

American Fisheries Act and Crab Rationalization
Sideboard Limit Discussion Paper
June 2017¹

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1 Introduction

The North Pacific Fishery Management Council (Council) received a report on the American Fisheries Act (AFA) Program review at the February 2017 meeting (Northern Economics 2017). The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires a formal and

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detailed review of a limited access privilege program five years after the implementation of the program, and thereafter to coincide with scheduled regional fishery management council review of the relevant fishery management plan (FMP) (but no less frequently than once every 7 years). The AFA Program was reviewed under this mandate in 2017.

As part of the review, NMFS identified an area for improvement in the management of the AFA Program. To streamline and simplify the management of the sideboard limits included under the AFA, NMFS recommended revising regulations to prohibit directed fishing by non-exempt AFA vessels for those species (and any future break-out or combination of these species) where the sideboard limits are not large enough to support a directed fishery. NMFS would then no longer publish AFA sideboard amounts for these species in the annual harvest specifications. The Council requested a discussion paper to analyze this proposed action to come back to the Council in June 2017.

At the April 2017 Council meeting, NMFS notified the Council that it would expand the discussion paper to include analysis of revising regulations to prohibit directed fishing by crab vessels in the Crab Rationalization Program (CR Program) in the Gulf of Alaska (GOA) for those species with sideboard limits that are not large enough to support a directed fishery, similar to the proposed action for non-exempt AFA sideboards. This discussion paper examines the potential for using regulations to close directed fishing for species with both AFA and CR Program sideboard limits that are not large enough to support a directed fishery or for those species that are fully allocated to other programs (e.g., flathead sole, rock sole, Western Aleutian Islands Atka mackerel). There are some sideboard limits that are large enough to support a directed fishery that would not be affected by this potential regulatory change.

The Council has used sideboard limits as measures to protect other fisheries from “spillover” effects resulting from the rationalization of fisheries into catch share programs. Spillover effects could occur if fishing effort is displaced from a catch share program, or if there is an increase in fishing efforts by participants in catch share programs due to the flexibility afforded to those participants that are no longer engaged in a race to fish. However, for some species, the sideboard limits established to limit increases in fishing effort are too small for NMFS to allow directed fishing. This discussion paper examines a possible modification to how NMFS manages these sideboard limits under both the AFA and CR Programs to meet the intent of minimizing spillover effects as well as simplifying the administration of those sideboard limits. NMFS would continue to publish sideboard limits through the annual harvest specifications and open those fisheries with sufficient sideboard limits to allow directed fishing.

2 AFA Sideboard Limits

Background

Congress passed the AFA² in October 1998 to implement additional U.S. ownership requirements for vessels harvesting fish from the exclusive economic zone. The AFA was implemented as Amendment 61 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area/Amendment 61 to the Fishery Management Plan for Groundfish of the Gulf of Alaska/Amendment 13 to the Fishery Management Plan for King and Tanner Crab of the Bering Sea and Aleutian Islands/Amendment 8 to the Fishery Management Plan for the Scallop Fishery off Alaska (67 FR 79692; December 30, 2002).

The purpose of the AFA was to tighten U.S. ownership standards that had been exploited under the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Public Law 100–239) and to provide

² Enacted as Title II of Division C – Other Matters, of Public Law 105–277, approved October 21, 1998 (112 STAT. 2681, 2681-616), the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999.

the Bering Sea (BS) pollock fleet the opportunity to conduct their fishery in a more rational manner (i.e., stopping the race for fish) while protecting non-AFA participants in the other fisheries. The AFA established sector allocations in the Bering Sea pollock fishery, determined eligible vessels and processors, allowed the formation of cooperatives, set limits on the participation of AFA vessels in other fisheries (sideboards), and imposed special catch weighing and monitoring requirements on AFA vessels. The AFA divided the available BS pollock directed fishing allowance among three harvesting sectors, after Community Development Quota allotments and an allowance for incidental catch of pollock harvested by vessels targeting non-pollock species were deducted (NMFS 2015).

Sideboard limits

Portions of the following discussion on AFA sideboards are excerpted from the AFA Program Review (Northern Economics 2017). By providing AFA vessel owners with fixed allocations and the ability to effectively consolidate or otherwise improve the efficiency of their BS pollock operations, the AFA could potentially have provided an opportunity for AFA vessel owners to expand into other fisheries that would not otherwise have been available. To limit these expansions, the AFA created harvesting and processing restrictions, known as sideboards, on AFA vessels in non-pollock groundfish, crab, and scallop fisheries in the Bering Sea and Aleutian Islands (BSAI) and GOA (Section 211 of the AFA). The AFA also specified restrictions for prohibited species, as well as harvesting and processing limits for BSAI crab species for AFA vessels. While the AFA created specific restrictions for AFA vessels in non-pollock fisheries, the AFA also allows the Council to develop and recommend conservation and management measures necessary to protect other fisheries from potential adverse impacts from the AFA Program.

NMFS manages the restrictions created in the AFA as sideboard fisheries and uses directed fishing closures to restrict non-exempt AFA vessels from directed fishing in those sideboard fisheries. In general, NMFS will open a fishery for directed fishing if it determines that the annual harvest limit for any individual species or species group is large enough to support directed fishing. In many instances however, directed fishing closures are made at the start of the season, and certain species are never available for directed fishing. If NMFS closes a species to directed fishing, then vessels may not retain that species at levels in excess of maximum retainable amounts (MRA), which have been set in regulation for each species.

NMFS takes a similar approach with respect to managing AFA sideboard limits for groundfish species. The agency makes an initial determination at the beginning of the fishing year regarding the fisheries in which AFA vessels are likely to participate, based on historical participation, TACs, prohibited species catch (PSC) limits, and other apportionments and regulations. For some species, NMFS actively manages sideboard limits; for the other sideboard species, NMFS closes the sideboard species to directed fishing by AFA vessels, typically at the beginning of the fishing year (Northern Economics 2017). Other reasons a directed fishery may not be opened could include: species is fully allocated to other catch share programs (e.g., Amendment 80 rock sole and flathead sole), directed fishing for a species is closed for all sectors (e.g., other rockfish and squids), lack of markets for a species (other flatfish), or directed fishing is not supported by PSC limits (e.g., for the BSAI trawl limited access sector).

NMFS places species in sideboard fisheries that are closed to directed fishing by AFA vessels at the beginning of the year, or are closed to directed fishing for reasons other than the sideboard limit, on “bycatch-only” status. Vessels may retain these species if caught incidentally up to the MRA. If incidental catch amounts approach the TAC, then NMFS could place these sideboard species on “PSC” status.

The sideboard limit ratios were calculated as percentages of the total allowable catch (TAC) based on the aggregate retained catch of AFA vessels in the sideboard fisheries from 1995 to 1997. The ratio remains the same year to year, but is applied to the current year’s initial TAC (ITAC) for the species to determine

the yearly sideboard limit. Sideboard limits are separated by vessel type (catcher vessel, catcher/processor), NMFS management area (BSAI, GOA), and may be further delineated by gear type and/or season. The exception to this rule is the calculation of the Atka mackerel sideboard limit in the Central and Western Aleutian Islands for AFA catcher/processors, which is set as a fixed percentage of the TAC under section 211(b)(2)(c) of the AFA and the regulations at 50 CFR § 679.64(a)(1)(ii). Because some catcher vessels that qualified under the AFA were much more focused on fisheries other than pollock, the Council added some exemptions to the sideboard harvesting limits—thereby exempting certain catcher vessels from certain sideboard limits. **This discussion paper focuses on the non-exempt vessels that are subject to the sideboard limits.**

Some of the AFA sideboards were modified by the Amendment 80 Program (72 FR 52668; September 14, 2007). As NMFS noted in the proposed rule for the Amendment 80 Program, the allocation of exclusive harvest privileges to the Amendment 80 sector substantially reduced the amount of ITAC available for harvest by other trawl vessels, including AFA vessels (72 FR 30052, 30070-71; May 30, 2007). The portion of the ITAC assigned to the Amendment 80 sector is not available to other participants, thereby limiting the ITAC available to the BSAI limited access sector. The allocation of ITAC to the Amendment 80 sector constrained the AFA sideboard limits for Amendment 80 species, except for yellowfin sole, which is not sideboarded for AFA vessels when the ITAC is equal to or greater than 125,000 metric tons (mt). As an example, for catcher/processors, the sideboard ratio for Central Aleutian Islands Atka mackerel is 11.5 percent, however, the percentage of the ITAC that goes to the limited access sector is only 10 percent, so the sideboard is constrained to the allocation to the limited access sector. Because some of the AFA sideboards for Amendment 80 species are fully allocated to Amendment 80, NMFS does not open those sideboard fisheries.

Catcher vessel GOA groundfish harvesting sideboard limits

Many of the sideboards for non-exempt AFA catcher vessels for GOA groundfish species are not opened for directed fishing because the sideboard limits are not large enough to support a directed fishery (e.g., skates, Atka mackerel, several rockfish species). NMFS annually publishes in the groundfish harvest specifications a list of these sideboard fisheries closed to directed fishing (Table 30; 82 FR 12032; February 27, 2017). Unless there were significant declines in the major GOA stocks, such as pollock and Pacific cod, it is highly unlikely that the TACs of any of the AFA sideboard species would increase significantly enough to result in a high enough sideboard limit to allow directed fishing.

Table 2-1 shows the GOA groundfish species that are closed annually due to the small sideboard ratios, and associated small sideboard limits, for which NMFS recommends prohibiting in regulation directed fishing by non-exempt AFA catcher vessels.

Even with high TACs, these sideboard ratios result in sideboard limits that are too small to open for directed fishing. For example, for 2017, using the sideboard ratio of 0.0029 for Rex sole in the Eastern GOA, the sideboard limit was set at 6 metric tons. Unless there were significant declines in the major GOA stocks, such as pollock and Pacific cod, it is highly unlikely that the TACs of any of the AFA sideboard species would increase significantly enough to result in a high enough sideboard limit to allow directed fishing.

Table 2-1 AFA Catcher Vessel GOA Sideboard Ratios Proposed for Replacement with Prohibition on Directed Fishing

Target species	Area	Sideboard ratio ³	2017 sideboard limit (mt)
Pacific cod	Eastern inshore	0.0079	42
	Eastern offshore	0.0078	5
Shallow-water flatfish	Eastern	0.0126	54
Deep-water flatfish	Western	0.0000	-
Rex sole	Eastern	0.0029	6
	Western	0.0007	1
Arrowtooth flounder	Eastern	0.0002	3
	Western	0.0021	30
Flathead sole	Eastern	0.0009	3
	Western	0.0036	31
Pacific ocean perch	Western	0.0023	6
Northern rockfish	Western	0.0003	0
Dusky rockfish	Western	0.0001	0
	Central	0.0000	-
	Eastern	0.0067	2
Demersal shelf rockfish	SEO district	0.0020	0
Sculpins	GOA	0.0063	35
Squids	GOA	0.0063	7
Sablefish ⁴	Western	0.0000	-
	Central	0.0642	58
	Eastern	0.0433	9
Shortraker rockfish ⁴	Western	0.0000	-
	Central	0.0218	7
	Eastern	0.0110	10
Rougheye rockfish ⁴	Western	0.0000	-
	Central	0.0237	17
	Eastern	0.0124	6
Thornyhead rockfish ⁴	Western	0.0280	8
	Central	0.0280	28
	Eastern	0.0280	19
Other rockfish	Central	0.1699	261
	Eastern	0.0000	-
Atka mackerel	GOA	0.0309	93
Big skate	Western	0.0063	6
	Central	0.0063	12
	Eastern	0.0063	7
Longnose skate	Western	0.0063	0
	Central	0.0063	16
	Eastern	0.0063	4
Other skates	GOA	0.0063	12
Sharks	GOA	0.0063	28
Squids	GOA	0.0063	7
Octopuses	GOA	0.0063	31

Source: Table 18 –Final 2017 GOA Non-Exempt American Fisheries Act Catcher Vessel Groundfish Harvest Sideboard Limits (82 FR 12032; February 27, 2017)

³ Determined using a ratio of 1995 to 1997 AFA CV catch to 1995 to 1997 TAC.

⁴ Closures not applicable to participants in cooperatives conducted under the Central GOA Rockfish Program.

Catcher vessel BSAI groundfish harvesting sideboard limits

Additionally, many of the BSAI groundfish harvesting sideboards for non-exempt AFA catcher vessels are not opened for directed fishing because the sideboard limits are not large enough to support a directed fishery. Even at high TACs, these sideboard ratios are not big enough to support a directed fishery. While TACs may be subject to variation, in the BSAI the Council has to balance TACs between target species categories to stay under the 2.0 million metric ton optimum yield cap (see § 679.20(a)(1)(i)(A)). Unless there were significant declines in the major BSAI stocks, such as pollock and Pacific cod, it is highly unlikely that the TACs of any of the AFA sideboard species would increase significantly enough to result in a high enough sideboard limit to allow directed fishing.

Additionally, some sideboards are not opened because the species is fully allocated to the Amendment 80 Program (e.g., flathead sole, rock sole) or because there are no prohibited species catch (PSC) limits apportioned to support a directed fishery. NMFS annually publishes in the groundfish harvest specifications a list of these sideboards closed to directed fishing (Table 26; 82 FR 11826; February 27, 2017).

Table 2-2 shows the BSAI groundfish species that are closed annually for which NMFS recommends prohibiting in regulation directed fishing by non-exempt AFA catcher vessels.

Table 2-2 AFA Catcher Vessel BSAI Sideboard Ratios Proposed for Replacement with Prohibition on Directed Fishing

Target species and gear	Area/Season	Sideboard ratio ⁵	2017 sideboard limit (mt)
Pacific cod - jig	BSAI	0.0000	0
Pacific cod- hook-and-line CV ≥ 60 ft	BSAI Jan 1 - Jun 10	0.0006	0
	BSAI Jun 10 - Dec 31	0.0006	0
Pacific cod pot gear	BSAI Jan 1 - Jun 10	0.0006	5
	BSAI Sept 1 - Dec 31	0.0006	5
Pacific cod hook-and-line or pot ≤ 60 ft	BSAI	0.0006	3
Sablefish - trawl	BS	0.0906	49
	AI	0.0645	24
Atka mackerel	Eastern AI/BS Jan 1-June 10	0.0032	49
	Eastern AI/BS June 10-Nov 1	0.0032	49
	Central AI Jan 1-June 10	0.0001	1
	Central AI June 10-Nov 1	0.0001	1
	Western AI Jan 1-June 10	0.0000	0
	Western AI June 10-Nov 1	0.0000	0
Greenland turbot	BS	0.0645	240
	AI	0.0205	2
Arrowtooth flounder	BSAI	0.0690	821
Kamchatka flounder	BSAI	0.0690	293
Alaska plaice	BSAI	0.0441	487
Other flatfish ⁶	BSAI	0.0441	94
Flathead sole	BSAI	0.0505	65
Rock sole	BSAI	0.0341	1,434
Pacific ocean perch	BS	0.1000	935
	EAI	0.0077	54
	CAI	0.0025	16
	WAI	0.0000	0

⁵ Determined using a ratio of 1995 to 1997 AFA CV catch to 1995 to 1997 TAC.

⁶ “Other flatfish” includes all flatfish species, except for halibut, Alaska plaice, flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.

Target species and gear	Area/Season	Sideboard ratio ⁵	2017 sideboard limit (mt)
Northern rockfish	BSAI	0.0084	36
Shortraker rockfish	BSAI	0.0037	0
Rougheye rockfish	BS/Eastern AI	0.0037	0
	Central AI/Western AI	0.0037	0
Other rockfish ⁷	BS	0.0048	2
	AI	0.0095	5
Skates	BSAI	0.0541	1,196
Sculpins	BSAI	0.0541	207
Sharks	BSAI	0.0541	7
Squids	BSAI	0.3827	437
Octopuses	BSAI	0.0541	22

Source: Table 23 –Final 2017 and 2018 American Fisheries Act Catcher Vessel BSAI Groundfish Sideboard Limits (82 FR 11826; February 27, 2017)

Catcher/processor BSAI groundfish harvesting sideboard limits

Many of the BSAI groundfish harvesting sideboards for AFA catcher/processors are also not opened for directed fishing where the sideboard limits are not large enough to support a directed fishery. Even at high TACs, these sideboard ratios are not big enough to support a directed fishery. While TACs may be subject to variation, in the BSAI the Council has to balance TACs between target species categories to stay under the 2.0 million metric ton optimum yield cap (see § 679.20(a)(1)(i)(A)). Unless there were a significant decline in the major BSAI stocks, such as pollock and Pacific cod, it is highly unlikely that the TACs of any of the AFA sideboard species would increase significantly enough to result in a high enough sideboard limit to allow directed fishing.

Additionally, some sideboards are not opened because the species is fully allocated to the Amendment 80 Program (e.g., flathead sole, rock sole, Western Aleutian Islands Atka mackerel) or because there are no PSC limits apportioned to support a directed fishery. NMFS annually publishes a list of these sideboards closed to directed fishing (Table 25; 82 FR 11826; February 27, 2017).

Table 2-3 shows the BSAI sideboard limits that are closed annually for which NMFS recommends prohibiting in regulation directed fishing for non-exempt AFA catcher/processor vessels. Table 2-3 also includes Central Aleutian Islands Atka mackerel, a sideboard that is no longer constraining due to the fact that the limited access sector allocation is smaller than the sideboard. NMFS recommends no longer publishing this sideboard in the annual groundfish harvest specifications; however, NMFS would not prohibit directed fishing for Central Aleutian Islands Atka mackerel by AFA catcher/processors because this fishery is otherwise open for directed fishing through the BSAI trawl limited access fishery.

⁷ “Other rockfish” includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, northern rockfish, shortraker rockfish, and rougheye rockfish.

Table 2-3 AFA Catcher/Processor Sideboard Ratios Proposed for Removal or Replacement with Prohibition of Directed Fishing

Target species	Area	Sideboard ratio ⁸	2017 sideboard limit (mt)	Remove from Annual Harvest Specifications and Prohibit Directed Fishing Through Regulation?	Remove sideboard limit?
Sablefish trawl	BS	0.016	9	X	
	AI	0.000	0	X	
Rock sole	BSAI	0.037	1,556	X	
Greenland turbot	BS	0.007	26	X	
	AI	0.005	1	X	
Arrowtooth flounder	BSAI	0.002	24	X	
Kamchatka flounder	BSAI	0.002	9	X	
Alaska Plaice	BSAI	0.001	11	X	
Other flatfish ⁹	BSAI	0.058	123	X	
Flathead sole	BSAI	0.036	466	X	
Atka mackerel	Central AI A season ¹⁰	0.115	1,772		X
	Central AI B season ¹⁰	0.115	1,772		X
	Western AI A season ¹⁰	0.200	1,116	X	
	Western AI B season ¹⁰	0.200	1,116	X	
Pacific ocean perch	BS	0.002	19	X	
	Eastern AI	0.020	141	X	
	Central AI	0.001	6	X	
	Western AI	0.004	32	X	
Northern Rockfish	BSAI	0.007	30	X	
Shortraker Rockfish	BSAI	0.018	2	X	
Rougheye Rockfish	Eastern BS/Eastern AI	0.018	2	X	
	Central AI/Western AI	0.018	2	X	
Other rockfish ¹¹	BS	0.029	9	X	
	AI	0.027	15	X	
Skates	BSAI	0.008	177	X	
Sculpins	BSAI	0.008	31	X	
Sharks	BSAI	0.008	1	X	
Squids	BSAI	0.022	25	X	
Octopuses	BSAI	0.008	3	X	

Source: Table 21 –Final 2017 and 2018 Listed BSAI American Fisheries Act Catcher/Processor Groundfish Sideboard Limits (82 FR 11826; February 27, 2017)

⁸ Determined using a ratio of retained catch to total catch from 1995 to 1997.

⁹ “Other flatfish” includes all flatfish species, except for halibut, Alaska plaice, flathead sole, Greenland turbot, rock sole, yellowfin sole, Kamchatka flounder, and arrowtooth flounder.

¹⁰ The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Listed AFA catcher/processors are limited to harvesting no more than zero in the Eastern Aleutian District and Bering Sea subarea, 20 percent of the annual ITAC specified for the Western Aleutian District, and 11.5 percent of the annual ITAC specified for the Central Aleutian District.

¹¹ “Other rockfish” includes all Sebastes and Sebastolobus species except for Pacific ocean perch, northern rockfish, shortraker rockfish, and rougheye rockfish.

3 CR Program Sideboard Limits

Background

Nine BSAI crab fisheries are managed under the CR Program, which was implemented on April 1, 2005 (70 FR 10174; March 2, 2005). Under the CR Program, holders of LLP licenses endorsed for a crab fishery were issued quota share (QS), which are long term shares, based on their qualifying harvest histories in that crab fishery. As part of the CR Program, NMFS issued four types of QS: catcher vessel owner (CVO) QS, assigned to LLP license holders who delivered their catch onshore or to stationary floating crab processors; catcher/processor vessel owner QS, assigned to LLP license holders who harvested and processed their catch at sea; captains and crew on board catcher/processor vessels, issued catcher/processor crew QS; and captains and crew on board catcher vessels, issued catcher vessel crew QS. Each year, the holder of QS may receive an exclusive harvest privilege for a portion of the annual TAC, called IFQ.

NMFS also issued processor quota share (PQS) under the CR Program. PQS are long term shares issued to processors. Each year, PQS yields annual individual processor quota (IPQ), which represents a privilege to receive a certain amount of crab harvested with Class A individual fishing quota (IFQ). Only a portion of the QS issued yields IFQ that is required to be delivered to a processor with IPQ. QS derived from deliveries made by catcher vessel owners (i.e., CVO QS) is subject to designation as either Class A IFQ or Class B IFQ. Ninety percent of the IFQ derived from CVO QS is designated as Class A IFQ, and the remaining 10 percent of the IFQ is designated as Class B IFQ. Class A IFQ must be matched and delivered to a processor with IPQ. Class B IFQ is not required to be delivered to a specific processor with IPQ. Each year there is a one-to-one match of the total pounds of Class A IFQ with the total pounds of IPQ issued in each crab fishery.

The Council was concerned that the increase in flexibility for crab fishermen to choose when and where to fish for their IFQ under the CR Program would provide crab fishermen with increased opportunity to participate in other fisheries. Therefore, to protect participants in other fisheries, the Council developed restrictions on participation in other fisheries (sideboards) to restrict a vessel's harvests to its historical landings in all GOA groundfish fisheries. The Council established sideboard limits for vessels with BS snow crab fishing history to restrict these vessels' catch to their collective historical landings in each GOA groundfish fishery (except the fixed-gear sablefish fishery) from 1996 to 2000 relative to the total retained catch of those species by all groundfish vessels during the same period. The preamble to the proposed rule for Amendments 18 and 19 to the Crab FMP notes that historically, the Bering Sea snow crab fishery and GOA groundfish fisheries operated concurrently from January through March, meaning that a crab vessel owner had to decide whether to fish for Bering Sea snow crab or GOA groundfish but could not participate fully in both fisheries (69 FR 63229; October 29, 2004). Consequently, the Council was most concerned with BS snow crab vessels expanding into GOA groundfish fisheries and so developed sideboard limits for these fisheries.

The GOA groundfish sideboard restrictions apply to any non-AFA crab vessel with a fishing history that generated any amount of BS snow crab QS, and to any LLP licenses earned in whole or in part by the crab fishing history of such vessels. These sideboard limits are listed in 50 CFR § 680.22. Because AFA catcher vessels were already subject to sideboard restrictions in the GOA under the implementing regulations for the AFA, no additional restrictions for AFA catcher vessels with BS snow crab history were included with the CR Program. The sideboard restrictions are also apportioned by season and/or area for each GOA groundfish TAC that is apportioned by season or area.

Under the CR Program, vessels with less than 100,000 pounds (45,359 kg) of total BS snow crab landings and more than 500 metric tons (mt) (1,102,311 lb) of total Pacific cod landings in the GOA during the CR Program qualifying years were exempted from the Pacific cod sideboards. In addition, vessels with less

than 50 mt (110,231 lb) of total groundfish landings in the GOA during the qualifying period were prohibited from harvesting Pacific cod from the GOA. Sideboard limits were applied to vessels but also restricted landings made using a groundfish LLP license derived from the history of a restricted vessel, even if that LLP license is used on another vessel. These exemptions were later broadened under Amendment 34 to the Crab FMP (76 FR 35772; June 20, 2011). Under Amendment 34, vessels with less than 750,000 pounds (340.2 mt) of total BS snow crab and greater than 680 mt of Pacific cod are exempt from the GOA Pacific cod sideboards. Amendment 34 also added an exemption from the GOA pollock sideboards for crab vessels that were used to land less than 0.22 percent of all BS snow crab from 1996 to 2000 (550 mt) and made 20 landings of GOA pollock from 1996 to 2000.

GOA non-AFA crab vessel sideboard limits

The CR Program sideboard limits are published each year in the GOA harvest specifications for groundfish (82 FR 12032; February 27, 2017). Since the implementation of these sideboard limits in 2006, the only sideboard limits large enough to support a directed fishery are the Western and Central GOA Pacific cod pot catcher vessel sideboard limits, and in some years the Western GOA Pacific cod pot catcher/processor sideboard limit. All other sideboard limits shown in Table 3-1 have been closed for directed fishing. Unless there were significant declines in the major GOA stocks, such as pollock and Pacific cod, it is highly unlikely that the TACs of any of the sideboard species would increase significantly enough to result in a high enough sideboard limit to allow directed fishing. Table 3-1 shows the GOA sideboards that are closed annually due to the small sideboard ratios, and associated small sideboard limits, for which NMFS recommends prohibiting directed fishing by non-exempt crab vessels.

Table 3-1 Non-AFA CR Program GOA Groundfish Sideboard Ratios Proposed for Replacement with a Prohibition on Directed Fishing

Species	Season/gear	Area/component/ Gear	Sideboard ratio ¹²	2017 sideboard limit (mt)
Pollock	A Season January 20 - March 10	Shumagin (610)	0.0098	22
		Chirikof (620)	0.0031	107
		Kodiak (630)	0.0002	2
	B Season March 10 - May 31	Shumagin (610)	0.0098	22
		Chirikof (620)	0.0031	122
		Kodiak (630)	0.0002	1
	C Season August 25 - October 1	Shumagin (610)	0.0098	192
		Chirikof (620)	0.0031	38
		Kodiak (630)	0.0002	3
	D Season October 1 - November 1	Shumagin (610)	0.0098	192
		Chirikof (620)	0.0031	38
		Kodiak (630)	0.0002	3
Annual	WYK (640)	0.0000	-	
	SEO (650)	0.0000	-	
Pacific cod	A Season ¹ January 1 - June 10	WG Jig	0.0000	-
		WG Hook-and-line CV	0.0004	6
		WG Trawl CV	0.0007	11
		CG Jig	0.0000	-

¹² Ratio of 1996-2000 non-AFA crab vessel catch to 1996-2000 total harvest.

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Species	Season/gear	Area/component/ Gear	Sideboard ratio ¹²	2017 sideboard limit (mt)
		CG Hook-and-line CV	0.0001	2
		CG Trawl CV	0.0012	24
	B Season ² Jig Gear: June 10 – December 31	WG Jig	0.0000	-
		WG Hook-and-line CV	0.0004	4
		WG Trawl CV	0.0007	7
		CG Jig	0.0000	-
		CG Hook-and-line CV	0.0001	1
	All other gears: September 1 - December 31	CG Trawl CV	0.0012	16
		Annual	EG inshore	0.0110
	Sablefish	Annual, trawl gear	W	0.0000
C			0.0000	-
E			0.0000	-
Shallow-water flatfish	Annual	W	0.0059	78
		C	0.0001	2
		E	0.0000	-
Deep-water flatfish	Annual	W	0.0035	1
		C	0.0000	-
		E	0.0000	-
Rex sole	Annual	W	0.0000	-
		C	0.0000	-
		E	0.0000	-
Arrowtooth flounder	Annual	W	0.0004	6
		C	0.0001	8
		E	0.0000	-
Flathead sole	Annual	W	0.0002	2
		C	0.0004	6
		E	0.0000	-
Pacific ocean perch	Annual	W	0.0000	-
		C	0.0000	-
		E	0.0000	-
Northern rockfish	Annual	W	0.0005	0
		C	0.0000	-
Shortraker rockfish	Annual	W	0.0013	0
		C	0.0012	0
		E	0.0009	1
Dusky rockfish	Annual	W	0.0017	0
		C	0.0000	-
		E	0.0000	-
Rougheye rockfish	Annual	W	0.0067	1

Species	Season/gear	Area/component/ Gear	Sideboard ratio ¹²	2017 sideboard limit (mt)
		C	0.0047	3
		E	0.0008	0
Demersal shelf rockfish	Annual	SEO	0.0000	-
Thornyhead rockfish	Annual	W	0.0047	1
		C	0.0066	7
		E	0.0045	3
Other rockfish	Annual	W/C	0.0033	5
		E	0.0000	-
Atka mackerel	Annual	Gulfwide	0.0000	-
Big skate	Annual	W	0.0392	36
		C	0.0159	29
		E	0.0000	-
Longnose skate	Annual	W	0.0392	2
		C	0.0159	40
		E	0.0000	-
Other skates	Annual	Gulfwide	0.0176	34
Sculpins	Annual	Gulfwide	0.0176	98
Sharks	Annual	Gulfwide	0.0176	79
Squids	Annual	Gulfwide	0.0176	20
Octopuses	Annual	Gulfwide	0.0176	86

Source: Table 21 –Final 2017 GOA Non-American Fisheries Act Crab Vessel Groundfish Harvest Sideboard Limits (82 FR 12032; February 27, 2017)

4 Recommendations

NMFS recommends initiating an analysis for an FMP amendment and an amendment to the regulations to prohibit directed fishing by those vessels subject to the AFA and CR Program sideboard limits for those species that do not have large enough sideboard ratios to annually support a directed fishery or for those species that are fully allocated to other programs. The Council has authority under Section 211 of the AFA to modify the current administration of measures developed to limit adverse impacts from the AFA on other fisheries (the sideboards). The Council also has authorities under Section 213 of the AFA to develop measures that supersede the limitations in Section 211. If the Council chooses to proceed, these authorities would need to be fleshed out.

Based on our initial review, the species that are listed in Tables 2-1 through 3-1 would be closed to directed fishing for vessels subject to either the AFA or CR Program sideboard limits because the sideboard ratios are not sufficient to support directed fishing under current TACs or any reasonably foreseeable increase in TACs or under current allocations. Alternatively, the Council could recommend that only a subset of the sideboards included in Tables 2-1 through 3-1 be included in an action to prohibit directed fishing.

As explained in Sections 2 and 3, even at high TACs, these sideboard ratios are not big enough to support a directed fishery. Further, it is unlikely that the TACs for these species would increase significantly due to the optimum yield limit for the BSAI. This prohibition also would apply to any future break-out or combination of such species; e.g., splitting out a specific species from the ‘Other Rockfish’ group.

Additionally, NMFS would no longer calculate and establish sideboard limits for these species in the annual harvest specifications. A regulatory prohibition against directed fishing for those species would streamline the management of AFA and CR Program sideboard limits, while still supporting the original intent of creating such limits to protect non-AFA and non-CR Program fisheries from the adverse impacts of the rationalization of the AFA and CR Programs.

If the Council were to prohibit directed fishing rather than maintaining sideboard limits for the species listed above in Tables 2-1 through 3-1, then NMFS would revise the regulations to establish the relevant directed fishing closures and publish a smaller list of sideboard limits each year through the annual harvest specifications process. Tables Table 4-1 through

Table 4-4 show the AFA and CR Program sideboard limits that would continue to be specified in the annual harvest specifications with their sideboard ratios and limits based on the final 2017 annual harvest specifications.

In addition to prohibiting directed fishing for species that do not have large enough sideboard ratios to annually support a directed fishery or for those species that are fully allocated to other programs, NMFS recommends removing the sideboard limit on AFA catcher/processors for Central Aleutian Islands Atka mackerel because the sideboard under the AFA (11.5 percent) is constrained by the allocation to the limited access sector that was established by the Amendment 80 Program (10 percent). This fishery would continue to be managed under the allocation to the limited access sector, and NMFS would allow directed fishing; however, NMFS would no longer publish a sideboard limit for it.

Table 4-1 Remaining GOA Non-Exempt American Fisheries Act Catcher Vessel Groundfish Harvest Sideboards

Target Species	Apportionments by season/gear	Area/component	Sideboard ratio ¹³	2017 sideboard limit (mt)
Pollock	A Season January 20 – March 10	Shumagin (610)	0.6047	1,350
		Chirikof (620)	0.1167	4,032
		Kodiak (630)	0.2028	2,234
	B Season March 10 - May 31	Shumagin (610)	0.6047	1,350
		Chirikof (620)	0.1167	4,600
		Kodiak (630)	0.2028	1,246
	C Season August 25 - October 1	Shumagin (610)	0.6047	11,834
		Chirikof (620)	0.1167	1,440
		Kodiak (630)	0.2028	3,222
	D Season October 1 - November 1	Shumagin (610)	0.6047	11,834
		Chirikof (620)	0.1167	1,440
		Kodiak (630)	0.2028	3,222
Annual	WYK (640)	0.3495	2,618	
	SEO (650)	0.3495	3,467	
Pacific cod	A Season ¹ January 1 - June 10	W	0.1331	2,029
		C	0.0692	1,376
	B Season ² September 1 - December 31	W	0.1331	1,352
		C	0.0692	917
Shallow-water flatfish	Annual	W	0.0156	207
		C	0.0587	1,133
Deep-water flatfish	Annual	C	0.0647	223
		E	0.0128	71
Rex sole	Annual	C	0.0384	189

¹³ Determined using a ratio of 1995 to 1997 AFA CV catch to 1995 to 1997 TAC.

Target Species	Apportionments by season/gear	Area/component	Sideboard ratio ¹³	2017 sideboard limit (mt)
Arrowtooth flounder	Annual	C	0.0280	2,100
Flathead sole	Annual	C	0.0213	328
Pacific ocean perch	Annual	C	0.0748	1,247
		E	0.0466	213
Northern Rockfish	Annual	C	0.0277	93

Table 4-2 Remaining Non-Exempt American Fisheries Act Catcher Vessel BSAI Sideboards

Target species and gear	Area/Season	Sideboard ratio ¹⁴	2017 sideboard limit (mt)
Pacific cod trawl gear CV	BSAI Jan 20 - Apr 1	0.8609	30,099
	BSAI Apr 1 - Jun 10	0.8609	4,474
	BSAI Jun 10 - Nov 1	0.8609	6,101
Yellowfin sole ¹⁵	All	0.0647	-

Table 4-3 Remaining Non-Exempt American Fisheries Act Catcher/Processor BSAI Sideboards

Target species	Area/Season	Sideboard ratio ¹⁶	2017 sideboard limit (mt)
Yellowfin sole ¹⁴	All	0.230	-

Table 4-4 Remaining GOA Non-American Fisheries Act Crab Vessel Groundfish Harvest Sideboards

Target Species	Season	Area/component/gear	Sideboard ratio ¹⁷	2017 sideboard limit (mt)
Pacific cod	A Season January 1 - June 10	WG Pot CV	0.0997	1,520
		WG Pot C/P	0.0078	119
		CG Pot CV	0.0474	942
		CG Pot C/P	0.0136	270
	B Season September 1 - December 31	WG Pot CV	0.0997	1,013
		WG Pot C/P	0.0078	79
		CG Pot CV	0.0474	628
		CG Pot C/P	0.0136	180

¹⁴ Determined using a ratio of 1995 to 1997 AFA CV catch to 1995 to 1997 TAC.

¹⁵ The sideboard limit for BSAI yellowfin sole is suspended when the initial TAC is equal to or greater than 125,000 mt in order to allow AFA sectors the potential to expand their harvest in the yellowfin sole fishery in periods of diminished availability of pollock (§ 679.64(a)(1)(v) and § 679.64(b)(6)).

¹⁶ Determined using a ratio of retained catch to total catch from 1995 to 1997.

¹⁷ Ratio of 1996-2000 non-AFA crab vessel catch to 1996-2000 total harvest.

5 Effects of prohibiting directed fishing by regulation in fisheries with small or fully allocated sideboard limits

NMFS annually closes all of the sideboard limits to directed fishing for the species shown in Tables 2-1 through 3-1, except for Central Aleutian Islands Atka mackerel for AFA catcher/processors, because the sideboard limits are either too small for NMFS to allow directed fishing or the species is fully allocated to other programs. Additionally, the Central Aleutian Islands Atka mackerel sideboard for AFA catcher/processors is no longer constraining. This action would streamline the annual harvest specifications, and reduce the annual costs of publishing the annual harvest specifications. The sideboard fisheries affected by the proposed action, except for Central Aleutian Islands Atka mackerel for AFA catcher/processors, would continue to be closed to directed fishing, but rather than requiring an annual closure, NMFS would close these sideboard fisheries by regulation. If circumstances were to change in the future, the Council and NMFS could choose to reestablish the calculation and publication of sideboards to allow for certain sideboard fisheries through additional rulemaking. This action would not modify incidental catch of these species or MRAs for each species. Vessels would continue to be subject to existing incidental catch restrictions for species by way of MRAs and/or PSC status as described in Section 2.

6 References

Northern Economics, Inc. *American Fisheries Act Program Review*. Prepared for North Pacific Fishery Management Council. January 2017.

NMFS. 2015. Cost Recovery Fee Program for Amendment 80, Groundfish and Halibut/Sablefish Community Development Quota, and American Fisheries Act and Aleutian Islands Pollock Programs. Final Regulatory Impact Review. November 2015. National Marine Fisheries Service, Alaska Region, P.O. Box 21668, Juneau, Alaska 99802-1668. Available at: <https://alaskafisheries.noaa.gov/sites/default/files/analyses/rir-cost-recovery1115.pdf>.