA, BSAI crab, BSAI Amendment 80) that accept deliveries in of Pacific cod harvested in Areas 541 or 542. **Due to the data confidentiality issues discussed previously, the results of the program-specific sideboards under Component 3, Option 2 cannot be provided. Thus, the remainder of this section addresses the results of the options for a combined program sideboard only.**

Sideboard limit: Component 1, Option 1 & 3

Under Component 1, Option 1, the sideboard limit is established as: Suboption 1) the greatest amount delivered within the range of qualifying years; or Suboption 2) the average annual amount delivered within the range of qualifying years. Sideboards established under previous actions have typically been established as average historical participation over a series of years. The Council has not previously established sideboards based on the highest level of participation within a range of years.

Note also that Option 1 and Option 3 under Component 1 are not mutually exclusive. Under Option 1 alone, the Council could establish a sideboard limit on mothership deliveries of Pacific cod harvested in Areas 541 and 542 combined. Alternatively, under Option 1 and Option 3 combined, the Council could establish a sideboard limit on mothership deliveries of Pacific cod harvested only in Area 542. Thus, the only difference between Option 1 and Option 3 is the harvest areas included.

Staff currently assumes that the sideboard amount is calculated based on the proposed qualifying years and then converted to a percentage of the total CV catch of Pacific cod in the BSAI (excluding AI State waters cod fishery and CDQ). This is because, as there is not an AI area specific TAC for Pacific cod, the sideboard would be applied to the non-CDQ BSAI Pacific cod CV TAC on an annual basis. In December, the Council confirmed staff's assumption on how to apply that sideboard. Specifically, the intent is that percentage be applied as one sideboard on the combined BSAI Pacific cod CV allocations. Recall that the five CV allocations for BSAI Pacific cod make up a combined 34.1% of the total non-CDQ BSAI Pacific cod TAC.

The combination of Component 1 (sideboard limit) and Component 2 (qualifying years) results in several potential options. For example, Component 2 has four sets of qualifying years: Suboptions a and b are based on recent history: 2005 – 2007 and 2003 – 2007, respectively. Suboptions c and d are based on the three and five years prior to each specific rationalization program, respectively; the intent being to base the sideboard on the level of cod processing that each sector was doing prior to the implementation of their rationalized program and the ability to consolidate processing. In effect, Component 2, Suboptions c and d result in the following qualifying years for the vessels participating in each program:

Suboption c. 3-year period prior to program implementation

AFA: 1996 – 1998

Crab: 2002 – 2004

Am. 80: 2005 – 2007

Suboption d. 5-year period prior to program implementation

AFA: 1994 – 1998

Crab: 2000 – 2004

Am. 80: 2003 – 2007

Due to the potential combinations of options under Components 1 and 2, the suite of suboptions proposed under Option 1 and Option 3 to establish the sideboard limits is as follows:

Option 1. Sideboard limit

Limit the amount of Pacific cod harvested in **Areas 541 or 542** that may be delivered to the affected federally permitted processing vessels by other vessels to:

- Suboption 1.
- a. the greatest amount delivered within 2005 – 2007
 - b. the greatest amount delivered within 2003 – 2007
 - c. the greatest amount delivered within (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007)
 - d. the greatest amount delivered within (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007)

- Suboption 2.
- a. the average annual amount delivered within 2005 – 2007
 - b. the average annual amount delivered within 2003 – 2007
 - c. the average annual amount delivered within (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007)
 - d. the average annual amount delivered within (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007)

Option 3. Sideboard limit

Limit the amount of Pacific cod harvested in **Area 542** that may be delivered to the affected federally permitted processing vessels by other vessels to:

- Suboption 1.
- a. the greatest amount delivered within 2005 – 2007
 - b. the greatest amount delivered within 2003 – 2007
 - c. the greatest amount delivered within (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007)
 - d. the greatest amount delivered within (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007)

- Suboption 2.
- a. the average annual amount delivered within 2005 – 2007
 - b. the average annual amount delivered within 2003 – 2007
 - c. the average annual amount delivered within (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007)
 - d. the average annual amount delivered within (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007)

The 16 processing sideboards resulting from the suboptions above are calculated below in Table 15. Recall that the Council exempted one AFA CP with long-term, continuous processing history in the Aleutians, and thus, its history is not included in the numerator of the calculations of the processing sideboard options. All of the steps to calculate the sideboard percentages cannot be shown due to confidential data. For all calculations, the numerator of the sideboard calculation is retained CV catch

only, in the specified area(s), delivered to the processing vessels subject to the sideboard. The denominator is the corresponding total Pacific cod BSAI CV catch in those years. **Note that in combination with Component 3, there are actually 32 proposed suboptions for sideboards.** This is because the sixteen suboptions above must be calculated for a single sideboard (Component 3, Option 1) and program-specific sideboards (Component 3, Option 2). As stated previously, the results of the program-specific sideboards are not provided due to confidentiality issues.

The second and third columns of Table 15 show the resulting sideboards under Option 1, in which the sideboard is based on and applied to Area 541 and 542 combined. The fourth and fifth columns of Table 15 show the resulting sideboards under Option 3, in which the sideboard is based on and applied to Area 542 only.

Table 15 Single sideboards resulting from Component 1, Options 1 & 3, and Component 2

| Processing sideboard limit options | Option 1. Sideboard limit for Area 541 & 542 | Sideboard in 2009 mt ¹ | Option 3. Sideboard limit for Area 542 | Sideboard in 2009 mt ¹ |
|--|--|-----------------------------------|--|-----------------------------------|
| Suboption 1. greatest amt delivered within... | | | | |
| a. 2005 - 2007 | 2.6% | 1,398 | 0.2% | 108 |
| b. 2003 - 2007 | Conf. | - | Conf. | - |
| c. 3 yrs prior to program implementation | 4.0% | 2,150 | 0.8% | 430 |
| d. 5 yrs prior to program implementation | 4.0% | 2,150 | 0.8% | 430 |
| Suboption 2. average amt delivered within... | | | | |
| a. 2005 - 2007 | 1.6% | 860 | 0.1% | 54 |
| b. 2003 - 2007 | 3.6% | 1,935 | 0.4% | 215 |
| c. 3 yrs prior to program implementation | 2.5% | 1,344 | 0.4% | 215 |
| d. 5 yrs prior to program implementation | 2.3% | 1,236 | 0.3% | 161 |

Source: ADFG Fishtickets for shoreside deliveries 1994-2007 and mothership deliveries 2001-2007, & NMFS Blend data for mothership deliveries 1994-2000. Numerator of sideboard calculation is retained CV catch only in Areas 541 & 542, delivered to processing vessels subject to the sideboard. Denominator of calculation is total BSAI CV catch from NMFS Blend/catch accounting database.

Note: Sideboards are calculated as % of total combined CV Pacific cod allocations. All data exclude CDQ harvest and State AI cod fishery harvest.

¹These estimates are based on the proposed 2009 BSAI Pacific cod ITAC of 157,650 mt. The total CV Pacific cod portion of the ITAC is 34.1% or about 53,759 mt.

Suboption 1 is a 'best year' option. For Suboptions 1a and 1b, the analyst selected the best year within the suite of qualifying years shown for the combined three rationalized sectors, and the denominator is the corresponding total Pacific cod BSAI CV catch in those years. Thus, Suboption 1a and 1b are relatively straightforward. The results of Suboption b are confidential, since the year with the greatest amount of processing (2003) had only two unique processors.

For Suboption 1c and 1d, the suite of qualifying years is different for each rationalized sector. The analyst used the best year of the suite for each of the rationalized sectors, and summed those harvests. For example, for Suboption 1c, the AFA sector's best year is 1997; the crab sector's best year is 2003, and the

Amendment 80 sector's best year is 2007. Those harvests were summed and divided into the corresponding sum of the total BSAI CV Pacific cod harvest during 1997, 2003, and 2007. Because the best years for each rationalized sector do not change under Suboption c or Suboption d, the resulting sideboards are the same.

Suboption 2 is an 'average annual amount' option. For Suboptions 2a and 2b, the analyst used the average annual amount within the range of qualifying years for the combined three rationalized sectors. Thus, Suboptions 2a and 2b are also relatively straightforward. Overall, Suboption 2b results in a higher sideboard than Suboption 2a. This is because Suboption b includes the earlier years, in which the relative percentage of harvest delivered to motherships and floaters was greater.

For Suboption 2c and 2d, the suite of qualifying years is different for each rationalized sector. The analyst used the average of the three and five years prior to the implementation of each rationalization program for Suboption 2c and 2d, respectively. Those averages were summed and divided into the sum of the averages of the total BSAI CV Pacific cod harvest during those corresponding years. Because there is little difference in the average harvest during the three-year versus the five-year period, the sideboards do not change substantially under Suboption c or Suboption d. Suboption 2d results in a slightly lower sideboard than Suboption 2c, since it averages in several very early years in which there was very little harvest delivered to the AFA and Amendment 80 sectors.

Under Option 1, in which the sideboard is based on and applies to Areas 541 and 542 combined, the resulting (single) sideboards would range from 1.6% to 4.0% of the total catcher vessel portion of the BSAI Pacific cod ITAC. The exemption of the one AFA CP with continuous participation in this manner results in a much lower sideboard than would otherwise occur. The total CV Pacific cod portion of the ITAC is 34.1%, or 53,759 mt in 2009. Thus, under the 2009 TAC, the proposed sideboard limit would represent about 860 mt to over 2,000 mt.

As stated above, in 2008, the majority of the cod harvested in Areas 541 and 542 has been delivered to the mothership/CP sector (about 58%) compared to the shoreside sector (42%). The amount of harvest landed with each individual rationalized sector cannot be provided due to confidentiality issues, but the rationalized sectors in aggregate received cod deliveries totaling about 6,500 mt in 2008 (refer to Table 9).³² This equates to about 12.5 percent of the total BSAI CV Pacific cod (non-CDQ) allocation in 2008, an amount higher than any sideboard option proposed. (It also equates to about 12 percent of the 2009 BSAI CV Pacific cod TAC.)

In a broader context, the proposed sideboard limits represent about 0.5% to 1.4% of the overall BSAI Pacific cod ITAC.³³ Note also that as the BSAI Pacific cod TAC is not allocated between the BS and AI, the catcher vessel sectors do not have to harvest any portion of their Pacific cod allocations in Areas 541 or 542. In the recent past, catcher vessels have been harvesting an average of about 22 percent of their total BSAI Pacific cod harvest in Areas 541/542. If CVs continued their average harvest in these areas, that suggests that about 7.5% (22% x 34.1% CV allocation) of the total BSAI ITAC could be estimated to be harvested in Areas 541/542 by catcher vessels (Table 2). This means that the sideboard limits could represent about 8.0% to 18.7% of the total CV catch in Areas 541/542, if average harvest distribution continues.³⁴

³²Note that the reference to 6,500 mt includes processing history from the one exempted AFA CP, which is necessary to preserve confidentiality.

³³Lowest range of sideboard: 1.6% sideboard multiplied by 34.1% CV ITAC = 0.5%. Highest range of sideboard: 4.0% sideboard multiplied by 34.1% CV ITAC = 1.4%.

³⁴Lowest range of sideboard: 0.6% of BSAI Pacific cod ITAC divided by 7.5% = 6.6%. Highest range of sideboard: 1.4% of BSAI Pacific cod ITAC divided by 7.5% = 18.7%.

Under Option 3, in which the sideboard is based on and applies to only Area 542, the resulting (single) sideboards would range from 0.1% to 0.8% of the total catcher vessel portion of the BSAI Pacific cod ITAC. The sideboards are clearly much lower as a percentage of the total catcher vessel BSAI Pacific cod ITAC when they are limited only to Area 542, in which a relatively small portion of the total catch has occurred. Under the 2009 TAC, the proposed sideboard limit would represent about 54 mt to 430 mt.

As stated previously, the distribution of cod harvested by catcher vessels in Area 542 in 2008 was about 41% shoreside and 59% to the mothership/CP sector. The amount of harvest landed with each individual rationalized sector cannot be provided due to confidentiality issues, but 3 processing vessels in the rationalized sectors received cod deliveries totaling almost 400 mt in 2008 (refer to Table 10 for unique processor counts). This equates to about 0.8 percent of the total BSAI CV Pacific cod (non-CDQ) allocation in 2008, an amount equal to the highest sideboard option proposed. (It also equates to about 0.75 percent of the 2009 BSAI CV Pacific cod TAC.)

In a broader context, the proposed sideboard limits represent about 0.03% to 0.3% of the overall BSAI Pacific cod ITAC.³⁵ Again, while the catcher vessel sectors do not have to harvest any portion of their Pacific cod allocations in Area 542, in the recent past, they have been harvesting an average of about 3.3 percent of their total BSAI Pacific cod harvest in Area 542. If CVs continued their average harvest in Area 542, that suggests that about 1.1% (3.3% x 34.1% CV allocation) of the total BSAI ITAC could be estimated to be harvested in Area 542 by catcher vessels. This means that the sideboard limits could represent about 2.7% to 27.2% of the total CV catch in Area 542, if average harvest distribution continues.³⁶ In sum, it may be relatively easy to circumvent the intent of a processing sideboard limited to Area 542, as the rationalized mothership/CP sector and associated catcher vessels could choose to limit harvest only to Area 541, or other areas of the BSAI, where the majority of the cod harvest has been taken to date.

Sideboard date: Component 1, Option 2

Component 1, Option 2 proposes a different method by which to establish a limit on offshore processing. Staff assumes that Option 2 could be selected in tandem with Option 1, or the Council could select one without the other. In effect, the options proposed to create a sideboard date (i.e., CV deliveries of Federal non-CDQ Pacific cod harvested in Area 541 or 542 to the rationalized processing sectors would be prohibited prior to this date) could be combined with a processing sideboard, or they could be selected exclusively.

Note also that Component 1, Option 2 could be selected in tandem with Option 3, which would limit the sideboard date to apply only to catcher vessel deliveries of Pacific cod harvested in Area 542. Due to the potential combinations of options under Components 1, 2, and 3, the suite of suboptions under Options 2 and 3 is as follows:

Option 2. Sideboard date

Limit the date that the affected Federally permitted processing vessels may begin taking deliveries of Pacific cod harvested in Areas 541 or 542 to:

- Suboption 1. a. the earliest date a delivery was taken in 2005 – 2007
- b. the earliest date a delivery was taken in 2003 – 2007

³⁵Lowest range of sideboard: 0.1% sideboard multiplied by 34.1% CV ITAC = 0.03%. Highest range of sideboard: 0.8% sideboard multiplied by 34.1% CV ITAC = 0.3%.

³⁶Lowest range of sideboard: 0.03% of BSAI Pacific cod ITAC divided by 1.1% = 2.7%. Highest range of sideboard: 0.3% of BSAI Pacific cod ITAC divided by 1.1% = 27.2%.

- c. the earliest date a delivery was taken in (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007).³⁷
- d. the earliest date a delivery was taken in (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007)

- Suboption 2.
- a. the average earliest date a delivery was accepted within 2005 – 2007
 - b. the average earliest date a delivery was accepted within 2003 – 2007
 - c. the average earliest date a delivery was accepted within (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007)³⁸
 - d. the average earliest date a delivery was accepted within (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007)

Option 3. Sideboard date

Limit the date that the affected Federally permitted processing vessels may begin taking deliveries of Pacific cod harvested in Area 542 to:

- Suboption 1.
- a. the earliest date a delivery was taken in 2005 – 2007
 - b. the earliest date a delivery was taken in 2003 – 2007
 - c. the earliest date a delivery was taken in (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007).³⁹
 - d. the earliest date a delivery was taken in (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007)

- Suboption 2.
- a. the average earliest date a delivery was accepted within 2005 – 2007
 - b. the average earliest date a delivery was accepted within 2003 – 2007
 - c. the average earliest date a delivery was accepted within (AFA: 1996 – 1998; Crab: 2002 – 2004; and Am. 80: 2005 – 2007)⁴⁰
 - d. the average earliest date a delivery was accepted within (AFA: 1994 – 1998; Crab: 2000 – 2004; and Am. 80: 2003 – 2007)

Note that in combination with Component 3, there are 32 proposed suboptions for sideboard dates. This is because the above 16 suboptions must be calculated for a single sideboard (Component 3, Option 1) and program-specific sideboards (Component 3, Option 2).

The earliest landing dates for all of the qualifying years in the combined Areas 541/542 are provided in Table 16 below; these dates are used to calculate Component 1, Option 2. This table shows the earliest landing dates for Pacific cod harvested by catcher vessels in Area 541 or 542, by processing sector, from 1994 through 2008. Generally, over this time period, the landing dates for the shoreside sector have moved from early March to early February, with a few exceptions. While 2008 is not a qualifying year, the earliest delivery dates in 2008 are slightly earlier than recent years for both the crab and shoreside sectors.

Mothership activity by the AFA CP that is exempt from this action is not included. Note that with the exemption of the one AFA CP that has long-term participation in these areas, catcher vessel deliveries to the remaining AFA processing vessels are limited to the four years prior to 2000, in early to mid-March.

³⁷For a single sideboard (Component 3, Option 1), it is assumed that Suboption 1c and 1d mean to use the earliest date a delivery was taken by any of the combined sectors in any of the years identified (i.e., the earliest date by all years reviewed).

²²For a single sideboard (Component 3, Option 1), it is assumed that Suboption 2c and 2d mean to use the average earliest date a delivery was taken by the combined sectors across all of the years identified (i.e., an average of the average dates).

³⁹For a single sideboard (Component 3, Option 1), it is assumed that Suboption 1c and 1d mean to use the earliest date a delivery was taken by any of the combined sectors in any of the years identified (i.e., the earliest date by all years reviewed).

²²For a single sideboard (Component 3, Option 1), it is assumed that Suboption 2c and 2d mean to use the average earliest date a delivery was taken by the combined sectors across all of the years identified (i.e., an average of the average dates).

The only Amendment 80 deliveries were made in March, and deliveries to crab processing vessels have generally ranged from mid-February to mid-March, with the earliest date in 2008.

Table 16 Earliest landing date for Pacific cod harvested by catcher vessels in Area 541 or 542, by processing sector, 1994 - 2008

| Year | AFA | Am. 80 | Crab | Other mothership | Shoreside |
|-------------------|--------|--------|--------|------------------|-----------|
| 1994 | -- | -- | -- | 19-Mar | 5-Mar |
| 1995 | -- | -- | -- | 11-Mar | 2-Mar |
| 1996 | 9-Mar | -- | 23-Mar | 2-Mar | 8-Mar |
| 1997 | 1-Mar | -- | -- | 1-Mar | 26-Feb |
| 1998 | 14-Mar | -- | -- | 28-Feb | 9-Mar |
| 1999* | 13-Mar | 20-Mar | 25-Sep | 8-May | 24-Feb |
| 2000 | -- | -- | 19-Feb | 19-Feb | 10-Jan |
| 2001 | -- | -- | 19-Mar | 15-Apr | 21-Jan |
| 2002 | -- | -- | 13-Mar | -- | 4-Feb |
| 2003 | -- | -- | 28-Feb | -- | 7-Feb |
| 2004 | -- | 24-Mar | 4-Mar | -- | 12-Feb |
| 2005** | -- | -- | 3-Mar | -- | 9-Feb |
| 2006 | -- | -- | 27-Feb | 25-Sep | 6-Feb |
| 2007 | -- | 9-Mar | 7-Mar | 15-Jan | 25-Jan |
| 2008 [†] | -- | 1-Mar | 9-Feb | -- | 12-Jan |

Source: ADFG Fishtickets for shoreside deliveries 1994-2007 and mothership deliveries 2001-2007, & NMFS Blend data for mothership deliveries 1994-2000 & 2008 data. Excludes CDQ and AI State water cod fishery.

Note: The one AFA CP exempt from this action is not included.

*Year AFA was implemented. **Year BSAI crab rationalization program was implemented.

[†]Year Am. 80 was implemented.

The earliest landing dates for all of the qualifying years in Area 542 only are provided in Table 17 below. These dates are used to calculate Component 1, Option 3, in which the sideboard date would only be based on and applied to Area 542. Again, 2008 is provided for comparison, even though it is not a qualifying year. In comparing Table 16 and Table 17, the landing dates appear to be generally earlier in Area 541 than 542, although they do not differ substantially in most cases. The primary exception is 2007 for the Amendment 80 sector, in which the earliest landing date reported in Area 541/542 combined is March 9, but the earliest landing date reported for Area 542 only is July 10. (This would clearly impact the resulting sideboard dates calculated, as this sector has few years in which to base the options.)

Table 17 Earliest landing date for Pacific cod harvested by catcher vessels in Area 542, by processing sector, 1994 - 2008

| Year | AFA | Am. 80 | Crab | Other mothership | Shoreside |
|-------------------|--------|--------|--------|------------------|-----------|
| 1994 | -- | -- | -- | -- | -- |
| 1995 | -- | -- | -- | -- | 13-Mar |
| 1996 | 16-Mar | -- | -- | -- | 8-Mar |
| 1997 | 15-Mar | -- | -- | 1-Mar | 27-Feb |
| 1998 | 14-Mar | -- | -- | 14-Mar | 9-Mar |
| 1999* | -- | -- | 25-Sep | 8-May | 21-Apr |
| 2000 | -- | -- | 18-Mar | 19-Feb | 24-Jan |
| 2001 | -- | -- | 22-Mar | 29-Apr | 12-Feb |
| 2002 | -- | -- | 18-Mar | -- | 8-Feb |
| 2003 | -- | -- | 8-Mar | -- | 27-Feb |
| 2004 | -- | 24-Mar | 4-Mar | -- | 17-Feb |
| 2005** | -- | -- | 12-Mar | -- | 16-Feb |
| 2006 | -- | -- | -- | 25-Sep | 14-Feb |
| 2007 | -- | 10-Jul | 14-Mar | -- | 3-Feb |
| 2008 [†] | -- | 1-Mar | 23-Feb | -- | 12-Jan |

Source: ADFG Fishtickets for shoreside deliveries 1994-2007 and mothership deliveries 2001-2007, & NMFS Blend data for mothership deliveries 1994-2000 & 2008 data. Excludes CDQ and AI State water cod fishery.

Note: The one AFA CP exempt from this action is not included.

*Year AFA was implemented. **Year BSAI crab rationalization program was implemented.

[†]Year Am. 80 was implemented.

The sideboard dates resulting from the suboptions under Options 2 and 3 are shown below in Table 18 and Table 19 respectively. For all calculations, the date provided reflects the earliest or average date (depending on the suboption) that the rationalized sectors received a catcher vessel delivery of Pacific cod harvested in Area 541/542 (Table 18) or Area 542 only (Table 19). The tables also show the results of the options when combined with Component 3, which proposes either a single sideboard which applies to all three of the rationalized sectors, or a program-specific sideboard, which proposes a separate sideboard for each of the three rationalized sectors. Recall that confidential data prevent showing the sideboard limits that would result with program-specific sideboards; but the sideboard dates that result from the program-specific sideboard options can be provided.

Suboptions 1a and 1b for the single sideboard options were calculated as the earliest dates among any of the rationalized sectors within the 2005 – 2007 and 2003 – 2007 periods, respectively. Suboption 1c and d were calculated as the earliest dates for each sector within the three or five years prior to implementation of each rationalization program, respectively. For example, under Suboption 1c, the analyst evaluated the earliest delivery date taken in 1996, 1997, or 1998 for the AFA sector; 2002, 2003, or 2004 for the crab sector; and 2005, 2006, or 2007 for the Amendment 80 sector.⁴¹ Out of those 9 years for those particular sectors, the earliest delivery date overall was February 28. For the program-specific sideboard, each sector was evaluated for its earliest delivery dates separately.

The resulting *single* sideboard dates are slightly later in the year under Suboption 2, which averages the earliest dates across various time periods. Suboption 2a and b under a single sideboard are relatively straightforward. Under Suboption 2a, the earliest date for a delivery to any of the three rationalized sectors in each of the years 2005, 2006, and 2007 was used to calculate the average over three years. The same calculation was done for Suboption 2b, during 2003 – 2007. For Suboption 2c and d under a *single* sideboard, the analyst calculated the average delivery date for each sector during the three or five years prior to the implementation of its rationalization program, respectively. Then those three dates were

⁴¹Staff recognizes that there could be a different interpretation of how to calculate the single sideboard options under Suboption 1c and d. For example, under Suboption 1c, one could also interpret the language to mean to use the earliest delivery date in 1996, 1997, 1998, 2002, 2003, 2004, 2005, 2006, or 2007 for any of the three rationalized sectors.

averaged to find an average date that would apply to a single sideboard for all three sectors combined. For the program-specific sideboards, the average earliest delivery date was calculated for each sector separately. The Council should clarify if any of these approaches do not meet its intent.

Table 18 Sideboard dates resulting for Area 541 & 542 combined (Component 1, Option 2, and Component 2 and 3)

| Processing sideboard date options for Area 541 and 542 | Single sideboard ¹ | Program-specific sideboard ² |
|---|-------------------------------|--|
| Suboption 1. earliest date delivered within... | | |
| a. 2005 – 2007 | Feb 27 | AFA: no landings ³ Crab: Feb 27 Am. 80: Mar 9 |
| b. 2003 – 2007 | Feb 27 | AFA: no landings ³ Crab: Feb 27 Am. 80: Mar 9 |
| c. 3 yrs prior to program implementation | Feb 28 | AFA: Mar 1 Crab: Feb 28 Am. 80: Mar 9 |
| d. 5 yrs prior to program implementation | Feb 19 | AFA: Mar 1 Crab: Feb 19 Am. 80: Mar 9 |
| Suboption 2. average earliest date delivered within... | | |
| a. 2005 – 2007 | Mar 3 | AFA: no landings ³ Crab: Mar 3 Am. 80: Mar 9 |
| b. 2003 – 2007 | Mar 2 | AFA: no landings ³ Crab: Mar 2 Am. 80: Mar 16 |
| c. 3 yrs prior to program implementation | Mar 7 | AFA: Mar 8 Crab: Mar 5 Am. 80: Mar 9 |
| d. 5 yrs prior to program implementation | Mar 10 | AFA: Mar 8 Crab: Mar 5 Am. 80: Mar 16 |

Source: ADFG Fishtickets for shoreside deliveries 1994-2007 and mothership deliveries 2001-2007, & NMFS Blend data for mothership deliveries 1994-2000. Excludes CDQ and AI State water cod fishery.

¹Component 3, Option 1, proposes a single sideboard for all three rationalized sectors.

²Component 3, Option 2, proposes a separate sideboard for each of the three rationalized sectors.

³Only one AFA CP received CV deliveries of cod harvested in Area 541/542 since 2000. This CP is exempt from this action, thus its history is not used to calculate the sideboard dates.

Note that in the December 2008 version of this paper, the AFA sector determined the earliest dates for the single sideboard options under Suboptions 1a and b and Suboptions 2a and 2b, as this sector had the earliest CV deliveries of cod in the most recent years (2003 – 2007). However, only one AFA CP contributed to that mothership history; no other AFA processing vessels had such participation since 1999. Thus, with the exemption of that one AFA CP, the single sideboard dates resulting from options based on years within 2003 to 2007 are largely determined by the crab sector. The Amendment 80 sector has had only three years of participation as motherships in this fishery during the qualifying years, with two of those during 2003 – 2007.

Because the AFA sector, with the exception of the exempted vessel, only has mothership processing activity in these areas in 1996 - 1999, there is no history on which to base the *program-specific* sideboards resulting from the options based on years that include 2003 - 2007 (i.e., Suboptions 1a, 1b, 2a, and 2b). **The Council would need to determine another method to establish such a sideboard date on the AFA sector if one of these is the preferred suboption.** One approach would be to use the earliest or

average dates of the only years available (1996 – 1999), which essentially mirrors the results of Suboptions 1c, 1d, 2c, and 2d for the AFA program-specific sideboard dates.

Table 19 Sideboard dates resulting for Area 542 only (Component 1, Option 3, and Component 2 and 3)

| Processing sideboard date options for Area 542 only | Single sideboard ¹ | Program-specific sideboard ² |
|---|-------------------------------|--|
| Suboption 1. earliest date delivered within... | | |
| a. 2005 - 2007 | Mar 12 | AFA: no landings ³ Crab: Mar 12 Am. 80: July 10 |
| b. 2003 – 2007 | Mar 4 | AFA: no landings ³ Crab: Mar 4 Am. 80: Mar 24 |
| c. 3 yrs prior to program implementation | Mar 4 | AFA: Mar 14 Crab: Mar 4 Am. 80: July 10 |
| d. 5 yrs prior to program implementation | Mar 4 | AFA: Mar 14 Crab: Mar 4 Am. 80: Mar 24 |
| Suboption 2. average earliest date delivered within... | | |
| a. 2005 - 2007 | Mar 13 | AFA: no landings ³ Crab: Mar 13 Am. 80: July 10 |
| b. 2003 – 2007 | Mar 9 | AFA: no landings ³ Crab: Mar 9 Am. 80: May 17 |
| c. 3 yrs prior to program implementation | Apr 19 | AFA: Mar 15 Crab: Mar 10 Am. 80: July 10 |
| d. 5 yrs prior to program implementation | Mar 14 | AFA: Mar 14 Crab: Mar 14 Am. 80: May 17 |

Source: ADFG Fishtickets for shoreside deliveries 1994-2007 and mothership deliveries 2001-2007, & NMFS Blend data for mothership deliveries 1994-2000. Excludes CDQ and AI State water cod fishery.

¹Component 3, Option 1, proposes a single sideboard for all three rationalized sectors.

²Component 3, Option 2, proposes a separate sideboard for each of the three rationalized sectors.

³Only one AFA CP received CV deliveries of cod harvested in Area 541/542 since 2000. This CP is exempt from this action, thus its history is not used to calculate the sideboard dates.

The same calculations to determine sideboard dates were completed for Area 542 (Table 19) under Component 1, Option 3. As the overall delivery dates were slightly later in the year for Area 542 compared to Area 541, the sideboard dates based only on Area 542 mothership processing are also slightly later. For example, while the single sideboard dates resulting from Area 541 and 542 combined are in late February or early March (Table 18), the single sideboard dates resulting from Area 542 only are in early March to mid-March, with the exception of one April date under Suboption 2c.

In effect, Component 1, Option 2 would allow catcher vessel deliveries of cod to the affected processing sectors earlier in the year than Component 1, Option 3. This effect is more significant on the program-specific sideboards than the single sideboard options, and more so on the Amendment 80 sector than the AFA or crab sectors, mainly due to the limited number of vessels and years in which the Amendment 80 sector has had mothership activity in the Aleutian Islands cod fishery. The Amendment 80 sector has only two years of mothership activity in Area 542 during the qualifying years, in 2004 (March 24) and 2007

(July 10). Thus, under some of the *program-specific* options, in which the Amendment 80 sector's activity is not averaged with any other sector, the resulting sideboard dates are relatively late in the year (e.g., May and July).

While this action would apply to catcher vessel deliveries of any gear type, recall that the majority of the catcher vessel Pacific cod ITAC is allocated to trawl gear, and the majority of the catcher vessel harvest in the Aleutians is with trawl gear. The trawl CV seasons are: January 20 – April 1 (A season); April 1 – June 10 (B season); and June 10 – November 1 (C season). The closure dates for the Federal A season for the BSAI Pacific cod trawl CV sector are shown below. If the trend continues toward a shorter A season, the later dates resulting from the suboptions could effectively prohibit rationalized motherships/CPs from taking CV deliveries of A season trawl Pacific cod from Areas 541 and 542. In a few cases, the suboptions results in sideboard dates that would prevent mothership deliveries until after the B season start date or C season start date. It may be important to select sideboard date options that are structured such that they reflect the actual historical processing patterns of the vessels at issue, as opposed to averaging across various sectors and time periods that do not relate to one another.

| Year | Closure date for A season BSAI trawl CV Pacific cod |
|------|---|
| 2008 | March 6 |
| 2007 | March 12 |
| 2006 | March 8 |
| 2005 | March 13 |
| 2004 | March 23 |

Source: NMFS information bulletins, 2004 – 2008

In sum, this action would effectively work as a prohibition on mothership deliveries until the selected date. Prior to the date, CV cod could be delivered to processing vessels that are not identified as part of these rationalized sectors, or delivered shoreside. If rationalized floaters/motherships/CPs are not allowed to process AI cod earlier in the year, it effectively guarantees a portion of the A season harvest to be delivered shoreside, and likely primarily to Adak, as Adak is the closest shoreside plant in the area that processes Pacific cod. Adak's primary fishery is Pacific cod, and in the past year Adak Fisheries has substantially expanded its cod processing capabilities. A few additional summary points follow:

- The single sideboard dates resulting from Option 2 (Area 541 and 542 combined) are late February to early March, due primarily to mothership activity of crab vessels processing cod from the Aleutians during the past seven years.
- The sideboard dates resulting from Option 3 (Area 542 only) are later than Option 2. They are generally early to mid-March, also due to mothership activity of crab vessels.
- Thus, under recent annual closures, the majority of the dates would effectively operate as a prohibition on catcher vessel deliveries of A season trawl Pacific cod harvested in Areas 541 and 542 to processing vessels from the three rationalized sectors acting as motherships (with the exception of the one exempt AFA CP).
- The single sideboard dates under Suboption 1, Suboption 2a, and Suboption 2b do not reflect the AFA and Amendment 80 sectors' mothership activity. Only the single sideboard dates under Suboption 2c and Suboption 2d reflect all three sectors' mothership activity.
- Clearly, the *program-specific* sideboards under all suboptions reflect each of the three sector's historical mothership processing dates.
- Under a sideboard date that only applies to Area 542, in a few cases, the suboptions result in sideboard dates that would prevent mothership deliveries until after the B season start date or C season start date. This primarily applies to the Amendment 80 sector under a program-specific sideboard date.

Summary

A sideboard is typically established to limit a sector's harvesting or processing activity to its historical share, when excess harvesting and/or processing capacity is likely, due to the sector's participation in a rationalization program. The intent is to prevent the rationalized sector from expanding its share in other fisheries due to this excess capacity, and eroding the shares of other non-rationalized participants. This paper is intended to provide sufficient information for the Council to determine whether to initiate a formal analysis of processing sideboards for Pacific cod harvested by catcher vessels in the Eastern (Area 541) and Central (Area 542) Aleutian Islands. If initiated, there is also a proposed option that would limit the sideboards to cod harvested by catcher vessels only in the Central AI.

The concern is that the lack of sideboards on processing of the BSAI Pacific cod CV allocations by rationalized processing vessels (e.g., AFA, BSAI crab rationalization, Amendment 80) has preempted, and will continue to preempt, an opportunity for these harvests to benefit vessels primarily operating out of Adak, shoreside processors, and the communities of Adak and Atka. There are concerns that the transient markets provided by motherships, floating processors, and catcher processors acting as motherships, may serve to undermine community stability by making it more difficult for shorebased processors to remain in business and provide year-round markets to smaller vessels participating in a suite of fisheries. Pacific cod has been the primary fishery supporting the shoreside processor in Adak; while Pacific cod harvested outside of Atka is typically processed by a (crab) mothership. The shoreplant in Atka does not currently have the capacity to process Pacific cod at the level necessary to make it economically viable.

Much of the concern prompting this action has stemmed from the 2008 A season for Pacific cod in the Aleutians. The shoreside sector has received an increasing share of the Eastern and Central AI Pacific cod deliveries starting in 1999, when the shoreplant was opened in Adak (refer to Table 9). During 2003 - 2007, the shoreside processing sector's average share was about 72% of the total retained CV harvest in Area 541 and 542 combined (refer to Table 12).⁴² During this recent time period, the rationalized mothership/floater sector received a high of 47% in 2003 and a low of 13% in 2007, with an average share of about 29% over the same time period.

In 2008 (preliminary data from the NMFS catch accounting database), the shoreside processing share is reduced compared to the recent average. In 2008, the majority of the cod harvested from the Federal TAC in Area 541 and 542 has been delivered to the mothership/floater sector (58%) compared to the shoreside sector (42%)(Table 9). Note that including Pacific cod harvest in Areas 541 and 542 from the State managed AI fishery results in negligible changes to those overall percentages. For the shoreside plant in Adak (Adak Fisheries) in particular, the average 2003 - 2007 share of Pacific cod from the Federal TAC in Areas 541 and 542 was 70%; thus far in 2008, this share dropped to 38% (see Table 14).

In addition, the Council added an option in December 2008 that would limit the action to mothership deliveries of catcher vessel cod harvested in Area 542 only. Overall, the great majority of the CV harvest of Pacific cod from these two AI areas comes from Area 541. On average from 1994 - 2008, 85% of the CV Pacific cod landings were harvested in Area 541, as opposed to Area 542. The most recent nine years result in the same average distribution between areas.

Note also that the percentage of CV cod harvest from Area 542 delivered onshore versus offshore varies significantly on an annual basis. Because the total annual harvest in Area 542 is relatively small, even a few deliveries greatly influence the results and provide substantial annual variability. On average during 2003 - 2007, the mothership/CP sector received about 48% of the CV cod harvested in Area 542, and the

⁴²This percentage includes a limited amount of deliveries going to one 'other mothership' that is not included in any of the rationalized processing sectors in 2006 and 2007.

shoreside sector received about 52%. Thus, the average distribution between processing sectors of cod harvested in Area 542 during 2003 – 2007 is much different from that of Areas 541 and 542 combined. The 2008 processing distribution in Area 542 was about 59% to the rationalized mothership/CP sector and 41% to the onshore processing sector.

Should the Council limit the proposed processing sideboard only to CV cod landings in Area 542, it would represent a much smaller effect on the affected mothership sectors, as well as smaller ‘protections’ for the onshore processing sector. Of the (Federal ITAC) Pacific cod delivered to Adak from these two areas in recent years (2003 – 2007), an average of 89% was harvested in Area 541 and 11% in Area 542. Thus, it may be relatively easy to circumvent the intent of a processing sideboard limited to Area 542, as the rationalized mothership/CP sector and associated catcher vessels could choose to limit harvest only to Area 541, where the majority of the cod harvest has been taken between the two areas.

Also in December, the Council exempted AFA processing vessels that have shown ‘continuous processing participation in the Area 541 and 542 Pacific cod fishery since the implementation of the AFA.’ **Staff suggests clarifying the wording if the intent is to limit the exemption to AFA vessels that have acted as *motherships* (receiving and processing Pacific cod harvested by catcher vessels), which is consistent with the proposed action.** Only one AFA CP has continuous participation operating in this capacity, thus, this vessel’s history is not used to calculate the proposed sideboards, nor would it be subject to those sideboards. This is consistent with other sideboard exemptions created in the AFA and the crab rationalization programs, in that history from exempted vessels is not included in the numerator of the sideboard calculation. Note that while no other AFA processing vessels have been operating as motherships in this fishery since 1999, the sideboard would effectively limit any new, future participation in this regard by the AFA sector (with the exception of the exempted vessel).

There are concerns that the proposed action would not provide the intended benefits to shoreside processors. Note that if a sideboard was established that limited deliveries to AFA, crab rationalization, and Amendment 80 CPs/floaters/motherships, catcher vessels could continue to deliver to motherships or floating processors not in one of these rationalized sectors, or shoreside processors, without regulatory limits. Deliveries to ‘other’ motherships or floating processors would negate the purpose of the proposed action with regard to shoreside processors. As provided in the tables, only one to two ‘other’ motherships/floaters, that are not part of the rationalized sectors, have taken CV deliveries of Pacific cod harvested in Area 541 or 542 since 2000. In a couple of years, no ‘other’ motherships participated. However, as opportunities for floating processors become increasingly limited, there may be growing interest in the cod fishery. At the same time, concerns also exist regarding the potential for stranding fish in the Aleutians, in the event that ‘other’ floaters are not available, the Adak plant is not operating in a given year, and/or the plant in Atka does not currently have the capacity to process Pacific cod.

The action is intended to benefit catcher vessels and shoreside processors, specifically in Adak, as cod landings in Adak would support the plant and help to provide the year-round markets necessary for smaller vessels that participate in several fisheries. Ultimately, however, the proposed action serves to limit the markets available to all catcher vessels harvesting Pacific cod in the Eastern and Central Aleutians. Thus, while part of the purpose of separate CV sector allocations by gear type is to provide additional opportunities for harvest by smaller vessels, this action may serve to reduce the operational flexibility and negotiating leverage of AI catcher vessels, which could potentially lead to a lower price for their catch.

Under the proposed options, the sideboard limit is established as: 1) the greatest amount delivered within the range of qualifying years; or 2) the average annual amount delivered within the range of qualifying years. In addition, options allow for three separate, *program-specific* processing sideboards (Component 3, Option 2) or for a *single* sideboard that would apply to all sectors (Component 3, Option 1). In addition, options allow for the sideboard(s) to be based on and applied to Areas 541 and 542 combined

(Component 1, without Option 3), or for the sideboard(s) to be based on and applied to Area 542 only (Component 1, Option 3). A limited amount of data can be provided on each individual rationalized processing sector, due to confidentiality issues. The harvest data attributed to these sectors must be aggregated for the purpose of analysis, due to the limited number of entities in each sector that have participated during the qualifying years. Thus, while the analysts are able to provide the results of the proposed processing sideboard options under a *single* sideboard that would apply to all sectors, they are not able to show the results of the options under three separate, *program-specific* processing sideboards.

Staff currently assumes that the sideboard amount is calculated based on the proposed qualifying years and then converted to a percentage of the total CV catch of Pacific cod in the BSAI (excluding AI State waters cod fishery and CDQ). This is because, as there is not an AI area specific TAC for Pacific cod, the sideboard would be applied to the non-CDQ BSAI Pacific cod CV TAC on an annual basis. The combination of Component 1 (sideboard limit) and Component 2 (qualifying years) and Component 3 (single vs. program-specific sideboards) results in sixteen potential suboptions for Area 541 and 542 combined: eight options for a single sideboard that would apply to all three rationalized processing sectors, and eight options for program-specific sideboards that would apply to each of the three rationalized processing sectors separately. Another sixteen suboptions result for Area 542 only.

The *single* processing sideboards resulting from the options and suboptions are summarized in Table 15. The numerator of the sideboard calculation is retained CV catch from Areas 541 and 542 (Option 1) or Area 542 only (Option 3) that was delivered to the processing vessels subject to the sideboard, and the denominator is the corresponding total Pacific cod BSAI CV catch in those years. The sideboards thus reflect the actual level of Pacific cod harvest in Areas 541 and 542 that has been delivered to motherships/floaters in the AFA, crab rationalization, and Amendment 80 processing sectors as a percentage of the total amount of BSAI Pacific cod catcher vessel harvest. Note that one AFA CP has been exempted based on long-term, continuous participation, and thus, deliveries to this vessel are not included in the numerator of the sideboard calculations.

Component 1, Option 1 – Areas 541/542 Sideboard Limit

The resulting (single) sideboard for Areas 541 and 542 combined would range from 1.6 percent to 4.0 percent of the total catcher vessel portion of the BSAI Pacific cod ITAC. The total CV Pacific cod portion of the ITAC is 34.1 percent, or almost 54,000 mt in 2009. Thus, under the 2009 TAC, the proposed sideboard limit would represent about 860 mt to over 2,000 mt.

In 2008, the majority of the cod harvested in Areas 541 and 542 has been delivered to the mothership/floater sector (about 58%) compared to the shoreside sector (42%). The amount of harvest landed with each individual rationalized sector cannot be provided due to confidentiality issues, but the rationalized sectors in aggregate received cod deliveries totaling about 6,500 mt in 2008 (refer to Table 9). This equates to about 12.5 percent of the total BSAI CV Pacific cod (non-CDQ) allocation in 2008, an amount higher than any sideboard option proposed. (It also equates to about 12 percent of the 2009 BSAI CV Pacific cod TAC.)

Component 1, Option 1 & 3 – Area 542 Sideboard Limit

Under Option 3, in which the sideboard is based on and applies to only Area 542, the resulting (single) sideboard would range from 0.1 percent to 0.8 percent of the total catcher vessel portion of the BSAI Pacific cod ITAC. The sideboards are much lower as a percentage of the total catcher vessel BSAI Pacific cod ITAC when they are limited only to Area 542, in which a relatively small portion of the total catch has occurred. Under the 2009 TAC, the proposed sideboard limit would represent about 54 mt to 430 mt.

In 2008, unlike in past years, the distribution of cod harvested by catcher vessels in Area 542 was very similar to that of Area 541 and 542 combined. In 2008, about 59% was delivered to the mothership/CP sector and 41% to the shoreside sector. The amount of harvest landed with each individual rationalized sector cannot be provided due to confidentiality issues, but the rationalized sectors in aggregate received cod deliveries totaling almost 400 mt in 2008 (refer to Table 10). This equates to about 0.8 percent of the total BSAI CV Pacific cod (non-CDQ) allocation in 2008, an amount equal to the highest sideboard option proposed. (It also equates to about 0.75 percent of the 2009 BSAI CV Pacific cod TAC.)

Component 1, Option 2 – Areas 541/542 Sideboard Date

Also included in the proposed options are sideboard dates, which would prohibit deliveries of Pacific cod harvested in Areas 541 or 542 from being delivered to any of the three rationalized sectors until a specific date (refer to Table 18). The options for sideboard dates mirror the options for sideboard limits, meaning they reflect either the earliest date, or the average earliest date, a delivery was made to a rationalized processing sector, based on the same suites of years considered for the sideboard limits. In effect, recent years are considered (2005 – 2007; 2003 – 2007), as well as the three- and five-year periods prior to the implementation of each rationalization program. The options are structured such that the Council could choose processing sideboard limits with or without the processing sideboard dates.

The resulting dates for the single sideboard options range from February 19 to March 10. The dates for the program-specific sideboard options range from: March 1 to March 8 (AFA); February 19 to March 5 (crab); and March 9 to March 16 (Amendment 80). Note that there are four suboptions under the program-specific sideboard dates based on years in which there were no CV cod deliveries to AFA vessels acting as motherships, thus, there are no landing dates by which to calculate the proposed suboptions for the AFA sector.⁴³ The Council would need to determine another method to establish such a sideboard date on the AFA sector if one of these is the preferred suboption. One approach would be to use the earliest or average dates of the only years available (1996 – 1999), which essentially mirrors the results of Suboptions 1c, 1d, 2c, and 2d for the AFA program-specific sideboard dates.

Component 1, Option 2 & 3 – Area 542 Sideboard Date

The same options are proposed that would apply only to Area 542. Combining Options 2 and 3 would essentially prohibit deliveries of Pacific cod harvested in Area 542 from being delivered to any of the three rationalized sectors until a specific date (refer to Table 19). The dates for the single sideboard options range from March 4 to April 19. The dates for the program-specific sideboard options range from: March 14 to March 15 (AFA); March 4 to March 14 (crab); and March 24 to July 10 (Amendment 80). Again, there are four suboptions under the program-specific sideboard dates based on years in which there were no CV cod deliveries to AFA vessels acting as motherships, thus, there are no landing dates by which to calculate the proposed options.

The sideboard dates resulting from Option 3 (Area 542 only) are later than Option 2, based on mothership activity of crab vessels. Under recent annual closures, the majority of the dates under either Option 2, or Option 2 and 3 combined, would effectively operate as a prohibition on catcher vessel deliveries of A season trawl Pacific cod harvested in these areas to processing vessels from the three rationalized sectors acting as motherships (with the exception of the one exempt AFA CP). Under a sideboard date that only applies to Area 542, in a few cases, the suboptions result in sideboard dates that would prevent mothership deliveries until after the B season start date or C season start date. This is primarily an issue for the Amendment 80 sector under a program-specific sideboard date.

⁴³Suboptions 1a, 1b, 2a, and 2b.

National Standards & Potential Issues to Consider

Testimony previously received from the public highlights several factors the Council should consider in evaluating how the proposed action would comport with the National Standards (Sec. 301) in the MSA. While a formal analysis is required to address all of the National Standards, NOAA GC has suggested the Council should, at a minimum, address the following issues during the development of the rationale for the Council's action, should it move forward:

- How does the proposed action result in an allocation of fishing privileges that is fair and equitable (National Standard 4)?

The Council might emphasize that its development of the sideboards is based on actual processing history of CV cod harvested in Areas 541/542 of vessels operating in that capacity (acting as a mothership/CP).

- In what ways are the proposed processing sideboards reasonably calculated to promote conservation (National Standard 4)?

For example, the Council might determine the proposed action would provide a more beneficial market mix, or social benefit, by limiting the market to the mothership/floating processor/CP sector and providing an opportunity for shorebased plants to remain in business and provide year-round markets, thus, promoting community stability. The Council might also determine that the proposed processing sideboards could potentially extend the duration of the catcher vessel BSAI Pacific cod fishery, by promoting less intensive fishing pressure that extends over a longer time period. The discussion paper to date does not support nor undermine either of these examples; the point is to make the Council aware that it must provide rationale for how the proposed action promotes conservation.

- How might the Council design the proposed action to avoid allowing any single processing entity to acquire an excessive share of processing privileges (National Standard 4)?

It is worth noting that no amount of Pacific cod is guaranteed to be harvested in Areas 541 and 542, as the BSAI Pacific cod TAC remains area-wide, and catcher vessels can harvest Pacific cod throughout the BSAI. In addition, there is no guarantee that any Pacific cod harvested in Areas 541/542 and not delivered to the rationalized processing sectors would instead be delivered to any particular processing facility, as catcher vessels may deliver to other motherships or floaters that are not part of the rationalized sectors, or shorebased plants in other communities.

Under the proposed sideboard limits, 6.1% to 7.0% of the overall BSAI Pacific cod ITAC would remain available for processing by all onshore processors and motherships that do not participate in the rationalized fisheries subject to the sideboard limit.⁴⁴ Any single shoreside processor would likely process less than these estimates, although it is difficult to project how large a proportion any single entity might actually process under the sideboard limits.

- Do the proposed sideboard limits promote efficient utilization of fishery resources (National Standard 5)?

⁴⁴Catcher vessels have been harvesting an average of about 22 percent of their total BSAI Pacific cod harvest in Areas 541/542 since 2000 (Table 2). If CVs continued their average harvest in these areas, that suggests that about 7.5% (22% x 34.1% CV allocation) of the total BSAI ITAC could be estimated to be harvested in Areas 541/542 by catcher vessels. The proposed sideboard limits for Areas 541 and 542 combined represent about 0.5% to 1.4% of the overall BSAI Pacific cod ITAC. Thus, under the proposed range of sideboard limits, 6.1% to 7.0% of the overall BSAI Pacific cod ITAC would remain available for processing by entities not subject to the sideboard limits.

- What are the purposes of this action, aside from economic allocation (National Standard 5)?

The Council may wish to address the management approach stated in the BSAI FMP and the management objectives of the Programmatic Supplemental Environmental Impact Statement (PSEIS) that are related to potential societal benefits, such as 'providing socially and economically viable fisheries for the well-being of fishing communities' and 'balancing many competing uses of marine resources and different social and economic goals for sustainable fishery management, including protection of the long-term health of the resource and the optimization of yield.'

Confidentiality Issues

There are no confidentiality issues related to the proposed *single* sideboard, i.e., one cod processing sideboard that applies to all three rationalized sectors combined (Component 3, Option 1). However, a limited amount of data can be provided on each individual rationalized processing sector, due to confidentiality issues, which prevents the analysts from being able to provide any results of the options that would establish three separate, *program-specific* processing sideboards (Component 3, Option 2). However, the Council is not necessarily restricted from establishing processing sideboards even if the harvest data necessary to evaluate the proposed options are confidential.

One option would be to create a different method for establishing the sideboard, other than catch history. In the past, the Council has only established sideboards based on harvest or processing history in the specific sector being constrained, meaning, there is no other precedent. However, the Council or the public may have alternative ideas on how to establish a sideboard other than the historical amount that has been delivered to each rationalized processing sector.

Alternatively, the Council could consider a sideboard of 0%, if the Council determines that even *some* catch delivered to the rationalized sectors does not meet the intent of the programs. Essentially, such a sideboard would equate to a prohibition on CPs, motherships, and floaters participating in the AFA, BSAI crab rationalization, and BSAI Amendment 80 from receiving catcher vessel deliveries of Pacific cod harvested in the Eastern and Central Aleutian Islands. The Council could also determine that the action is not warranted (effectively, no sideboard limit).

NOAA GC suggests that the Council could also develop and recommend criteria and justification for a processing sideboard, such as the existing proposal, but the analysis would not report confidential results. NMFS would calculate the actual sideboards resulting from the selected criteria and publish the percentages in the proposed and final rules. Confidential data have been an issue in the development of previous programs, but have not prevented the Council from taking action based on a clearly stated principle. For example, in the GOA rockfish pilot program, confidentiality prevented the analysis from showing some of the prohibited species sideboards resulting from the proposed options. If the rationale and objective of the action is stated clearly (e.g., to limit participants to historical processing levels so as not to expand efforts in specific areas or fisheries), the Council could take action on a sideboard based on history, even if the historical data to establish the sideboard cannot be provided. In this case, the rationale and criteria for the sideboard (e.g., harvest history delivered during specific qualifying years) can be described in the analysis, but NMFS would calculate the actual sideboards resulting from the selected criteria and publish the percentages in the proposed and final rules.

Another approach would be to use fleet-wide annual or weekly processing data for each rationalized sector to calculate a reasonable estimate of the amount of processing for the one or two motherships/floaters/CPs based on the number of weeks they have operated in the Aleutians. The analyst would thus provide as much information about the sector and fishery as possible without violating confidentiality rules. The results of these calculations could either: 1) represent *options* to establish the actual sideboard selected by the Council, or 2) be used as reasonable *estimates* in the analysis for the

amount of the sideboards when they are calculated based on actual history under the existing options (i.e., the exact sideboard amount would not be known until it is published in the proposed and final rules).

Finally, upon review of this paper, the Council could determine that program-specific sideboards are not necessary, and may exclude those options from a proposed analysis. NMFS will also likely need to provide feedback on the relative feasibility of effectively managing program-specific sideboards versus an aggregate sideboard that would apply to all three rationalized sectors, as well as the possibility of the rationalized sectors (cooperatives) managing the program-specific sideboards to which they are subject.

At this February meeting, the Council could initiate a formal analysis, or request additional information prior to taking this step. The Council could also determine that the action is not warranted.

Appendix 1. Summary data on the State water Aleutian Islands Pacific cod fishery

Aleutian Islands State waters Pacific cod fishery guideline harvest level and harvest apportionment, 2006 - 2008

| Year | Season | Initial GHL ^b | Season Dates | | Season Length ^a | Harvest ^b | Number of | |
|------|----------|-----------------------------|--------------|--------|-------------------------------|----------------------|-----------------|------------|
| | | | Opened | Closed | | | Vessels | Deliveries |
| 2006 | A season | 8,981,540 | 15-Mar | 24-Mar | 9 | conf. | 26 | 68 |
| | B season | 3,849,232 ^c | 10-Jun | 1-Sep | 83 | conf. | 5 ^d | 24 |
| | TOTAL | 12,830,772 | | | 92 | 8,860,665 | 29 ^d | 92 |
| 2007 | A season | 8,148,202 | 16-Mar | 23-Mar | 7 | 8,229,931 | 29 | 97 |
| | B season | 3,492,086 ^e | 10-Jun | 1-Sep | 83 | 2,143,310 | 10 | 92 |
| | | | 1-Oct | 3-Dec | 63 | 1,265,760 | 5 | 14 |
| | TOTAL | 11,640,288 | | | 153 | 11,639,001 | 41 ^d | 203 |
| 2008 | A season | 8,148,202 | 10-Mar | 18-Mar | 8 | 7,478,914 | 30 | 116 |
| | B season | 3,492,086 ^f | 10-Jun | 9-Jul | 29 | 4,235,449 | 18 | 77 |
| | TOTAL | 11,640,288 | | | 37 | 11,714,363 | 45 ^d | 193 |

^aIn days.

^bIn whole pounds.

^cADF&G made 3.5 million pounds of the GHL available to NMFS effective on September 1.

^dSome vessels participated in both seasons.

^e81,729 pounds were deducted from the B season due to an overage during the A season.

^f669,288 pounds remained from the A season and was rolled into the B season.

Source: ADF&G fishtickets, 2006 - 2008.

Conf. = confidential data.

State AI Pacific Cod Fishery by Processor Type, 2006 - 2008

| 2006 Total | Processor Type | Round lbs | Percent | # processors |
|-------------------|----------------------|-------------------|-------------|--------------|
| | Floating Processor | 4,859,521 | 55% | 3 |
| | Shorebased Processor | 2,231,720 | 25% | 3 |
| | Catcher Processor | 1,769,424 | 20% | 7 |
| | | 8,860,665 | 100% | |
| 2007 Total | | | | |
| | Floating Processor | ** | ** | 3 |
| | Shorebased Processor | conf. | conf. | 2 |
| | Catcher Processor | 1,948,237 | 17% | 3 |
| | | 11,639,000 | 100% | |
| 2008 Total | | | | |
| | Floating Processor | ** | ** | 5 |
| | Shorebased Processor | conf. | conf. | 2 |
| | Catcher Processor | 4,540,306 | 39% | 6 |
| | | 11,712,936 | 100% | |

Source: ADF&G fishtickets, 2006 - 2008.

Conf. = confidential data. **data withheld to prevent showing confidential data by simple subtraction.

Appendix 1. continued.

State AI Pacific Cod Fishery by Gear Type, 2006 - 2008

| 2006 Total | Gear Type | Round lbs | Percent | Number of Vessels | Number of landings |
|-------------------|------------------|------------------|----------------|--------------------------|---------------------------|
| | Trawl | 7,053,035 | 80% | 20 | 58 |
| | Longline | ** | ** | 11 | 19 |
| | Pot | conf. | conf. | 2 | 14 |
| | | 8,860,665 | 100% | | |
| 2007 Total | Trawl | 6,998,224 | 60% | 20 | 78 |
| | Jig | conf. | conf. | 1 | 2 |
| | Longline | ** | ** | 7 | 80 |
| | Pot | 3,614,870 | 31% | 12 | 43 |
| | | 11,639,000 | 100% | | |
| 2008 Total | Trawl | 6,130,284 | 52% | 22 | 94 |
| | Jig | 92,572 | 1% | 5 | 18 |
| | Longline | 509,296 | 4% | 9 | 25 |
| | Pot | 4,980,784 | 43% | 11 | 56 |
| | | 11,712,936 | 100% | | |

Source: ADF&G fishtickets, 2006 – 2008.

Conf. = confidential data. **data withheld to prevent showing confidential data by simple subtraction.

Appendix 2. AFA Catcher Processors and Motherships

AFA Catcher processors

| VESSEL NAME | ADFG | CG NUM | AFA PERMIT |
|---------------------|-------|--------|------------|
| ALASKA OCEAN | 60407 | 637856 | 3794 |
| AMERICAN DYNASTY | 59378 | 951307 | 3681 |
| AMERICAN ENTERPRISE | 54836 | 594803 | 2760 |
| AMERICAN TRIUMPH | 60660 | 646737 | 4055 |
| ARCTIC FJORD | 57450 | 940866 | 3396 |
| ARCTIC STORM | 54886 | 903511 | 2943 |
| ENDURANCE | 57201 | 592206 | 3360 |
| HIGHLAND LIGHT | 56974 | 577044 | 3348 |
| ISLAND ENTERPRISE | 59503 | 610290 | 3870 |
| KATIE ANN | 55301 | 518441 | 1996 |
| KODIAK ENTERPRISE | 59170 | 579450 | 3671 |
| NORTHERN EAGLE | 56618 | 506694 | 3261 |
| NORTHERN GLACIER | 48075 | 663457 | 661 |
| NORTHERN HAWK | 60795 | 643771 | 4063 |
| NORTHERN JAEGER | 60202 | 521069 | 3896 |
| OCEAN PEACE | 55767 | 677399 | 2134 |
| OCEAN ROVER | 56987 | 552100 | 3442 |
| PACIFIC GLACIER | 56991 | 933627 | 3357 |
| SEATTLE ENTERPRISE | 56789 | 904767 | 3245 |
| STARBOUND | 57621 | 944658 | 3414 |
| U.S. ENTERPRISE | 55125 | 921112 | 3004 |

AFA Motherships

| | | | |
|---------------|-------|--------|------|
| EXCELLENCE | 60958 | 967502 | 4111 |
| GOLDEN ALASKA | 52929 | 651041 | 1607 |
| OCEAN PHOENIX | 59463 | 296779 | 3703 |

Note: The Ocean Peace is also an eligible Amendment 80 vessel. For the purposes of determining the proposed AI sideboards, the Ocean Peace is included in the Amendment 80 sector. This is because Federal regulations consider the Ocean Peace an Amendment 80 vessel for purposes of specified fisheries, including Pacific cod (BSAI Atka mackerel, flathead sole, Greenland turbot, Pacific cod, Pacific ocean perch, rock sole, and yellowfin sole).

Note: One of the AFA CPs is exempt from the proposed action, based on the Council motion.

Appendix 3. Processing vessels that contributed to C. Opilio BSAI crab processing quota share allocations

| F_PROCSS | I_ADFG | Vessel Name | CP |
|-----------------|---------------|-----------------------|-----------|
| F0944 | 41052 | ALASKA PACKER | N |
| F3661 | 32728 | ALASKAN ENTERPRISE | Y |
| F1484 | 56973 | ALEUTIAN FALCON (M/V) | N |
| F0138 | 37268 | ARCTIC STAR | N |
| F1911 | 34855 | BARANOF | Y |
| F0137 | 37267 | BERING STAR (P/V) | N |
| Z3724 | 54865 | BLUE DUTCH | Y |
| F1636 | 51736 | BLUE WAVE (M/V) | N |
| F0947 | 34053 | BOUNTIFUL (FV) | Y |
| F1140 | 30919 | COASTAL STAR | N |
| F9556 | 35833 | COURAGEOUS | Y |
| F1456 | 31363 | INDEPENDENCE | N |
| F9719 | 54865 | KISKA ENTERPRISE | Y |
| F3219 | 34905 | MR B (F/V) | Y |
| F1551 | 37374 | PAVLOF | Y |
| F1319 | 60507 | NORTHERN VICTOR | N |
| F1307 | 51652 | NORTHLAND | N |
| F1066 | 55159 | OMNISEA | N |
| Z2436 | 40837 | PACIFIC LADY | Y |
| F1482 | 45836 | PRIBILOF (M/V) | N |
| F9604 | 53810 | PRO SURVEYOR | Y |
| F9723 | 61182 | ROYAL ENTERPRISE | Y |
| F0945 | 56146 | SEA ALASKA | N |
| Z2434 | 04067 | SEAWIND (F/V) | Y |
| F1146 | 57605 | SNOPAC | N |
| F1589 | 64242 | STELLAR SEA (M/V) | N |
| F9715 | 32660 | WESTWARD WIND | Y |
| F3231 | 53677 | YARDARM KNOT M/V | N |

Appendix 4. Catcher processors that qualified under BSAI Amendment 80

| Name | CG | LLP |
|----------------------|--------|---------|
| ALASKA JURIS | 569276 | LLG2082 |
| ALASKA RANGER | 550138 | LLG2118 |
| ALASKA SPIRIT | 554913 | LLG3043 |
| ALASKA VICTORY | 569752 | LLG2080 |
| ALASKA VOYAGER | 536484 | LLG2084 |
| ALASKA WARRIOR | 590350 | LLG2083 |
| ALLIANCE | 622750 | LLG2905 |
| AMERICAN NO I | 610654 | LLG2028 |
| ARCTIC ROSE | 931446 | LLG3895 |
| ARICA | 550139 | LLG2429 |
| BERING ENTERPRISE | 610869 | LLG3744 |
| CAPE HORN | 653806 | LLG2432 |
| CONSTELLATION | 640364 | LLG1147 |
| DEFENDER | 665983 | LLG3217 |
| ENTERPRISE | 657383 | LLG4831 |
| GOLDEN FLEECE | 609951 | LLG2524 |
| HARVESTER ENTERPRISE | 584902 | LLG3741 |
| LEGACY | 664882 | LLG3714 |
| OCEAN ALASKA | 623210 | LLG4360 |
| OCEAN PEACE | 677399 | LLG2138 |
| PROSPERITY | 615485 | LLG1802 |
| REBECCA IRENE | 697637 | LLG3958 |
| SEAFISHER | 575587 | LLG2014 |
| SEAFREEZE ALASKA | 517242 | LLG4692 |
| TREMONT | 529154 | LLG2785 |
| U.S. INTREPID | 604439 | LLG3662 |
| UNIMAK | 637693 | LLG3957 |
| VAERDAL | 611225 | LLG1402 |

Source: Table 31 to Part 679. 72 FR 52739, 9/14/07.

Note: The Alaska Ranger, Arctic Rose, and Prosperity have sunk.
The Bering Enterprise was sold to Russia and cannot re-enter U.S. fisheries.

Appendix 5. 2009 and 2010 BSAI Pacific cod allocations

DRAFT 2009 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC
 [Amounts are in metric tons]

| Gear sector | Percent | 2009 share of gear sector total | 2009 share of sector total | 2009 seasonal apportionment | |
|---|---------|---------------------------------|----------------------------|-----------------------------|--------|
| | | | | Dates | Amount |
| Total TAC | 100 | 176,540 | n/a | n/a | n/a |
| CDQ | 10.7 | 18,890 | n/a | see §679.20(a)(7)(i)(B) | n/a |
| Total hook-and-line/pot gear | 60.8 | 95,851 | n/a | 0 | n/a |
| Hook-and-line/pot ICA ¹ | n/a | 500 | n/a | 679.2 | n/a |
| Hook-and-line/pot sub-total | n/a | 95,351 | n/a | n/a | n/a |
| Hook-and-line catcher/processor | 48.7 | n/a | 76,375 | Jan 1-Jun 10 | 38,951 |
| | | | | Jun 10-Dec 31 | 37,424 |
| Hook-and-line catcher vessel ≥60 ft LOA | 0.2 | n/a | 314 | Jan 1-Jun 10 | 160 |
| | | | | Jun 10-Dec 31 | 154 |
| Pot catcher/processor | 1.5 | n/a | 2,352 | Jan 1-Jun 10 | 1,200 |
| | | | | Sept 1-Dec 31 | 1,152 |
| Pot catcher vessel ≥60 ft LOA | 8.4 | n/a | 13,173 | Jan 1-Jun 10 | 6,718 |
| | | | | Sept 1-Dec 31 | 6,455 |
| Catcher vessel <60 ft LOA using hook-and-line or pot gear | 2.0 | n/a | 3,137 | n/a | n/a |
| Trawl catcher vessel | 22.1 | 34,841 | n/a | Jan 20-Apr 1 | 25,782 |
| | | | | Apr 1-Jun 10 | 3,832 |
| | | | | Jun 10-Nov 1 | 5,226 |
| AFA trawl catcher/processor | 2.3 | 3,626 | n/a | Jan 20-Apr 1 | 2,719 |
| | | | | Apr 1- Jun 10 | 906 |
| | | | | Jun 10-Nov 1 | 0 |
| Amendment 80 | 13.4 | 21,125 | n/a | Jan 20-Apr 1 | 15,844 |
| | | | | Apr 1- Jun 10 | 5,281 |
| | | | | Jun 10-Nov 1 | 0 |
| Amendment 80 limited access | n/a | n/a | 3,471 | Jan 20-Apr 1 | 2,603 |
| | | | | Apr 1- Jun 10 | 868 |
| | | | | Jun 10-Nov 1 | 0 |
| Amendment 80 cooperatives | n/a | n/a | 17,654 | Jan 20-Apr 1 | 13,241 |
| | | | | Apr 1- Jun 10 | 4,414 |
| | | | | Jun 10-Nov 1 | 0 |
| Jig | 1.4 | 2,207 | n/a | Jan 1-Apr 30 | 1,324 |
| | | | | Apr 30-Aug 31 | 441 |
| | | | | Aug 31-Dec 31 | 441 |

¹ The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2009 based on anticipated incidental catch in these fisheries.

Appendix 5 continued.

DRAFT 2010 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC
 [Amounts are in metric tons]

| Gear sector | Percent | 2010 share of gear sector total | 2010 share of sector total | 2010 seasonal apportionment ² | |
|---|---------|---------------------------------|----------------------------|--|--------------------------|
| | | | | Dates | Amount |
| Total TAC | 100 | 193,030 | n/a | n/a | n/a |
| CDQ | 10.7 | 20,654 | n/a | see §679.20(a)(7)(i)(B) | n/a |
| Total hook-and-line/pot gear | 60.8 | 104,804 | n/a | n/a | n/a |
| Hook-and-line/pot ICA ¹ | n/a | 500 | n/a | n/a | n/a |
| Hook-and-line/pot sub-total | n/a | 104,304 | n/a | n/a | n/a |
| Hook-and-line catcher/processor | 48.7 | n/a | 83,547 | Jan 1-Jun 10 Jun 10-Dec 31 | 42,609 40,938 |
| Hook-and-line catcher vessel ≥60 ft LOA | 0.2 | n/a | 343 | Jan 1-Jun 10 Jun 10-Dec 31 | 175 168 |
| Pot catcher/processor | 1.5 | n/a | 2,573 | Jan 1-Jun 10 Sept 1-Dec 31 | 1,312 1,261 |
| Pot catcher vessel ≥60 ft LOA | 8.4 | n/a | 14,410 | Jan 1-Jun 10 Sept 1-Dec 31 | 7,349 7,061 |
| Catcher vessel <60 ft LOA using hook-and-line or pot gear | 2.0 | 3,431 | 3,431 | n/a | n/a |
| Trawl catcher vessel | 22.1 | 38,095 | n/a | Jan 20-Apr 1 Apr 1-Jun 10 Jun 10-Nov 1 | 28,190 4,190 5,714 |
| AFA trawl catcher/processor | 2.3 | 3,965 | n/a | Jan 20-Apr 1 Apr 1- Jun 10 Jun 10-Nov 1 | 2,973 991 0 |
| Amendment 80 | 13.4 | 23,098 | n/a | Jan 20-Apr 1 Apr 1- Jun 10 Jun 10-Nov 1 | 17,324 5,775 0 |
| Amendment 80 limited access ² | n/a | n/a | see footnote 2 | Jan 20-Apr 1 Apr 1- Jun 10 Jun 10-Nov 1 | 75% 25% 0 |
| Amendment 80 cooperatives ² | n/a | n/a | see footnote 2 | Jan 20-Apr 1 Apr 1- Jun 10 Jun 10-Nov 1 | 75% 25% 0 |
| Jig | 1.4 | 2,413 | n/a | Jan 1-Apr 30 Apr 30-Aug 31 Aug 31-Dec 31 | 1,448 483 483 |

¹ The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2010 based on anticipated incidental catch in these fisheries.

² The 2010 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2009.

Appendix 6. Summary of Shared Revenues from State Fisheries Business Tax and Fishery Resource Landing Tax

Five-Year Comparison of Shared Taxes and Fees

**Table 6
Fisheries Business Tax**

| | <u>FY 2008</u> | <u>FY 2007</u> | <u>FY 2006</u> | <u>FY 2005</u> | <u>FY 2004</u> | <u>Total All Years</u> |
|-----------------------------|------------------|------------------|------------------|------------------|------------------|----------------------------|
| Municipality | | | | | | |
| Anchorage | \$71,359 | \$44,421 | \$56,814 | \$29,594 | \$42,777 | \$244,965 |
| Juneau | 289,024 | 334,326 | 340,230 | 298,218 | 221,435 | 1,483,233 |
| Sitka | 911,793 | 808,257 | 681,749 | 672,370 | 474,029 | 3,548,198 |
| Total Municipalities | 1,272,176 | 1,187,004 | 1,078,793 | 1,000,182 | 738,241 | 5,276,396 |
| Borough | | | | | | |
| Aleutians East | 1,756,571 | 1,581,639 | 1,563,918 | 1,299,716 | 1,365,445 | 7,567,289 |
| Bristol Bay | 1,563,687 | 1,295,546 | 1,178,357 | 834,661 | 450,975 | 5,323,226 |
| Denali | 0 | 606 | 569 | 986 | 0 | 2,161 |
| Fairbanks North Star | 266 | 0 | 0 | 0 | 360 | 626 |
| Haines | 167,235 | 190,641 | 135,524 | 150,554 | 94,421 | 738,375 |
| Kenai Peninsula | 743,435 | 708,041 | 791,462 | 640,430 | 676,737 | 3,560,105 |
| Ketchikan Gateway | 376,696 | 302,485 | 303,361 | 278,473 | 327,692 | 1,588,707 |
| Kodiak Island | 1,236,280 | 1,031,496 | 942,310 | 802,313 | 716,677 | 4,729,076 |
| Lake and Peninsula | 138,186 | 133,792 | 98,911 | 71,206 | 113,059 | 555,154 |
| Matanuska-Susitna | 128 | 216 | 74 | 0 | 386 | 804 |
| Northwest Arctic | 0 | 0 | 0 | 475 | 0 | 475 |
| Yakutat | 244,777 | 200,086 | 152,850 | 35,973 | 47,862 | 681,548 |
| Total Boroughs | 6,227,261 | 5,444,548 | 5,167,336 | 4,114,787 | 3,793,614 | 24,747,546 |
| City | | | | | | |
| Adak | 254,359 | 116,422 | 117,297 | 247,144 | 302,677 | 1,037,899 |
| Akhiok | 0 | 0 | 96 | 0 | 0 | 96 |
| Akutan | 768,247 | 751,346 | 740,716 | 628,852 | 632,084 | 3,521,245 |
| Atka | 18,349 | 20,235 | 19,155 | 24,446 | 24,402 | 106,587 |
| Cheformak | 941 | 573 | 196 | 107 | 19 | 1,836 |
| Chignik | 58,779 | 55,867 | 44,623 | 42,355 | 76,649 | 278,273 |
| Clark's Point | 113,191 | 134,862 | 29,231 | 33 | 0 | 277,317 |
| Coffman Cove | 285 | 1,223 | 143 | 1,256 | 4,222 | 7,129 |
| Cordova | 905,047 | 631,642 | 610,916 | 591,749 | 448,958 | 3,188,312 |
| Craig | 20,691 | 29,669 | 47,702 | 65,906 | 20,412 | 184,380 |
| Delta Junction | 0 | 0 | 0 | 1,610 | 0 | 1,610 |
| Dillingham | 176,261 | 183,743 | 147,986 | 154,274 | 99,889 | 762,153 |

Table 6
Fisheries Business Tax

| | <i>FY 2008</i> | <i>FY 2007</i> | <i>FY 2006</i> | <i>FY 2005</i> | <i>FY 2004</i> | <i>Total All Years</i> |
|----------------|----------------|----------------|----------------|----------------|----------------|----------------------------|
| Egegik | 63,363 | 74,285 | 29,194 | 28,851 | 36,409 | 232,102 |
| Emmonak | 8,369 | 10,212 | 8,817 | 5,921 | 3,826 | 37,145 |
| Fairbanks | 0 | 0 | 0 | 0 | 279 | 279 |
| Gustavus | 358 | 563 | 278 | 0 | 0 | 1,199 |
| Homer | 98,958 | 90,092 | 88,734 | 67,100 | 156,890 | 501,774 |
| Hoonah | 128,563 | 139,048 | 130,252 | 192,396 | 133,052 | 723,311 |
| Hooper Bay | 166 | 14 | 49 | 1 | 32 | 262 |
| Houston | 99 | 89 | 26 | 0 | 0 | 214 |
| Hydaburg | 0 | 0 | 2,786 | 3,847 | 2,106 | 8,739 |
| Kachemak | 0 | 0 | 6,060 | 0 | 0 | 6,060 |
| Kake | 285 | 16,193 | 0 | 6,260 | 32,731 | 55,469 |
| Kaltag | 51 | 0 | 0 | 0 | 0 | 51 |
| Kasaan | 0 | 242 | 470 | 2,075 | 161 | 2,948 |
| Kenai | 143,247 | 129,443 | 138,088 | 126,701 | 77,026 | 614,505 |
| Ketchikan | 254,399 | 234,757 | 194,279 | 181,411 | 142,925 | 1,007,771 |
| King Cove | 495,293 | 438,722 | 463,050 | 365,638 | 326,453 | 2,089,156 |
| Klawock | 30,079 | 26,784 | 13,483 | 143 | 4,916 | 75,405 |
| Kodiak | 946,635 | 823,097 | 760,099 | 654,818 | 597,337 | 3,781,986 |
| Kotzebue | 0 | 0 | 0 | 475 | 0 | 475 |
| Kupreanof | 0 | 0 | 331 | 0 | 0 | 331 |
| Larsen Bay | 82,078 | 59,043 | 49,715 | 37,505 | 28,060 | 256,401 |
| Marshall | 2,279 | 2,697 | 994 | 1,047 | 0 | 7,017 |
| Mekoryuk | 6,712 | 3,845 | 3,979 | 1,903 | 1,625 | 18,064 |
| Nenana | 193 | 0 | 0 | 0 | 0 | 193 |
| New Stuyahok | 0 | 0 | 0 | 0 | 30 | 30 |
| Nome | 19,607 | 17,276 | 18,978 | 13,901 | 10,034 | 79,796 |
| North Pole | 266 | 0 | 0 | 0 | 82 | 348 |
| Old Harbor | 19 | 18 | 0 | 0 | 0 | 37 |
| Pelican | 12,012 | 70,119 | 5,741 | 14,835 | 7,736 | 110,443 |
| Petersburg | 773,402 | 658,119 | 679,870 | 630,650 | 545,267 | 3,287,308 |
| Pilot Point | 0 | 0 | 101 | 0 | 0 | 101 |
| Port Alexander | 0 | 0 | 533 | 1,245 | 2 | 1,780 |
| Quinhagak | 15,452 | 16,471 | 14,196 | 17,807 | 7,483 | 71,409 |
| Saint George | 1,628 | 0 | 0 | 0 | 0 | 1,628 |
| Saint Mary's | 4,313 | 3,229 | 0 | 630,650 | 545,267 | 1,183,459 |
| Saint Paul | 578,948 | 437,169 | 305,888 | 362,056 | 328,120 | 2,012,181 |

Table 6
Fisheries Business Tax

| | <i>FY 2008</i> | <i>FY 2007</i> | <i>FY 2006</i> | <i>FY 2005</i> | <i>FY 2004</i> | <i>Total All Years</i> |
|--|---------------------|---------------------|---------------------|---------------------|---------------------|----------------------------|
| Sand Point | 217,356 | 208,844 | 201,769 | 196,618 | 195,686 | 1,020,273 |
| Savoonga | 0 | 14 | 0 | 0 | 0 | 14 |
| Seldovia | 3,386 | 410 | 0 | 0 | 0 | 3,796 |
| Seward | 403,571 | 312,535 | 367,526 | 314,304 | 310,578 | 1,708,514 |
| Soldotna | 781 | 1,313 | 1,165 | 565 | 699 | 4,523 |
| Tenakee Springs | 20,903 | 22,211 | 27,565 | 16 | 224 | 70,919 |
| Togiak | 40,784 | 37,620 | 30,195 | 21,903 | 38,111 | 168,613 |
| Toksook Bay | 6,990 | 4,031 | 2,138 | 638 | 1,262 | 15,059 |
| Unalakleet | 9,725 | 7,158 | 5,431 | 2,091 | 972 | 25,377 |
| Unalaska | 3,469,175 | 3,178,334 | 3,321,455 | 3,014,039 | 3,226,807 | 16,209,810 |
| Valdez | 311,010 | 200,992 | 225,119 | 166,233 | 215,577 | 1,118,931 |
| Wasilla | 29 | 128 | 103 | 5 | 0 | 265 |
| Whittier | 80,468 | 56,940 | 46,296 | 35,556 | 38,420 | 257,680 |
| Wrangell | 221,860 | 240,175 | 119,704 | 144,589 | 60,856 | 787,184 |
| Total Cities | 10,768,962 | 9,447,813 | 9,022,518 | 8,370,875 | 8,141,086 | 45,751,254 |
| Grand Total | \$18,268,399 | \$16,079,365 | \$15,268,647 | \$13,485,844 | \$12,672,941 | \$75,775,196 |
| Number of Communities Shared With | 63 | 61 | 62 | 59 | 57 | 77 |
| Additional Sharing with DCCED | \$1,920,635 | \$1,530,472 | \$1,867,596 | \$1,738,224 | \$1,725,251 | \$8,782,178 |

Table 7
Fishery Resource Landing Tax

| | <u>FY 2008</u> | <u>FY 2007</u> | <u>FY 2006</u> | <u>FY 2005</u> | <u>FY 2004</u> | <u>Total All Years</u> |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|----------------------------|
| Municipality | | | | | | |
| Sitka | \$309 | \$0 | \$2,789 | \$517 | \$477 | \$4,092 |
| Total Municipalities | <u>309</u> | <u>0</u> | <u>2,789</u> | <u>517</u> | <u>477</u> | <u>4,092</u> |
| Borough | | | | | | |
| Aleutians East | 53,077 | 83,873 | 31,524 | 28,721 | 14,992 | 212,187 |
| Kenai Peninsula | 174 | 4,533 | 1,838 | 6,506 | 6,101 | 19,152 |
| Kodiak Island | 36,560 | 9,252 | 16,654 | 1,783 | 395 | 64,644 |
| Yakutat | 35,797 | 11,852 | 18,826 | 2,135 | 1,980 | 70,590 |
| Total Boroughs | <u>125,608</u> | <u>109,510</u> | <u>68,842</u> | <u>39,145</u> | <u>23,468</u> | <u>366,573</u> |
| City | | | | | | |
| Adak | 128,199 | 64,284 | 19,840 | 52,464 | 82,073 | 346,860 |
| Akhiok | 0 | 0 | 0 | 0 | 8 | 8 |
| Akutan | 26,496 | 20,369 | 20,303 | 15,415 | 11,814 | 94,397 |
| Atka | 16,413 | 0 | 5,877 | 8,522 | 63 | 30,875 |
| Clark's Point | 2,271 | 0 | 0 | 0 | 0 | 2,271 |
| Cold Bay | 0 | 0 | 0 | 0 | 224 | 224 |
| Homer | 0 | 0 | 0 | 0 | 226 | 226 |
| Kodiak | 412 | 399 | 0 | 818 | 387 | 2,016 |
| Pelican | 0 | 0 | 0 | 296 | 751 | 1,047 |
| Petersburg | 906 | 1,056 | 876 | 490 | 0 | 3,328 |
| Saint Paul | 172,020 | 30,678 | 16,364 | 12,111 | 24,507 | 255,680 |
| Sand Point | 26,582 | 22,518 | 11,222 | 12,522 | 2,862 | 75,706 |
| Seward | 174 | 4,533 | 144 | 5,742 | 5,875 | 16,468 |
| Togiak | 15,782 | 1,971 | 4,003 | 0 | 0 | 21,756 |
| Unalaska | 4,771,328 | 4,362,451 | 4,357,759 | 3,476,272 | 3,629,068 | 20,596,878 |
| Total Cities | <u>5,160,583</u> | <u>4,508,259</u> | <u>4,436,388</u> | <u>3,584,652</u> | <u>3,757,858</u> | <u>21,447,740</u> |
| GRAND TOTAL | <u>\$5,286,500</u> | <u>\$4,617,769</u> | <u>\$4,508,019</u> | <u>\$3,624,314</u> | <u>\$3,781,803</u> | <u>\$21,818,405</u> |
| Number of Communities Shared With | 16 | 12 | 14 | 15 | 17 | 20 |
| Additional Sharing with DCCED | \$1,102,883 | \$875,527 | \$1,235,290 | \$604,767 | \$576,433 | \$4,394,900 |

2007 Municipal Sales Tax, Special Tax and Revenues

| Municipality | Sales Tax | Revenues | Special Tax | Revenues |
|------------------------------|-----------|-------------|--|---------------------------------------|
| Adak | NR | | NR | |
| Akhiok | NR | | NR | |
| Akiak | NR | | NR | |
| Akutan | No | | 1% Raw Fish Tax | \$420,784 |
| Alakanuk | 4% | \$57,463 | No | |
| Aleknagik | 5% | \$130,873 | 5% Bed Tax | \$4,318 |
| Aleutians East Borough | No | | 2% Raw Fish Tax | \$3,568,691 |
| Allakaket | NR | | NR | |
| Ambler | NR | | NR | |
| Anaktuvuk Pass | NR | | NR | |
| Municipality of Anchorage | No | | 12% Bed Tax/ 8%Car Rental/67.4 mill Tobacco | \$19,021,469/\$4,756,868/\$17,662,355 |
| Anderson | No | | 8% Utility Tax | \$47,824 |
| Angoon | NR | | NR | |
| Aniak | 2% | \$52,719 | No | |
| Anvik | No | | No | |
| Atka | No | | 2% Raw Fish Tax/ 10% Bed Tax | \$26,085/\$3,806 |
| Atkasuk | No | | No | |
| Barrow | NR | | NR | |
| Bethel | 5% | \$5,782,218 | 3% Room/5% Alcohol/5% Gaming | \$75,234/\$62,027/\$457,466 |
| Bettles | No | | \$.02/gal. Fuel Transfer Tax | \$5,711 |
| Brevig Mission | 3% | \$23,030 | No | |
| Bristol Bay Borough | No | | 3% Raw Fish Tax/10% Bed Tax | \$838,199/\$50,174 |
| Buckland | 6% | \$71,469 | No | |
| Chefomak | 2% | \$27,000 | No | |
| Chevak | NR | | NR | |
| Chignik | No | | Landing 1% Salmon, 2% Other/1% Proc. Tax | \$46,684/\$4,509/\$50,860 |
| Chuathbaluk | No | | No | |
| Clarks Point | NR | | NR | |
| Coffman Cove | No | | No | |
| Cold Bay | No | | 10% Bed Tax/\$.04/gal. Fuel Tax | \$18,607/\$41,119 |
| Cordova | 6% | \$2,605,167 | 6% Bed Tax/6% Vehicle Rental Tax | \$134,213/\$19,188 |
| Craig | 5% | \$1,232,048 | 6% Liquor Tax | \$97,222 |
| Deering | 3% | \$16,373 | No | |
| Delta Junction | No | | No | |
| Denali Borough | No | | Sev.Tax \$.05/yd gravel-.05 ton-coal; Bed Tax 7% | \$82,629/\$2,563,023 |
| Dillingham | 6% | \$2,295,601 | 10% Bed & Liquor Tax/6% Gaming Tax | \$67,471/\$245,296/\$117,709 |
| Diomedes | 3% | \$9,015 | No | |
| Eagle | No | | No | |
| Eek | 2% | \$24,000 | No | |
| Egegik | No | | 2% Raw Fish Tax | \$475,289 |
| Ekwok | No | | No | |
| Elim | 2% | \$34,022 | No | |
| Emmonak | 3% | \$146,648 | No | |
| Fairbanks | No | | 8% Bed Tax/ 5% Alcohol Tax/ 8% Tobacco Tax | \$2,606,629/\$1,449,872/\$595,906 |
| Fairbanks North Star Borough | No | | 8% Bed Tax/ 5% Alcohol Tax/ 8% Tobacco Tax | \$1,696,653/\$1,329,404/\$994,039 |
| False Pass | 3% | \$22,382 | 6% Bed Tax | |
| Fort Yukon | 3% | | No | |
| Galena | 3% | \$97,811 | No | |
| Gambell | 3% | \$68,810 | No | |
| Golovin | No | | No | |
| Goodnews Bay | No | | No | |
| Grayling | NR | | NR | |
| Gustavus | 2% | \$187,737 | 4% Bed Tax | \$52,097 |
| Haines Borough | 5.5% | \$2,456,567 | 4% Bed Tax | \$79,890 |
| Holy Cross | No | | No | |
| Homer | 4.50% | \$6,469,481 | No | |

2007 Municipal Sales Tax, Special Tax and Revenues

| Municipality | Sales Tax | Revenues | Special Tax | Revenues |
|---------------------------|-----------|--------------|--|---------------------------------|
| Hoonah | NR | | NR | |
| Hooper Bay | 4% | \$233,507 | No | |
| Houston | 2% | \$165,215 | No | |
| Hughes | No | | No | |
| Huslia | No | | No | |
| Hydaburg | 4% | \$27,011 | No | |
| Juneau, City & Borough of | 5% | \$36,475,000 | 7% Bed Tx/ 3% Liquor Tx/ \$.30 Pack Tobacco Tx | \$1,035,000/\$760,000/\$578,500 |
| Kachemak | No | | No | |
| Take | 5% | \$167,354 | Fisheries Business Tax | \$5,686 |
| Kaktovik | No | | No | |
| Kaitag | No | | No | |
| Kasaan | No | | No | |
| Kenai | 3% | \$4,531,812 | No | |
| Kenai Peninsula Borough | 2% | \$18,204,652 | No | |
| Ketchikan | 3.5% | \$9,084,670 | 7% Bed Tax | \$333,763 |
| Ketchikan Gateway Borough | 2.5% | \$6,249,310 | 4% Bed Tax | \$45,301 |
| Kiana | NR | | NR | |
| King Cove | 4% | \$1,506,588 | 2% Fisheries Tax/Business impact tax-flat | Fish Tax in Sales Tax/ \$87,500 |
| Kivalina | NR | | NR | |
| Klawock | 5.5% | \$540,791 | 6% Bed Tax | \$1,272 |
| Kobuk | NR | | NR | |
| Kodiak | 6% | \$8,136,785 | 5% Bed Tax | \$133,781 |
| Kodiak Island Borough | No | | 10.5 mill Severance Tax/5% Bed Tax | \$1,316,689/\$68,867 |
| Kotlik | 3% | \$78,313 | No | |
| Kotzebue | 6% | \$2,790,336 | 6% Bed Tax/ 6% Alcohol Tax | \$38,432/\$44,903 |
| Koyuk | 2% | \$25,776 | NR | |
| Koyukuk | No | | No | |
| Kupreanof | No | | No | |
| Kwethluk | 5% | \$81,374 | No | |
| Lake & Peninsula Borough | No | | 2% Raw Fish Tax/Guide Fees/6% Bed Tax | \$1,156,477/\$4,273/\$144,939 |
| Larsen Bay | 3% | \$9,324 | \$5 per day bed tax | \$1,310 |
| Lower Kalskag | NR | | NR | |
| Manokotak | 2% | \$27,952 | No | |
| Marshall | 4% | \$54,006 | No | |
| Matanuska-Susitna Borough | No | | 5% Bed Tax, Tobacco Excise Tax 5.2% | \$984,099/\$4,835,770 |
| McGrath | No | | 10% Bed Tax | \$15,039 |
| Mekoryuk | 2% | \$170,502 | No | |
| Metlakatla | No | | No | |
| Mountain Village | 3% | \$114,449 | No | |
| Napakiak | 3% | \$46,962 | No | |
| Napaskiak | No | | No | |
| Nenana | 4% | \$151,428 | Motor Vehicle Tax | \$7,826 |
| New Stuyahok | No | | No | |
| Newhalen | No | | The City does not collect any sales tax | |
| Nightmute | 2% | \$6,432 | No | |
| Nikolai | NR | | NR | |
| Nome | 5% | \$4,200,942 | 4% Bed Tax | \$90,819 |
| Nondalton | 3% | \$500 | No | |
| Noorvik | NR | | NR | |
| North Pole | 4% | \$2,266,932 | No | |
| North Slope Borough | No | | No | |
| Northwest Arctic Borough | No | | No | |
| Nuiqsut | No | | 7% Bed Tax | \$42,000 |

2007 Municipal Sales Tax, Special Tax and Revenues

| Municipality | Sales Tax | Revenues | Special Tax | Revenues |
|---------------------------------|-----------|-----------------------|---|-----------------------------------|
| Nulato | No | | No | |
| Nunam Iqua (Sheldon Point) | 4% | \$7,825 | No | |
| Nunapitchuk | 3% | \$16,645 | No | |
| Old Harbor | 3% | \$19,904 | 10% Bed Tax | \$729 |
| Ouzinkie | 3% | \$11,544 | No | |
| Palmer | 3% | \$3,974,820 | No | |
| Pelican | 4% | \$61,438 | 10% Bed Tax | \$2,757 |
| Petersburg | 6% | \$2,732,977 | 4% Bed Tax | \$39,973 |
| Pilot Point | No | | 3% Raw Fish | \$257,712 |
| Pilot Station | 4% | \$68,734 | No | |
| Platinum | NR | | NR | |
| Point Hope | 3% | \$104,421 | No | |
| Port Alexander | 4% | \$27,510 | 6% Bed Tax | \$2,806 |
| Port Heiden | NR | | NR | |
| Port Lions | No | | 5% Bed Tax | \$6,514 |
| Quinhagak | 3% | \$88,290 | No | |
| Ruby | NR | | NR | |
| Russian Mission | NR | | NR | |
| St. George | NR | | NR | |
| St. Mary's | 3% | \$106,099 | Alcohol Use Tax 3% | \$1,075 |
| St. Michael | NR | | NR | |
| Saint Paul | 3% | \$370,240 | Fish Tax 3% | \$575,397 |
| Sand Point | 3% | \$641,789 | 7% Bed Tax/2% Raw Fish Tax | \$8,669/\$595,703 |
| Savoonga | 3% | \$43,675 | No | |
| Saxman | 3.50% | \$50,914 | No | |
| Scammon Bay | 2% | \$27,104 | No | |
| Selawik | 5% | \$114,833 | No | |
| Seldovia | 2%/4.5% | \$128,976 | No | |
| Seward | 4% | \$3,518,435 | 4% Bed Tax | \$310,570 |
| Shageluk | No | | No | |
| Shaktoolik | NR | | NR | |
| Shishmaref | NR | | NR | |
| Shungnak | 2% | \$2,875 | No | |
| Sitka, City & Borough of | 5%/6% | \$9,800,634 | 6% Bed Tax/50 mill tobacco | \$355,870/\$552,206 |
| Skagway | 4% | \$5,349,484 | 8% Bed Tax | \$156,487 |
| Soldotna | 3% | \$6,807,184 | No | |
| Stebbins | 3% | \$48,904 | No | |
| Tanana | 2% | \$20,314 | No | |
| Teller | 3% | \$15,211 | No | |
| Tenakee Springs | 2% | \$14,844 | Bed Tax 6% | \$1,701 |
| Thorne Bay | 5% | \$250,000 | No | |
| Togjak | 2% | \$84,181 | 2% Raw Fish Tax | \$48,376 |
| Toksook Bay | 2% | \$45,421 | No | |
| Unalakleet | 5% | \$269,125 | No | |
| Unalaska | 2% | \$6,297,674 | 2% Raw Fish Tax/1% Capital Sales Tax/ 5% Bed Tx | \$4,076,762/\$3,149,323/\$143,262 |
| Upper Kalskag | No | | No | |
| Valdez | No | | 6% Bed Tax | \$329,056 |
| Wainwright | No | | No | |
| Wales | NR | | NR | |
| Wasilla | 2.5% | \$11,153,270 | No | |
| White Mountain | 1% | \$9,842 | No | |
| Whittier | 3% | \$258,102 | 3% Passenger Trans. Tax | \$118,244 |
| Wrangell | 7% | \$2,133,767 | 6% Bed Tax | \$26,530 |
| Yakutat, City & Borough of | 4% | \$724,824 | 1% Raw Fish Tax/8% Bed & Car Rental Tx | \$22,993/\$131,236 |
| TOTAL SALES TAX REPORTED | | \$ 172,560,185 | TOTAL SPECIAL TAXES REPORTED | \$82,415,517 |



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

Item D-2(f)(2)

January 28, 2009

Mr. Eric Olson, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99601

Re: Aleutian Islands Processing Sideboards for Pacific Cod in Areas 541 and 542

Dear Mr. Olson:

This letter concerns the proposal to impose a Pacific cod processing sideboard on vessels that benefit from a rationalization program with a processing element. The proposed sideboard would apply to Pacific cod harvested by catcher vessels in the central, and perhaps also the eastern Aleutian Islands (Areas 542 and 541, respectively). The North Pacific Fishery Management Council (Council) plans to consider whether to initiate a formal analysis of this proposal during its upcoming meeting in February.

Fishing industry participants have previously voiced concern that the proposed action may not comply with several of the National Standards for fishery conservation and management, as set forth in the Magnuson-Stevens Fishery Conservation and Management Act (MSA). In response, we have discussed these issues with NOAA General Counsel (NOAA GC). This letter summarizes those discussions so that the Council may consider this information in its determination of whether to proceed with an analysis of the proposed sideboard limit. In short, we encourage the Council to pay particularly close attention to two aspects of National Standard 4: the prohibition against allocations of "excessive shares" of fishing privileges; and the requirement that allocative actions be "reasonably calculated to promote conservation." **Based on our discussions with NOAA GC, these issues do not appear to preclude the proposed action; nonetheless, if the Council chooses to proceed, it needs to provide a rationale that clearly demonstrates that the action satisfies these aspects of National Standard 4.**

A summary of our discussion with NOAA GC follows.

Allocation of Excessive Shares

If the Council decides to proceed with an analysis of the proposed processing sideboard, we suggest that such analysis carefully evaluate whether the proposed action would allow Adak Fisheries or any other entity to acquire an "excessive share" of processing privileges for Pacific cod. Section 301(a)(4)(C) of the MSA requires that any allocation or assignment of fishing



privileges must be “carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.” NMFS’ guidelines at 50 C.F.R. §600.325(c)(3)(iii) provide that “[a]n allocation scheme must be designed to deter any person or other entity from acquiring an excessive share of fishing privileges, and to avoid creating conditions fostering inordinate control, by buyers or sellers, that would not otherwise exist.” Thus, the guidelines suggest it is appropriate to engage in both a quantitative inquiry—whether the allocative scheme enables an entity to acquire a share of fishing privileges that is excessive—and a functional inquiry—whether the action fosters inordinate control by buyers or sellers. Industry participants that may be adversely affected by the proposed sideboard have protested that it effectively allocates an excessive share of processing privileges to Adak Fisheries.

If the Council chooses to pursue an analysis of the proposed Pacific cod processing sideboard, we encourage the Council to begin building a factual record which demonstrates that the proposed action deters acquisition of excessive shares and does not foster inordinate market control by any of the shoreside processors that would benefit from the Council’s proposed action. In doing so, it is important that the Council clearly identify the appropriate yardstick against which to measure the “shares” of processing privileges that may be acquired under the proposed action. Should the relevant “shares” be conceived as: a proportion of the BSAI-wide TAC for Pacific cod; a proportion of that part of the BSAI-wide TAC for Pacific cod that has been allocated to the catcher vessel sector; or a proportion of the amount of Pacific cod that one would expect catcher vessels to harvest in the areas subject to the sideboard (i.e., Area 542, or combined Areas 541 and 542)? The choice of an appropriate yardstick for determining the relevant “share” at issue substantially affects the “excessive share” analysis. For example, the proposed options based on historic data included in the Council’s discussion paper appear to result in a proposed sideboard that could allow shoreside processors and non-rationalized floating processors access to upwards of 90% of the Pacific cod harvested by catcher vessels in Areas 541 and 542. This equates to about 6% to 7% of the overall BSAI Pacific cod TAC that would be available to these same processors (See pp. 39 and 51 of the February 2009 discussion paper).

Should the Council proceed with this proposed action, we encourage the Council to explain why, from a policy perspective, it is appropriate to measure the sideboard limit relative to the chosen yardstick, given the current management scheme for Pacific cod, the current participants in the fishery and the nature of their fishing activity, including its timing and location, and the “excessive shares” and “inordinate control” inquiries provided for under NMFS’ guidelines. Such an explanation should support the Council’s action and enable the Secretary to determine whether the action complies with National Standard 4. Issues to consider may include the following: As a practical matter, do the affected catcher vessels have the leeway to fish elsewhere, outside of Areas 541 and 542? Do the affected catcher vessels have the means to deliver Pacific cod caught in these areas to shoreside processors other than Adak Fisheries? How do these considerations influence Adak Fisheries’ ability to exert inordinate control as a buyer?

Finally, no matter which yardstick it chooses to measure the sideboard against in conducting an analysis of the “excessive shares” issue, we encourage the Council to explain why the processing shares at issue are not “excessive” and do not foster inordinate control by Adak Fisheries or other

shoreside processors that may purchase Pacific cod from catcher vessels. Especially if the sideboards would enable Adak Fisheries, another shoreside processor or a non-rationalized floating processor to acquire access to processing shares that represent roughly 20% of the relevant amount of harvest, the Council's analysis should explain why it would not foster inordinate control for an entity to obtain such a share of the processing privileges.

Two factors may weigh against a conclusion that the proposed sideboard limit might allocate an excessive share of processing privileges to Adak Fisheries, or any other entity. First, the proposed sideboard limit does not mandate delivery of any amount of Pacific cod to any particular shoreside processor. Rather, the proposed action merely limits delivery of a portion of the catch to a class of entities—rationalized floating processors – which effectively allows access for shoreside processors and floating processors that do not participate in the rationalized fisheries. Thus, the proposed sideboard does not ensure that Adak Fisheries or any other entity will receive any minimum amount of Pacific cod for processing.

Second, the TAC for Pacific cod is not subdivided geographically, but is instead established for the BSAI region as a whole. Therefore, within practical limits, catcher vessels may fish for Pacific cod in the location of their choosing within the federal waters of the BSAI, and may simply choose to refrain from fishing for Pacific cod in the areas subject to the sideboard limits. This likewise means that the proposed sideboards do not guarantee some minimum amount of Pacific cod will be processed by Adak Fisheries or any other shoreside processor or non-rationalized floating processor. Moreover, this may limit the degree to which Adak Fisheries or any other processor not subject to the sideboard can exert inordinate control as a buyer. Nevertheless, it is important that any subsequent analysis by the Council carefully consider the probable effect of the proposed action on shoreside processors' ability to exert inordinate control. The proposed sideboard must adequately deter Adak Fisheries and other entities from acquiring an "excessive share" of processing privileges.

Reasonably Calculated to Promote Conservation

If the Council decides to proceed with an analysis of the proposed action, we also suggest that the Council clearly articulate the conservation objectives that may be achieved by the proposed sideboard. Under National Standard 4, any allocation or assignment of fishing privileges must be "reasonably calculated to promote conservation." NMFS has construed "conservation" fairly broadly for purposes of compliance with National Standard 4. NMFS guidelines at §600.325(c)(3)(ii) suggest that an allocation scheme "may promote conservation (in the sense of wise use) by optimizing the yield in terms of size, value, market mix, price, or economic or social benefit of the product." Industry participants that may be affected by the sideboard have questioned whether the proposed action is reasonably calculated to promote conservation.

To date, the Council's discussion papers for the proposed sideboard have made limited reference to social benefits to the local fishing communities that may result from the proposed sideboard. The December 2008 staff discussion paper states:

Proponents of the proposed action from Adak contend that lack of sideboards on processing of Pacific cod harvested in the Eastern and Central Aleutian Islands preempts a significant opportunity for Pacific cod harvests to benefit vessels operating out of Adak and delivering their catch to its shorebased processor. The transient markets provided by

mobile floating processors (motherships) undermine community stability by operating only during the most profitable part of the season. They contend that this makes it difficult for shorebased processors to remain in business and provide the year-round markets necessary for smaller vessels engaged in a suite of different fisheries.

If the Council decides to proceed with an analysis, we encourage the Council to clearly, explicitly, and more thoroughly articulate the conservation objectives of the proposed action. The Council should consider discussing these goals in light of the management objectives set forth in the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Area (BSAI FMP) , which include, for example, a goal to promote “sustainable opportunities for recreational, subsistence, and commercial fishing participants and fishing communities.”

The Council has indicated that this proposed action is intended to minimize or eliminate unintended adverse consequences of the rationalized fisheries. If, by eliminating or reducing these adverse effects, the proposed action also furthers any of the conservation objectives that underlie the rationalized fisheries, we encourage the Council to address these conservation benefits as well.

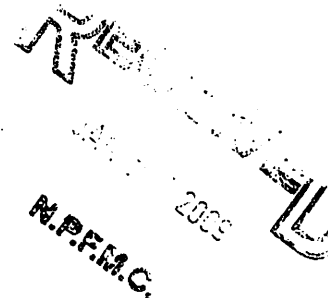
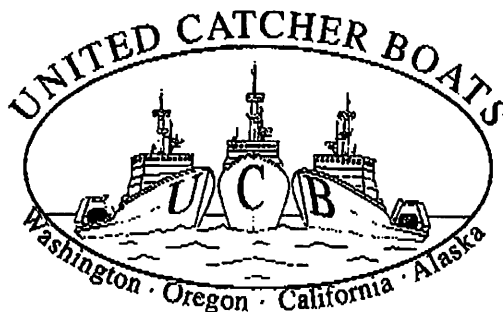
Finally, we note that articulation of a conservation objective will also obviate concerns that have been raised regarding the proposed sideboards’ conformity with National Standard 5. National Standard 5 prohibits the adoption of a conservation and management measure that has economic allocation as its sole purpose.

In conclusion, we encourage the Council to evaluate the ways in which the proposed Pacific cod processing sideboards in these two areas of the Aleutian Islands comply with all the National Standards, but in particular to carefully evaluate the proposed action in light of the elements of National Standards 4 and 5 discussed above, and to clearly set forth its rationale for determining that the proposed action meets these standards.

Sincerely,



Robert D. Mecum
Acting Administrator, Alaska Region



Mr. Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99601

January 27, 2009

Re: D-2(f) – Aleutian Islands Processing Sideboards for Pacific Cod in areas 541 and 542

Dear Eric:

I am writing to you on behalf of the 63 members of United Catcher Boats (UCB) to comment on agenda item D-2(f) AI Pacific Cod Processing Sideboards. As you know many of our members participate in and depend on the trawl catcher vessel in the Bering Sea and Aleutian Islands. It is our strong belief that if enacted this package will undermine the management of the BSAI catcher vessel cod fishery and will harm longstanding stakeholders (many of which are UCB members) that depend on that fishery. UCB, therefore, opposes any further action on AI Pacific cod sideboards and recommends that this package be tabled indefinitely.

As the discussion paper makes clear this action is quite flawed and raises a number of serious impairments that should bar further action. The issues that are most evident to the members of UCB include:

- The *anti-competitive* effect of this action;
- The *foreseeable impacts* of this action, and
- The fact that this action cannot comply with applicable law.

Anti-Competitive Effect: As a general matter, the members of UCB believe that increasing processing opportunities and fostering competition among processors is critical for the economic health of our sector. More processing competition simply creates better prices for all harvesters regardless of where they deliver their fish. In fact the high cod prices in the Aleutian Islands sub-area last year resulted in part from processors competing to buy cod fish from trawl catcher vessels. The increased prices created by this competition benefited AI cod harvesters, communities, and local governments alike.

By restricting processing options and creating a monopoly in the Aleutians this package is clearly moving in the wrong direction. Fewer processing options will undermine the harvester's negotiating leverage – likely resulting in lower prices, and fewer services. The leverage that this package takes from harvesters is unfortunately transferred to Adak Fisheries, LLC, which as a result will gain an excessive and unhealthy control of the AI cod fishery – which in our view is an unacceptable outcome.

Reasonably Foreseeable Impacts: We expect that this action will drive cod operations into the Eastern Bering Sea (EBS) cod fishery and/or the GOA, raising significant PSC concerns as a direct result. Because the EBS cod fishery has a much higher Halibut Mortality rate than the AI cod fishery, increased effort into that fishery could result in PSC related closures which would affect both the BS and AI cod fisheries given that Pacific cod is BSAI wide and controlled by the same Halibut Mortality limits. The obvious irony here is that this action in attempting to protect and benefit Adak Fisheries, LLC jeopardizes the very fishery that the beneficiary of this action depends on. Obviously, such a foreseeable impact is also on its face inconsistent with National Standard 9's requirement that "management measures, to the extent practicable...minimize bycatch." At the very least an attempt to move forward with this package should only be contemplated AFTER the AI and BS cod split is completed.

Restricting opportunities in area 541 and 542 is also very likely to drive AI cod operations west into area 543 raising SSL concerns in the process. Because area 543 could see management restrictions following the SSL BIOP, such a foreseeable outcome also implicates National Standard 6 which requires that "management measures take into account and allow for contingencies in fisheries, fishery resources, and catches."

Finally, restricting markets for Pacific Cod in areas 541 and 542 is likely to result in vessels running cod fish to other markets. Not only does increased running raise a harvester's costs and fosters increased fuel usage, it also raises safety issues particularly for smaller catcher vessels, possibly violating National Standard 10's requirement that "management measures promote the safety of human life at sea."

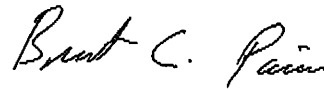
Other Applicable Law: Finally, we see no way that this action's record can address the national standards a NOAA GC counseled us to do in December. First, this action fails National Standard 4 because it does not lead to allocations that are: (a) fair and equitable; (b) reasonably calculated to promote conservation; and (c) implemented in such a way that no one person acquires an excessive share of privileges. MSA § 301(a)(4). In fact, while the MSA requires that each of National Standard 4's steps be met – this action fails them all. Second, the proposed action is inconsistent with National Standard 5 because it has no positive impact whatsoever on the utilization of fishery resources except to take economic opportunities away from the historic AI participants and allocate them to one relatively new business enterprise. Third, as discussed above this action on its face cannot survive scrutiny under National Standards 6, 9, or 10. Fourth,

as has become evident in public testimony the impacts of this action on the community of Atka present a real National Standard 8 quandary to you. Lastly, because this action results in a net economic, management, and environmental loss it fails executive order 12866.

For the above reasons the members of UCB respectfully request that this action be tabled. However, if you decide to move forward with this package we ask that it be restructured to better address the concerns we've raised in this letter.

I appreciate the opportunity to submit these comments on behalf of UCB, and look forward to discussing this issue with you and other Council members in greater detail at the February meeting.

Sincerely yours,



Brent C. Paine

Groundfish Forum

4241 21st Avenue West, Suite 302
Seattle, WA 98199
(206) 213-5270 Fax (206) 213-5272
www.groundfishforum.org

January 27, 2009

Mr. Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99601

Re: D-2(f) Aleutian Islands Pacific cod processing sideboards

Dear Chairman Olson,

I am writing you on behalf of Groundfish Forum, an association of Amendment 80 trawl catcher-processors that fish in the Bering Sea, Aleutian Islands and Gulf of Alaska. Our members target Pacific cod, flatfish, rockfish and Atka mackerel, and we are concerned about the proposed action to sideboard Pacific cod processing operations in the Aleutian Islands.

The proposed sideboards are in response to claims by Adak Fisheries that they need protection from cod mothership operations conducted by, among others, Amendment 80 vessels. Representatives from Adak have stated that Amendment 80 vessels are 'taking advantage' of rationalization to negatively impact Adak. However, we believe that 1) the combined result of Amendments 80 and 85 is that more cod is available for shoreside operations such as Adak Fisheries, 2) NMFS has specifically recognized that Amendment 80 vessels have and will continue to operate as motherships, and 3) limiting catcher vessel deliveries in the Aleutians may result in an increase in overall halibut bycatch by forcing cod fisheries into the Bering Sea, as well as other negative impacts on catcher vessels and the industry as a whole.

Pacific cod harvest

As you know, Amendment 80 was implemented in 2008 concurrently with Amendment 85, which allocated Pacific cod among various sectors in the Bering Sea and Aleutian Islands. The Amendment 80 sector's access to cod was dramatically reduced by Amendment 85. In fact, while deliveries of cod from the federal fisheries to Adak Fisheries dropped about 56% from 2007 to 2008 (see Table 5 of the discussion paper), Pacific cod harvest by Amendment 80 vessels in the Eastern and Central Aleutian Islands (the area in question) decreased by over 70% (over 6,200 tons) in the same period of time. Catcher vessel deliveries to Amendment 80 vessels increased by less than 1,000 tons. The net result was an overall decrease of over 5,000 tons of cod to the Amendment 80 sector in this area.

This reflects the severe restrictions imposed on our sector by the Amendment 85 cod allocations. Small shore-side vessels (of the type that could deliver to Adak Fisheries) benefited from the reallocation of cod under this Amendment, as did the catcher vessels

JAN 28 2009
N.P.F.M.C.

who ultimately receive any unused small-boat allocation. Adak Fisheries may have lost fish due to competition with other entities; our sector lost it due to regulatory action.

Mothership operations in the Amendment 80 sector

Amendment 80 vessels have participated in mothership operations in the Aleutian Islands in the past. NMFS recognized this when it reversed a provision in the proposed rule for Amendment 80 that would have prohibited deliveries from the Bering Sea limited access sector. The final rule for Amendment 80 states that:

This revision will allow the one entity that NMFS has identified as currently receiving unsorted catch from a catcher vessel in the BSAI trawl limited access fishery to continue to do so. This revision will accommodate potential future growth in the use of Amendment 80 vessels as mothership vessels for vessels in the BSAI trawl limited access fishery. (72 CFR 52678, September 14, 2007, response to comment 5)

NMFS recognized that mothership operations had occurred in the past, and should be allowed to continue and even increase.

Effects of limiting mothership operations in the Central and Eastern AI

The Pacific cod fishery in the Aleutian Islands uses significantly less halibut bycatch than the cod fishery in the Bering Sea. Limiting fisheries in the Aleutians will push vessels into Bering Sea cod, resulting in more halibut bycatch. This is only one of numerous potential negative impacts of this action. We refer you to the letter submitted to the Council by United States Seafoods dated September 24, 2008 for a detailed discussion of the practical and legal ramifications of processing sideboards. We also refer you to comments on page 48 of the discussion paper which highlight the possibility that limiting processing opportunities may not only reduce the price received by catcher vessels, but may also result in stranded fish if shoreside operations are unable or unwilling to take deliveries.

In short, we appreciate that Adak has seen a decline in deliveries and that they are struggling to create a viable operation under difficult circumstances. However, the request by Adak Fisheries to sideboard our operations in the Aleutian Islands cod fishery does not reflect the nature of our cod harvest, the intent of Amendment 80, or the best interests of the industry as a whole.

Thank you for the opportunity to comment.

Sincerely,



Lori Swanson
Executive Director

Mr. Eric Olson, Chair
North Pacific Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99601

RECEIVED
JAN 29 2008

N.P.M.C.

Re: D-2 (f) AI Processing Sideboards for Pacific Cod in areas 541 and 542

Dear Eric:

I am writing in behalf of @ least 1 United Catcher Boat member who would like to comment on agenda item D-2(f), AI Pacific Cod Sideboards. I have participated in The Aleutian Island Cod fishery for over 20 years. Prior to 1998 the only way that a catcher vessel could participate would be to fish for a mother ship as there were no floating processors that would take the risk and expense to process AI cod. It was too much a gamble they all proclaimed.

In 1998 ADAK Fisheries opened their doors and invited anyone who wanted to fish out in the Aleutian Islands were welcome to come there. The 1st couple years there were just a handful of boats who would take the risk and expense to fish for this struggling fish plant. Over the course of the next few years and Millions of dollars invested in the ADAK Fisheries plant more and more vessels came to work for this small upstart.

Then In 2006 Unimak Pass had a bad year class of Cod and all of a sudden the small upstart plant in Adak had a larger than average market share of the BSAI cod fishery. This was unacceptable to the big Dutch Harbor shoreplants so they decided to inundate the AI with floating processors to put a stop to this Unfair market. Where were all these floating processors when there was an open quota and a huge need for them? They weren't even interested until it was proven that it could be a viable fishery. ADAK Fisheries has not only been competitive w/ Dutch Harbor @ times they have exceeded the Dutch Harbor prices set by the larger cod processors, much to their

detriment.

I applaude the package that gives the pioneers of such a gamble a small advantage over those who sit back and wait for everyone else to take the risks. It's high time that the "lirtle" guy got a break.


ADAK Fisheries @ the moment is the primary support for the City of Adak and also the only place I can deliver my fish, because there are no other processors that start early enough to take advantage of the January 20th opening. It isn't economically to their advantage to start this early, so as usual we wont see any of them until the fishery peaks about mid-february. That would be no advantage to me and the other vessels that fish here for the entire A and B cod season.

I fully support Processing Sideboards in the Aleutian Island Cod fishery.

Thank you,

Sincerely, David Willmore owner/operator F/V Muir Milach.

A handwritten signature in black ink, appearing to read 'D Willmore', with a long horizontal flourish extending to the right.

| | |
|---|---|
|  | <p>Corporate Offices 800 E. Diamond Blvd., Suite 3-400 Anchorage, AK 99515-2043 Phone: 907-561-3400 Fax: 907-561-3401</p> |
|---|---|

January 26th, 2009

Eric Olson, Chair
North Pacific Fishery Management Council
605 W 4th Ave Suite 306
Anchorage, Alaska 99501

Re: Agenda Item D-2(f): Discussion paper on sideboards for AI Cod Processing

Dear Eric,

Adak Fisheries is almost totally dependent on the un-rationalized CV P. cod fishery. In 2008 we were gravely impacted by expanded processing effort in the AI by beneficiaries of rationalization in other crab and Am. 80 fisheries.

The staff discussion paper provides a solid documentation of the problem reflected in the draft problem statement, and provides the basis of a full analysis.

We request that the Council initiate an EA/RIR on the measures to provide sideboard protections for central AI communities.

As the one remaining area without protections for shorebased processing, we come before you without allies.

Most of the testimony you receive will be against taking action, but we ask you to go through a full analysis before making a decision.

Some of the testimony will claim that processing sideboards are inconsistent with the National Standards and anti-competitive. We think what is anti-competitive is having to compete against processors who don't have to compete with each other in their rationalized fisheries and then turn around and use their excess capacity in our primary fishery. We are not asking that they be excluded from the fishery, but merely limited to their historic average deliveries.

The discussion paper does a good job of scoping the National Standards issues. Our comments on the national standards follow:

National Standard 1

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

None of the alternatives considered in this action would affect overfishing of groundfish in the AI. The alternatives would also not affect, on a continuing basis, the ability to achieve the optimum yield from each groundfish fishery.

National Standard 2

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

The analysis for this amendment is based upon the most recent and best scientific information available.

National Standard 3

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

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

National Standard 4

Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation shall be:

- (A) fair and equitable to all such fishermen,*
- (B) reasonably calculated to promote conservation, and*
- (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.*

(A) - The proposed alternatives would be implemented without discrimination among who can harvest. The sideboards, if adopted, would only limit who could buy fish. Every rationalized fishery has had harvesting sideboards. Fairness requires that sideboards also apply to processors who have benefited from rationalization.

(B) - Without sideboards, the AI cod fishery is the dumping grounds for excess processing capacity from rationalized fisheries. That excess processing capacity in a derby fishery in turn attracts additional harvest capacity, intensifying the race for fish. Sideboards could help mitigate against local overharvest. To the extent that it encourages harvest in 543, that is consistent with distributing effort proportional to the distribution of biomass.

The National Standard guidelines construe the definition of conservation broadly, and include social benefits. Part of promoting conservation, is promoting community stability that is undermined by transient markets.

(C) - The proposed sideboards do not guarantee any processing privileges.

Even if sideboards allow Adak to once again receive our 2003-2007 average of 71.5% of 541/542 CV cod deliveries, that 7,000 tons only represents 15% of BSAI CV cod deliveries, or less than 5% of the BSAI cod TAC, and less than 0.5% of the BSAI OY. Additionally, the 7,000 tons needs to be viewed in context of the allocations, some of which are an order of magnitude higher, that entities that would be subject to the proposed sideboards enjoy in their other fisheries.

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.

Adak Fisheries utilization of cod exceeds that of the offshore processors impacted by this action. Adak utilizes virtually the whole fish with by-products including: sugar salted roe, cod liver oil, milt, stomachs and split heads.

National Standard 6

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

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

National Standard 7

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

This action does not duplicate any other management action. It would extend to the AI protections for shorebased processing to some degree similar with regulatory actions that have been taken to protect shorebased processing for the GOA and EBS communities

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.*

(A) - This goes to the heart of the problem statement. The sustained participation of the community of Adak is being undermined by the status quo.

(B) - The intent of the proposed action is to minimize the impact to Adak that has resulted from changes in behaviour by offshore processors that are beneficiaries of rationalization in their other fisheries.

National Standard 9

Conservation and management measures shall, to the extent practicable,

- (A) minimize bycatch, and*
- (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.*

This action does not constrain where anyone can fish for cod. No one is required to fish in a different area from their historic patterns. This action only limits deliveries to processors who benefited from rationalization.

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National Standard 10

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

The alternatives proposed should have no effect on safety at sea, except to the extent that they may mitigate an increase in effort above levels of recent years in the

Community Stability

Adak's existence as sustainable fisheries dependent community rests on a foundation of cod. We are the only area in Alaska without shorebased protections for our primary fishery.

Tables 9 & 12 together tell the story of how this issue came to a head in 2008. We went from an average 2003-2007 average of 71.5% of the CV landing in the central AI, down to 42.2% this year. We don't have another rationalized fishery to fall back on. Cod is our lifeline.

The Simplest Sideboard

Our first preference was for a onshore delivery preference for some portion of the CV cod harvested in Area 541 & 542 that was reflective of what has been delivered shoreside in our region. That is the measuring stick to use as a reference when evaluating the National Standard 4 requirement for "fair and equitable" treatment.

Proposed 542 Option

At the December meeting you added an option of limiting the action to 542. It is clear from the new information in the discussion paper that 89% of landings to Adak have come from 541. A sideboard that only applied to 542 circumvents the whole point of having sideboards.


Alternatives

While you are not yet to the step of selecting alternatives, we have one general comment on a preferred alternative. No other sideboards have been based on the "best" of the qualifying years. Other sideboards have been based on the average of the qualifying years.

If a start date option is pursued, we support Suboption 2. As with sideboard amounts, prior participation and dependence is best reflected by the "average" date rather than the "best" date.

We thank the Council and staff for their work in moving this analysis forward and ask that you take the next step of initial review of an EA/RIR.

Sincerely,



dave fraser
Adak Fisheries

Adak Community Development Corporation

JAN 28 2009

January 27th 2009

Dear Chairman Olson,

The Adak Community Development Corporation is writing this letter to ask you to continue working on the AI Cod Sideboards issue.

The discussion paper does a good job of laying out the issues and pointing out the real problem our community is facing.

Every other thriving Alaska coastal fishing community has had the benefit of some kind of protection from offshore processors.

Adak depends on the cod fishery and needs some kind of protection from floating processors who have gotten the benefit from rationalization in their other fisheries.

The floaters can come and go and take the cream, but they don't provide stability and year around markets.

Adak really doesn't have any other major fishery. Our town needs a processor that can stick around for the minor fisheries that smaller catcher vessels depend on, like halibut and sablefish and pot cod fishing.

We are asking that you move the analysis ahead so there will at least be a chance of something being in place next year to provide a little more stability for our town down the road.

Rick Koso



ACDC

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