

MEMORANDUM

TO: Council, SSC, and AP

FROM: Clarence G. Pautzke *Clarence*  
Executive Director *for*

DATE: November 8, 1998

SUBJECT: Senate Bill 1221 (American Fisheries Act)

**ACTION REQUIRED**

Review provisions of SB 1221 and take action as necessary.

**BACKGROUND**

SB 1221 was recently signed into law and contains numerous provisions affecting prosecution of the BSAI pollock fisheries. Immediate action by NMFS will be required to implement primary provisions of SB 1221 for 1999. In addition, many provisions of SB 1221 will affect the management of other BSAI and GOA fishing and processing sectors and will require the Council to initiate conforming amendments. Some aspects of the Council's I/O3 action are not mentioned in the Act and we will need to address those issues as well. Council and NMFS staff will review the provisions of the Act, section by section, and inform the Council in the following areas: (1) describe what actions are necessary by NMFS to get the Act's provisions implemented for the 1999 fisheries; (2) describe what actions must be initiated as follow-up amendments by the Council; (3) identify where Council comment to the Secretary is required relevant to I/O3 issues; and, (4) identify where actions may be initiated by the Council.

Our primary working document for this is Item C-1(a). This is an annotated summary of the provisions of the Act, and necessary tasking, which is keyed to the page numbers in the full Act which was mailed to you last week. Item C-1(b) is a further condensed summary of tasking and timelines, along with tasking and proposals from October. A copy of the Notice of Availability for the I/O3 plan amendment and the Proposed Rulemaking for that amendment are under Item C-1(c). Comment periods end November 16 and December 14, respectively.

A related issue is the Council's October action with regard to crab LLP qualification. At that time it was noted that SB 1221 could have implications to the crab LLP program (those will be highlighted by staff), and that the State of Alaska may have management concerns related to SB 1221 provisions and the LLP. Item C-1(d) is a letter from the Board of Fish regarding this issue. Item C-1(e) contains other correspondence received by the Council.

**Annotated Summary of**  
**American Fisheries Act Provisions**

with tasking summary for each section

**New Ownership Standards**

Require 75% U.S. ownership of vessels by the October 1, 2001. The Secretary will apply section 2(c) of the Shipping Act, 1916 (46 App. U.S.C. 802(c)) to determine whether the vessel is 75% U.S. owned (pp. 1-3). Final regulations to implement the 75% vessel ownership standard shall be published in the Federal Register by April 1, 2000 (p.3).

Vessels measuring 100' and greater shall file a statement of U.S. citizenship setting forth all relevant facts regarding vessel ownership and control with the Administrator of Maritime Administration on an annual basis. The form shall be written in such a way as to allow the vessel owners to satisfy any annual renewal requirements for a certificate of documentation. After October 1, 2001 transfers of ownership and control of vessels will be rigorously scrutinized for violations (pp. 3-4). The three true motherhips in the pollock fishery are exempted from section 12102(c) unless 50% ownership of the vessel changes (p.5).

The Secretary of Transportation shall establish requirements necessary to demonstrate compliance with Section 12102(c) of title 46, US Code, as amended by this Act for vessels less than 100'. Minimizing the administrative burden on industry must be taken into account (p. 4).

**ACTION REQUIRED:** Final regs based on specifics in the Act must be published by April 2000 to implement these standards (does not specify which agency, but presumably NMFS). Enforcement for vessels >100' is by Administrator of Maritime Administration. For vessels <100', the Secretary of Transportation shall establish requirements and enforce these provisions. No Council action required.

**Bering Sea/Aleutian Islands Pollock Fishery**

**Allocations**

Effective January 1, 1999 (pp. 6-7).

10% of the BSAI TAC would be allocated to the Western Alaska CDQ fishery.

After subtraction of the CDQ allocation and bycatch reserves for other groundfish fisheries, the Secretary shall make a directed fishing allowance to each sector of the remaining pollock as a directed pollock fishery allocation. The directed pollock fishery allocation shall be divided as follows:

- 50% to catcher vessels harvesting pollock for delivery to the inshore component.
- 40% to catcher/processors harvesting pollock for processing by the offshore component
- 10% to catcher vessels harvesting pollock for processing by **motherships** in the offshore component

**ACTION REQUIRED: By NMFS** - These allocation percentages will be implemented for 1999 through the specifications process. As such, the percentage allocations by the Council in I/O3 will be disapproved by the Secretary. Two additional measures for the CDQ fisheries will be implemented by emergency rule via amendment 45: (1) exemption of accounting for pollock bycatch in non-pollock CDQ fisheries, and (2) removal of squid from the CDQ program to allow for full prosecution of the 10% pollock allocation.

**By Council** - Because new percentage allocations are mandated by the Act, the most expeditious solution would be for the Council to comment to the Secretary that the percentages in the Act be substituted for those submitted by the Council. Our FMP would then be amended to reflect the correct allocations. The duration of the allocations, as specified in the Act, should also be substituted by the Secretary. This amendment would expire in five years, though the CDQ allocation may be adjusted after two years. The Act is silent with regard to two important provisions from I/O3, and also require Council comment: (1) definition of the CVOA, and which sectors are excluded for certain seasons, and (2) the 2.5% set aside of the onshore quota for small catcher vessels, to be harvested just prior to the B season. The Council needs to provide comment to the Secretary regarding these two provisions. It appears likely that the CVOA designations need to remain as part of the overall pollock management program (though adjustments are possible given the upcoming marine mammal discussions). The 2.5% set aside for small catcher vessels is an issue for which Council comment will be expected. NOTE that the 2.5% set aside may be difficult to implement under a coop situation and would only be relevant for 1999. Staff assumes that all other provisions of I/O3 are subsumed by the Act.

#### Buyout

The Secretary shall provide \$75,000,000 through a direct loan obligation (p.7). Those monies plus \$15,000,000, of the \$20,000,000 Federal funds appropriated (p. 7), will be paid to the owners of the catcher/processor vessels American Empress, Pacific Scout, Pacific Explorer, Pacific Navigator, Victoria Ann, Elizabeth Ann, Christina Ann, Rebecca Ann, and Browns Point (\$90,000,000 total) no later than December 31, 1998 (p. 7). In return, these vessels shall be permanently ineligible for any U.S. fishery endorsements effective December 31, 1998 and their catch histories shall be extinguished. Excluding the American Empress, all of these vessels shall be scrapped by December 31, 2000 (pp. 7-8). The American Empress cannot be used to harvest any fish stock outside the U.S. EEZ that occurs within the exclusive economic zone of the U.S. (e.g. this boat cannot be used to fish pollock in Russia) (p. 7).

The remaining \$5,000,000, of the \$20,000,000 in appropriated Federal funds, shall be divided among the owners of the catcher/processor vessels American Enterprise, Island Enterprise, Kodiak Enterprise, Seattle Enterprise, and US Enterprise, if a cooperative agreement is filed by the catcher/processor sector, not less than 30 days prior to the start of the 1999 pollock fishing season. If a cooperative agreement is not signed, then the \$5,000,000 will be divided among the catcher processors listed in paragraphs 1-20 of section 8(e) based on the individual vessels percentage of the total harvest these vessels took during the 1997 directed pollock fishery (p.8). Conference reports (but not the Act itself) indicate an additional \$10 million in federal appropriation to fund, among other things, NMFS costs of implementation (\$6 million), the Secretary of Transportation costs (\$2 million), the crab vessel buyback program (\$1 million to underwrite \$100 million in costs).

Repayment of the \$75,000,000 loan shall begin with pollock harvested after January 1, 2000 and continue until

the loan obligation is fully repaid. The repayment shall be based on a fee of 0.6 cents for each pound round-weight of all pollock harvested in the directed inshore pollock fishery, to be equally shared by the processors and catcher vessels. (p. 7 and conference report).

**ACTION REQUIRED:** None by Council. Secretary must establish fee program for inshore sector to repay loan obligation starting in January 2000. NMFS must determine list of eligible catcher vessels delivering to catcher processors to implement \$5 million payout in event of no coop contract. This will be done in late 1998 by requesting vessels to provide proof of 1997 landings for qualification. NMFS must also verify that the 8 vessels have been scrapped by December 31, 2000, and that the American Empress does not fish stocks that occur in the U.S. EEZ.

### Eligible Vessels

Catcher Vessels Onshore. Effective January 1, 2000, only catcher vessels that have been determined by the Secretary to have delivered more than 250 metric tons of pollock in the directed pollock fishery to the inshore sector in any year 1996, 1997, or between January 1 and September 1, 1998 or vessels that are less than 60' LOA and have delivered at least 40 metric tons of pollock to processors in the inshore sector in any one of these three time periods, will be eligible to fish in the BSAI inshore directed pollock fishery. Vessels must also be qualified under the groundfish LLP program for the BS/AI in addition to meeting the Act's landings requirements in order to be eligible for the BSAI pollock fishery. Catcher vessels eligible to deliver pollock from the directed pollock fishery to catcher/processors are excluded from the list of vessels eligible to deliver inshore (p. 9).

Catcher Vessels to Catcher/Processors. Effective January 1, 1999 only catcher vessels that delivered at least 250 mt and 75% of the pollock it harvested to catcher/processors in the offshore sector during the 1997 directed pollock fishery are eligible. Catcher vessels must also be qualified for a BS or AI groundfish endorsement under LLP to be eligible (p. 9). Seven vessels are listed in this group.

Catcher Vessels to Motherships. Effective January 1, 2000, any catcher vessel that has delivered at least 250 metric tons of pollock to motherships in the offshore sector in any year 1996, 1997, or between January 1, 1998 and September 1, 1998 and is qualified under the Council's groundfish LLP in the BS or AI, is eligible to be included in this sector, so long as they are not also included in the list of catcher vessels delivering to the catcher processor sector (vessels are listed on pp. 9-10). Nineteen vessels are listed in this group.

Motherships. Effective January 1, 2000, only the Excellence, Golden Alaska, and Ocean Phoenix shall be allowed to process pollock from the directed BSAI mothership pollock allocation (p. 10).

Catcher Processors. Effective January 1, 1999, only the twenty listed vessels will be eligible to harvest pollock in a directed fishery. Any other catcher processor that harvested more than 2,000 metric tons of pollock in the 1997 directed pollock fishery, and is determined to be eligible to harvest BS/AI pollock under the Council's groundfish LLP, will also be eligible, but will be limited in aggregate to 0.5 percent of the catcher/processor sector's total allocation (pp. 10-11).

Shoreside Processors. Effective January 1, 2000, only processors that processed more than 2,000 metric tons of round-weight pollock from the inshore sector's directed pollock fishery during both 1996 and 1997 will qualify to process over 2,000 metric tons of round-weight pollock from the inshore pollock fishery. Processors in the inshore sector that did not meet the 2,000 metric ton round-weight requirement may still process pollock from the directed fishery, but are limited by a 2,000 metric ton round-weight annual cap (pp. 11-12).



The North Pacific Council may recommend measures that allow additional processors to process more than 2,000 metric tons of round-weight pollock if the BS/AI pollock TAC increases by at least 10 percent above the 1997 level, or in the advent of actual total loss or constructive total loss of an inshore processor that is eligible to process more than 2,000 metric tons of round-weight pollock from the inshore allocation (p. 12).

**ACTION REQUIRED: NMFS** -For catcher vessels delivering to catcher processors, NMFS will request vessels to submit proof of 1997 landings for qualification for this sector. For catcher processors the records are more accessible and NMFS will make such determination prior to 1999 fishing season. All other sector eligibilities begin in year 2000, allowing NMFS time to make such determinations prior to beginning of that fishing season. For catcher processors not listed (initial data queries indicate only one vessel, the Ocean Peace, that qualifies), NMFS will use the specifications process to implement this 0.5% set-aside. Vessel(s) will be required to submit documentation for NMFS review. A mechanism for interim permits will be included, in the event NMFS is unable to make a final eligibility determination by the start of the fishery.

**Council** - may recommend measures to allow additional inshore processors in the event of a 10% TAC increase, or in the event of a lost plant.

#### Replacement Vessels

In the event of the actual total loss or constructive loss, an eligible vessel may be replaced so long as the vessel was not lost due to willful misconduct of the owner or his agent. The replacement vessel must have been built in the US and if the vessel is (was) rebuilt that must also have taken place in the US. The replacement vessel must make a landing by the end of the third calendar year after the year the vessel is lost or destroyed. If the lost vessel was greater than 165' in registered length, of more than 750 gross registered tons, or has engines capable of producing more than 3,000 shaft horsepower, the replacement vessel must be of equal or lesser length, tons, and horsepower. If the lost vessel was less than 165' registered length, then the replacement vessel may exceed the original vessel's length, gross tons, and horsepower by 10 percent, but only up to the thresholds. The replacement vessel must also meet the US ownership provisions of this act (p. 12).

**ACTION REQUIRED:** This is different from the moratorium and LLP provisions that do not allow any increase in vessel length of a replacement for a vessel that was lost or destroyed. In addition, the 20% upgrade rule only applies to vessels less than 125' under the moratorium and LLP. No immediate action is required by NMFS, but the **Council** will need to initiate an amendment to the moratorium/LLP provisions regarding lost vessels, to reflect the allowances under the Act for those specific vessels.

#### List of Ineligible Vessels

Effective December 31, 1998, the following vessels will be permanently ineligible to participate in any US fishery and their catch history is voided for the purpose of qualifying for any current or future US fishing privileges or rights: American Empress, Pacific Scout, Pacific Explorer, Pacific Navigator, Victoria Ann, Elizabeth Ann, Christina Ann, Rebecca Ann, and the Browns Point (p. 13).

**ACTION REQUIRED:** NMFS and the Coast Guard will be responsible for extinguishing the fisheries license/endorsements of these vessels, and ensuring that the catch histories of these vessels are not used to qualify for any present or future limited access program in the U.S. EEZ.

## Fishery Cooperative Limitations

### Release of Information About Cooperatives and The Harvests of Individual Vessels Within the Cooperative.

Any contract implementing or substantially modifying a fishery cooperative shall be filed with the North Pacific Council and the Secretary, not less than 30 days prior to the start of fishing. In addition, a letter from a representative of the cooperative to the Department of Justice requesting a business review and any response received from the Department of Justice shall also be made available to the North Pacific Council and the Secretary. Information from these documents, that is deemed necessary by the Council or the Secretary, shall be made available to the public, and at a minimum will include the list of parties to the contract, the list of vessels involved, and the amount of pollock and other fish to be harvested by each party to the contract (pp.13-14).

The North Pacific Council and the Secretary shall also make available to the public, harvest information from vessels in the directed pollock fishery that is deemed necessary, on a vessel-by-vessel basis. Harvest information that is released to the public may include both target and bycatch species data (p. 14).

### Cooperative of Catcher Vessels in the Inshore Sector

Effective January 1, 2000, after filing the required paper work with the North Pacific Council and the Secretary, which includes the information in the previous (release of information) section and the signatures of the owners of at least 80 percent of the "qualified catcher vessels", a cooperative may be formed. A "qualified catcher vessel" is defined as a catcher vessel that meets the minimum inshore delivery requirements and has delivered more pollock to its inshore cooperative processor than any other inshore processor during the year prior to the cooperative being formed. Under the cooperative, that processor must have agreed to take deliveries from the catcher vessel and the catcher vessel must deliver at least 90 percent of its pollock from the directed pollock fishery to that processor. The remaining 10 percent may be delivered to other inshore processors if allowed under the signed cooperative agreement (p. 14).

Qualified catcher vessels that do not enter into the cooperative will be allowed to pool their portion of the TAC in an open access style fishery (p. 14). Any contract implementing a cooperative must allow qualified inshore catcher vessels not included in the contract to enter the contract before the fishing begins, under the same terms and conditions as the vessels originally included in the contract (p. 14).

Qualified inshore catcher vessels that harvested pollock for delivery to catcher processors or motherships during 1995, 1996 or 1997 shall be provided, to the extent practicable, fair compensation under the terms of the cooperative (p. 15).

### Cooperative of Catcher Vessels in the Catcher/Processor Sector

Effective January 1, 1999, not less than 8.5% of the catcher/processor's directed pollock allocation shall be made available for harvest only by eligible catcher vessels in the catcher/processor sector. These qualified catcher vessels may enter into a cooperative with the catcher processor sector during the 1999 pollock fishery, so long as the contract implementing the cooperative establishes penalties to prevent these catcher vessels from harvesting more than their traditional levels of harvest in other U.S. EEZ fisheries during 1999 (p. 11).

### Cooperative of Catcher Vessels in the Mothership Sector

Effective January 1, 2000, qualified catcher vessels in the mothership sector may enter into a cooperative if a

minimum of 80 percent of the qualified catcher vessel owners join. Any contract implementing a cooperative must allow qualified catcher vessels not included in the contract to enter the contract before fishing begins, under the same terms and conditions as the vessels originally included in the contract (pp. 15-16).

**ACTION REQUIRED:** NMFS, for 1999 will need to accommodate the 8.5% set-aside for catcher vessels delivering to catcher processors - this will be done through the specifications process. Coop contracts must be reviewed to determine that there are provisions for this group of catcher vessels to not exceed their traditional harvest levels in other fisheries. Act does not specify formal Council review and approval role, but Council (and Secretary) will receive copies of coop agreements (contracts) at least 30 days prior to fishing season, ensure that the basic provisions are contained, and make information from these contracts available to the public.

### Excessive Shares

**Harvesting.** No person, corporation, or other entity may harvest more than 17.5 percent of the BS/AI pollock TAC available to the directed pollock fisheries (p. 16).

**Processing.** The Council must recommend measures to the Secretary that would prohibit any individual or entity from processing an excessive share of the BS/AI directed pollock fishery TAC, though no deadline was included for making the recommendation. If the Council recommends a level less than 17.5 percent then processors may continue to process up to 17.5 percent under a grandfather provision. The Council must consider the need for catcher vessels to have competitive buyers when determining excessive share limits (p.16).

If the Council or the Secretary believes that an individual or entity has exceeded the excessive share cap they may submit information to the Administrator of the Maritime Administration to allow the Administrator to determine if a violation occurred. The Administrator shall submit his finding to the North Pacific Council and the Secretary as soon as practicable (p. 16). When determining excessive share limits, an entity that owns or controls 10 percent of another entity shall be considered one entity (p. 16).

**ACTION REQUIRED:** NMFS - Coop agreements should reflect the 17.5% limit, which will also be published as a limit in the specifications process. NMFS in-season (and end of season) monitoring will be used to determine that no entity exceeds the tonnage associated with the 17.5% limit. Council must initiate amendments to establish limits on pollock processing by any one entity (though there is no time certain on this mandate).

### Landings Tax

Any contract implementing a cooperative shall include a clause that requires all members to pay to the State of Alaska an amount equal to the State Landings Tax on any pollock harvested in the directed pollock fishery. If this clause is not included in the contract, the cooperative will not be allowed to form (p. 17).

**ACTON REQUIRED:** NMFS/Council review of contracts.

### Penalties

In addition to civil penalties and permit sanctions, violations shall be subject to forfeiting any fish harvested or processed illegally to the Secretary of Commerce (p. 17).

## Protection of Other Fisheries

Generally, the Council shall recommend to the Secretary any management measures it deems necessary to protect other fisheries under its jurisdiction from impacts of this Act or the cooperatives formed as a result of this Act (p. 17). Specific mandates of the Act are as follows:

### Catcher Processor Restrictions

Effective January 1, 1999, eligible catcher processors under this Act shall not, in aggregate, harvest a greater percentage (Eligible Cps catch / Offshore TAC) of a Council managed BS/AI groundfish species (including PSC) than was harvested during 1995, 1996, and 1997 (other than the pollock fishery). In addition, they shall not harvest more than 11.5 percent of the Central and 20 percent of the western Aleutian Islands directed Atka mackerel fishery TAC; process any pollock from the inshore or mothership allocation; process any BS/AI crab; harvest any fish from the Gulf of Alaska; process any pollock in the Gulf of Alaska; process any fish harvested from area 630 in the Gulf of Alaska; or, process in aggregate more than 10 percent of the Pacific cod harvested in areas 610, 620, and 640 of the Gulf of Alaska (pp. 17-18).

In addition, eligible catcher processors are not allowed to harvest fish from any other U.S. fishery except the Pacific coast whiting fishery or where specifically authorized to harvest or process fish under a Council's fishery management plan (p. 18).

Effective January 1, 1999 eligible catcher processors listed by name in this Act, and participating in CDQ fisheries, are also required to weigh all the fish on a NMF'S certified scale when harvesting groundfish, and carry two observers on board while harvesting or processing groundfish. These regulations will go into effect January 1, 2000 for all other eligible catcher processors (p. 19).

### Catcher Vessels

By July 1, 1999, the Council shall make recommendations to the Secretary to prevent catcher vessels that are eligible to participate in the inshore, catcher/processor, or mothership directed pollock fishery from exceeding their aggregate traditional harvest in other fisheries under the authority of the North Pacific Council (p.19).

Catcher vessels that are eligible to deliver directed pollock harvests to the catcher/processor sector are required to have made crab landings in 1997 and meet the requirements of the crab LLP. The Council is also directed to eliminate latent licenses from the crab LLP (p. 20).

*NOTE: The action taken at the October Council meeting may fulfill the requirement to eliminate latent licenses. The Council's action reduced the number of licenses from 365 to 286, or a 23% reduction (including the 12 under 60' vessels which were exempted from the recent participation requirements). In October however, the Council noticed that it would discuss the crab LLP eligibility issue in the context of SB1221, particularly whether SB1221 held implications regarding the number of licenses, or whether State of Alaska management considerations may be affected by SB1221. The attached Table shows that the provisions of the Act do not change the number of eligible crab vessels, when combined with the Council's October action (though the Act does eliminate three endorsements). An indirect impact of the Act may be that the crab qualified catcher vessels (which are also pollock vessels fishing under a possible coop) may now be able to more fully participate in crab fisheries for which they qualify; however, as noted above the Act also*

*specifically requires the Council to submit, by July 1999, measures to prevent these (and all) catcher vessels from exceeding their aggregate, historic harvest in crab as well as other groundfish fisheries.*

#### Inshore Processors

By July 1, 1999, the Council shall make recommendations to the Secretary to protect processors not eligible to participate in the directed pollock fishery. If the Council does not make a recommendation by this date or the Secretary determines the proposed measure are not adequate, the Secretary may alter the regulations, to the extent deemed necessary (p. 19).

Effective January 1, 2000, the owners of motherships and inshore processors that are under a cooperative are prohibited from annually processing a greater percentage of each crab species than their facilities processed on average during 1995, 1996, and 1997. Facilities shall be deemed to have the same owner if an entity owns or controls 10 percent or more of each facility (pp.19-20).

The Council is directed to recommend management measures that prevent an individual or entity from harvesting or processing an excessive share of crab or groundfish fisheries in the BS/AI. Note that no time line was set in the Act for this provision (p.20).

**ACTION REQUIRED: NMFS - NMFS proposes to implement the catcher processor restrictions as follows: use the specifications process to place limits on the amounts of non-pollock groundfish that can be taken by the 20 listed pollock vessels. These limits will be in aggregate and will be based on the amounts harvested in non-pollock fisheries in 1995, 1996, and 1997 (weighted average), by the original 29 total vessels. The PSC cap will be similarly based on PSC taken in those years, in non-pollock fisheries, by the same 29 vessels. The PSC cap for the 20 vessels is intended to be further apportioned to the various non-pollock target fisheries. NOTE that it will be a cap, within the overall PSC cap, as opposed to a guaranteed allocation to those 20 vessels. When a groundfish or PSC apportionment is reached, NMFS will close all trawling for those vessels, other than pelagic (for pollock). PSC taken by these 20 vessels in pollock targets will be assigned to the overall, fleet-wide PSC cap. This approach could be adjusted by the Council for year 2000 and beyond. Observer and scale requirements will be enforced as are all such requirements.**

The specific limits on Atka mackerel will also be implemented via the specifications process. In year 2000 issuance of LLP licenses by the RAM division will have to take into account the restrictions on GOA endorsements for some of the affected catcher processors (see related Table attached - there are 4 vessels affected, with a total of 6 endorsements). For 1999, it is assumed the statute itself will be sufficient for NMFS/Coast Guard enforcement of this provision.

The restrictions on BSAI crab processing and harvesting fish in the GOA require no additional regulation and will be implemented by NMFS via force of the statutes. Restrictions on processing of pollock/cod in/from the GOA will be implemented as part of Amendment 51 for the GOA (I/O3). Requirements for weighing fish on certified scale, and for carrying two observers, are clear in the statute and will be enforced as with any other observer requirements.

Crab processing limits for motherships and inshore processors begin in year 2000 and will be implemented by NMFS in the same manner as described for harvest limits (in-season and post-season monitoring to ensure that no entity processes more than its historical average, expressed in tonnages).

**Council** - Along with the general mandate to protect non-pollock harvesting/processing, the following specific amendments are mandated: (1) By July 1, 1999 measures to prevent all catcher vessels from exceeding, in their aggregate, their traditional harvest (weighted average of 1995, 1996, and 1997) in other Council managed fisheries (includes groundfish and crab fisheries); (2) By July 1, 1999 measures to protect processors not eligible to participate in the directed pollock fishery; (3) By no time certain, measures to prevent an individual or entity from harvesting or processing an excessive share of any groundfish or crab fisheries in the BSAI (this is in addition to the mandate to establish processing limits for pollock). The Council may wish to provide direction to staff at this meeting, or in December, regarding alternatives and options to be evaluated in the first two of these amendment packages. The restrictions as detailed above for catcher processors would serve as a template for these amendments relative to catcher vessels and inshore plants. Final Council action would be necessary in June 1999, with initial review of the analyses in April. Item (3) may be best pursued as a separate amendment package, given there are no time certain mandates attached.

### Fisheries Outside the North Pacific

By no later than July 1, 1999, the **Pacific Council** shall recommend measures to protect fisheries under its jurisdiction from adverse impacts caused by this Act. If the Pacific Council does not take sufficient action by this date the Secretary, by regulation, may implement adequate measures (p. 20).

### Bycatch Information

The Council and Secretary may publicly disclose any information from the groundfish fisheries under the authority of the NPFMC that would be beneficial in implementing section 301(a)(9) or section 303(a)(11) of the Magnuson-Stevens Act on vessel-by-vessel basis (pp.20-21).

### MSFCMA Language:

- 301(a)(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.
- 303(a)(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority--
- (A) minimize bycatch; and
  - (B) minimize the mortality of bycatch which cannot be avoided.

**ACTION REQUIRED:** None required, but the Council may recommend and the Secretary may approve measures to allow public disclosure of any necessary information. This might include information that was heretofore considered to be confidential under State and/or Federal laws.

### CDQ Loan Program

The Secretary is authorized to provide loans to CDQ communities, subject to available appropriations, for the purpose of purchasing vessels and shoreside processors eligible to participate in the BSAI directed pollock fishery. The vessel LISA MARIE (1038717) shall also be included along with the eligible pollock vessels (p. 21).

## Restrictions on Federal Loans

Loans may not be provided by the Federal Government for the purpose of constructing or rebuilding fishing vessels greater than 165' in registered length, more than 750 gross tons, or capable of producing 3,000 shaft horsepower. This prohibition excludes vessels in the menhaden fishery and the tuna purse seine fishery outside the US EEZ or in the area of the "South Pacific Region Fisheries Treaty" (p. 21).

## Duration of Program

The pollock allocation percentages, vessels and processors eligible to participate in the directed pollock fishery, and the cooperative structures shall remain in effect until December 31, 2004, and will be repealed on that date. After December 31, 2004 the Council may recommend to the Secretary that the program be continued, altered, or discontinued (p.21). Except for the measures required in this Act, nothing shall be construed to limit the authority of the NPFMC or the Secretary under the MSFCMA (p.21).

The Council may recommend to the Secretary that conservation and management amendments be made to the fishery cooperative limitations and CDQ program under this Act for conservation purposes or to mitigate adverse effects on the fisheries or to fewer than three vessels in the directed pollock fishery. However, the allocation percentages and the vessels and processors listed under this Act may not be altered prior to December 31, 2004. Any changes must take into account all factors affecting the fishery and must be imposed fairly and equitably, to the extent practicable, among and within sectors in the directed pollock fishery (p 22).

The 10 percent CDQ allocation may be changed after December 31, 2001 if the Council finds that CDQ program for pollock has been adversely affected by this Act (p. 22).

The criteria which sets the harvest percentages for catcher vessels delivering to inshore cooperatives required in paragraph 1 of section 210(b) may be altered for conservation and management measures (p.22).

**ACTION REQUIRED:** None required, though the Council may initiate amendments described above if deemed necessary.

## Required Reports

Not later than October 1, 2000, the North Pacific Council shall submit a report to the Secretary and to Congress on the implementation and effects of this Act. The report shall include information on the Acts effects on fish conservation and management, bycatch levels, fishing communities, business and employment practices of participants in any fishery cooperatives, the western Alaska CDQ program, and any fisheries outside of the authority of the North Pacific Council, and other matters as the North Pacific Council deems appropriate (p. 22).

Not later than October 1, 2000, the General Accounting Office shall submit a report to the North Pacific Council, the Secretary, and the Congress on whether this Act has negatively affected the market for fillets and fillet blocks, including the reduction in the supply of such fillets and fillet blocks. If the report determines that such markets have been negatively affected, the North Pacific Council shall recommend measures for the Secretary's approval to mitigate any negative effects (p. 22).

## Other Issues

If any provision of this Act is determined to be unconstitutional, the remaining sections of this Act shall not be affected (p.22). If any provision of this Act is determined to be inconsistent with an existing international agreement relating to foreign investment to which the U.S. is a party, such provisions of this Act shall not apply to the owner or mortgagee of that vessel on October 1, 2001 to the extent of the inconsistency. If any ownership interest in that vessel is transferred to or otherwise acquired by a foreign individual or entity after October 1, 2001, then the provisions in this Act shall apply (pp. 22-23).



**ATTACHMENT**

**1. Crab**

Of the 7 vessels eligible under SB 1221's offshore designation for Catcher Vessels delivering to Catcher Processors, 3 qualify under the *general license* criteria for Crab LLP. These 3 are also qualified under the LLP's Proposed Action 5, Alternative 9, to cross over into the crab fisheries, and are highlighted below.

Vessel Name	ADF&G	USCG	Length (ft)	Eligibility		
				General LLP	LLP Alt. 9	SB 1221 (1997 Crab Landings)
AMERICAN CHALLENGER	39113	615085	87	NO	NO	NO
FORUM STAR	59687	925863	96	NO	NO	NO
MUIR MILACH	41021	611524	86	YES	YES	YES (B.Bay Red)
NEAHKAHNE	32858	599534	98	NO	NO	NO
OCEAN HARVESTER	00101	549892	108	YES	YES	YES (B.Bay Red)
SEA STORM	40969	628959	123	YES	YES	YES (B.Bay Red)
TRACY ANNE	54654	904859	100	NO	NO	NO

All 3 of these eligible vessels have also made crab landings in 1997 (thus complying with SB 1221's exemption from the prohibitions on crab participation), though these landings were *only for Bristol Bay Red King Crab*. Assuming that SB 1221's species criteria speaks only to a distinction between King and Tanner crab, then the 3 vessels must *each* forfeit a BSAI Tanner endorsement, but can keep all previous endorsements for King crab. Therefore, SB 1221 effectively cuts out a total of 3 endorsements that would have otherwise been allowed under LLP.

Vessel Name	ADF&G	Endorsements Prior to SB 1221				Total
		BSAI Tanner	Prib Blue/Red King	Adak Red King	B.Bay Red King	
MUIR MILACH	41021	1*		1	1	3
OCEAN HARVESTER	00101	1*	1		1	3
SEA STORM	40969	1*	1		1	3

\* Denotes endorsements that will be lost assuming SB 1221's "species specific" language for 1997 crab landings

## 2. Groundfish

Of the twenty vessels eligible to operate as Catcher Processors under SB 1221, the following four must forfeit a combined total of six GOA groundfish endorsements according to the legislation's prohibitions on all GOA fishing.

Vessel Name	ADF&G	USCG	Length (ft)	GOA Endorsements			
				EG	CG	WG	Total
AMERICAN ENTERPRISE	54836	594803	210	1	1	1	3
HIGHLAND LIGHT	56974	577044	270	0	0	1	1
NORTHERN GLACIER	48075	663457	201	0	0	1	1
STARBOUND	57621	944658	240	0	0	1	1
<b>Total</b>							<b>6</b>

**Council Actions Resulting from the American Fisheries Act**

#	Action	Mechanism	Timeline
1	Conform I/O 3 to allocations in AFA	Comment to SOC to change IO3 regs and FMP	Nov 98
2	Clarify any changes to CVOA or 2.5%	Comment to SOC to change IO3 regs and FMP	Nov 98
3	Monitor NMFS development of fee system	Periodic reviews at Council meetings	1999
4	Review Cooperative contracts	Review each December CP; CV-->CP for 1999 CV-->MS; CV-->Shoreside for 2000	Start Dec 98
5	Advise Cooperatives on information needs and make contract info available to the public each year	Primarily for cooperatives beginning in 2000	1999
6	Adjust LLP for new upgrade criteria	Technical correction to LLP	1999
7	Catcher Processor Restrictions:	Catch/bycatch limits in other fisheries	Clarifications in Nov 98
8	Catcher Vessel/Shoreside processor restrictions - restrict catch in other fisheries		By July 1, 1999
9	Protective measures for pollock ineligible processors		By July 1, 1999
10	Prevent excessive harvest/processing shares for all crab and groundfish (and excessive processing shares for pollock)	FMP Amendment	No time certain
11	Eliminate latent capacity in crab fishery	Recent participation requirements (Action was taken in October)	Discuss in Nov 98
12	Recommend C/M measures to mitigate AFA	FMP and regulatory amendments	As needed
13	Consider changing pollock CDQ %	FMP amendment for 2002-2004	Process amd in 2001

#	Action	Mechanism	Timeline
14	Disclose catch and bycatch info by vessel	Regulatory amendments	No time certain
15	If necessary, change criteria for establishing Shoreside catcher vessel cooperatives in Section 210(b)(1)	Regulatory amendment to supersede legislation	Anytime
16	If necessary, allow more shoreside processors	Via NMFS permit process	If TAC up 10% If loss of plant
17	Report to Congress on Program Performance	Develop report	By Oct 2000
18	GAO Report to Council on fillet production		By June 1, 2000
19	Council response to GAO report		By late 2000
20	Renewal of program which expires 12/31/04	Full FMP and regulatory amendments	Analysis/Action in 2004

## Proposals for 1998-1999 Analytical Cycle

This discussion paper has been reorganized to reflect the Council's October 1998 actions. The Council approved a total of 16 of the 39 proposals for development, removed three proposals from further consideration, and deferred action on the remaining 20 proposals until this meeting because of the uncertainty of additional staff tasking related to the American Fisheries Act (AFA) and Steller sea lion issues. For four proposals related to stellar sea lions, it was requested that NMFS consider the issues raised in their Section 7 consultation process.

The following staff tasking timeline does not reflect staff tasking directly related to required actions to implement AFA, actions related to the biological opinion on Steller sea lions, nor Council actions at this meeting to initiate additional analyses related to the AFA. Also not included in the timeline are actions NMFS is completing to implement the Supplemental Environmental Impact Statement, Environmental Assessment for the 1999 fisheries, cost recovery fee program for IFQ fisheries, along with numerous additional regulatory changes. NMFS staff are also tasked to prepare and publish proposed, interim, and final specifications and four housekeeping amendments to address changes to CDQ regulations, IFQ regulations, electronic reporting, and GOA gear requirements. AFA actions may be implemented via the specification process, except for CDQ changes which will require separate rulemaking.

In addition to workload requirements related to the AFA, Council and NMFS staff are scheduled to complete several projects tasked in 1997/1998: development of an EA/RIR for the halibut charterboat GHL and moratorium, scallop LLP, rewrites of both the BSAI and GOA FMPs, changes to MRBs for GOA Pacific cod and arrowtooth flounder, and continued staffing of the Groundfish, Crab, and Scallop Plan Teams, Ecosystems Committee, EFH Core Team, and VBA/HMAP/IVCP, Socioeconomic, Observer Advisory, Western/Central Gulf, Halibut GHL, Halibut Subsistence, Enforcement, IR/TU, IFQ, and CDQ Implementation committees in support of additional analyses in the planning stage.

### **APPROVED IN OCTOBER 1998 FOR ANALYSIS**

1. Incorporated with OAC recommendations.
2. Incorporated with OAC recommendations.
3. Extend ban on non-pelagic trawling to Cook Inlet to protect crab.
11. Analysis of living substrates for consideration as HAPC.
12. Analyze seamounts, pinnacles, ice edge, shelf break and fine grain sediments as HAPC.
13. Establish framework procedure for EFH and designating HAPC.
16. Analyze three specific cites for HAPC (includes aspects of proposal 31).
17. Require retention of roughey and shortraker rockfish as bycatch in IFQ fisheries.
27. Ensure prohibited species bycatch mortality is assigned to a correct target fishery.
37. Reduce GOA MRB for shortraker/roughey and thornyhead rockfish.
38. Start CDQ trawl fisheries on January 1.
39. Avoid closure of the CDQ pollock fishery from bycatch of squid or "other species."
- New1 Defer shark management to State of Alaska.
- New2 Four NMFS housekeeping measures.
- New3 Bairdi crab rebuilding plan
- 97-1 Revise MRB for GOA arrowtooth flounder.
- 97-2 Revise MRB for GOA Pacific cod.
- 97-3 Implement GHL/moratorium management measures.
- 97-4 Crab Vessel Buyback.
- 97-5 Opilio Crab Rebuilding Plan

Proposal Category	Staff	Initial Review	Final Action	
1.	Observer	Sue Salveson/Bill Karp	December 1998	February 1999
2.	Observer	Sue Salveson/Bill Karp	December 1998	February 1999
3.	GOA Mgt.	Jane DiCosimo/Linda Brannian	February 1998	April 1999
11.	EFH	Dave Witherell/EFH Core Team		
12.	EFH	Dave Witherell/EFH Core Team		
13.	EFH	Dave Witherell/EFH Core Team		
16.	EFH	Dave Witherell/EFH Core Team		
17.	GOA Mgt.	Jane DiCosimo/Tory O'Connell	April 1999	June 1999
27.	NMFS Mgt.	NMFS staff	April 1999	June 1999
37.	GOA Mgt.	Jane DiCosimo/D. Ackley/T. O'Connell	April 1999	June 1999
38.	CDQ	Sally Bibb	February 1999	April 1999
39.	CDQ	Sally Bibb	April 1999	June 1999
New1	GOA Mgt.	Jane DiCosimo/Linda Brannian	April 1999	June 1999
New2	NMFS Mgt.	NMFS Staff	April 1999	June 1999
New3	Crab	David Witherell/Crab Plan Team	February 1999	April 1999
97-1	GOA Mgt.	Shane Capron	April 1999	June 1999
97-2	GOA Mgt.	Shane Capron	April 1999	June 1999
97-3	Halibut	D. Brannan/J. DiCosimo/C. Hamel	February 1999	April 1999
97-4	Crab	Jay Ginter/Chris Oliver		February 1999
97-5	Crab	D. Witherell/Crab Plan Team	February 1999	April 1999

## REMAINING PROPOSALS FOR COUNCIL CONSIDERATION

### LLP/Comprehensive Rationalization

Five industry proposals were submitted to address allocation issues in the groundfish fisheries. The Council removed two proposals from tasking consideration. The crab buyback program was ranked as in progress, but staff have not yet been tasked to prepare this analysis. At this meeting, the Council will review the impacts of Senate Bill 1221 on LLP, as revised in October 1998. Remaining proposals in this category are:

4. Add species endorsement to LLP (Groundfish Forum). This BSAI plan amendment proposal addresses allocation issues. The Plan teams noted that this measure has previously been considered by the Council in the original LLP (Amendments 39/41).

**PLAN TEAM RANK: LOW**

**STAFF WORKLOAD: MEDIUM/HIGH**

30. Establish IFQs for groundfish and crab (Fraser). This is a BSAI and GOA plan amendment proposal addressing economic efficiency issues. This proposal seeks to amend the crab and groundfish FMP to develop a comprehensive IFQ system for these fisheries. The Crab Team supports this proposal in that it addresses overcapacity and the race for fish. The Team noted, however, that there might be other options available for crab fishery management, such as individual transferrable pot quotas (ITPQs). The Groundfish Plan Teams noted that this proposal would address many other allocative groundfish proposals. They noted that the analysis could be ready for final action in time for the expiration of the Congressional moratorium on IFQs.

**PLAN TEAM RANK: HIGH**

**STAFF WORKLOAD: HIGH**

Proposals 4 could be prepared for Council final action at the June 1999 meeting. Some of the concerns presented by the proposal's author may be relieved by the spillover provisions in the current S. 1221 draft. (Darrell Brannan, Chris Oliver, and Chuck Hamel).

Proposal 30 would be a separate analysis and could not be implemented until the moratorium on new IFQ programs is lifted (October 1, 2000). Given the complexity of an IFQ program for all species, it is not likely that such a program could be implemented before that date even if the analysis were started immediately. Council staff (Darrell Brannan, Chris Oliver, and Chuck Hamel) would likely prepare this EA/RIR with help from both the NMFS Region and Center, as well as outside consultants. A multi-faceted project, this would likely take through the end of 1999 to complete. Note that Bering Sea pollock fisheries were the latest focus of the Council relative to IFQs, and the pollock fisheries were just addressed by SB 1221.

#### Groundfish Bycatch Mitigation

Eight proposals were submitted to reduce or manage bycatch in the open access and multi-species CDQ fisheries. Four were approved in October for development into analyses in 1999. Remaining proposals in this category are:

6. Prohibit the production of fish meal from IR/TU species in the BSAI and GOA as a primary product (Groundfish Forum). This plan amendment would address bycatch reduction and may have some allocative impacts due to the different processing abilities of vessels. The Plan Teams noted that this action may result in further reducing the harvest of small pollock and cod.  
**PLAN TEAM RANK: MEDIUM**                      **STAFF WORKLOAD: LOW**
  
14. Phase-in PSC reductions (AMCC). This is a BSAI and GOA regulatory amendment proposal to reduce bycatch. It proposes to decrease all prohibited species catch limits by 5, 7.5, or 10% each year in the BSAI and GOA. The Plan Teams noted that this proposal conforms with MSA requirements to reduce bycatch. The Crab Team noted that crab bycatch limits were only recently reduced, and were driven by industry negotiations (allocative decisions). At this time, the Team does not have conservation concerns about the bycatch level of red king crab. The Team also feels that the current *C. opilio* caps should be in place for a few years, then re-evaluated for possible changes. Regarding *C. bairdi*, the team will address all sources of mortality, including PSC bycatch, as part of the rebuilding plan. In general, the Team felt that the proposed reduction was generic, and that bycatch limits should be based to some extent on population abundance. Team members further noticed that there were other options available to reduce bycatch (such as VBAs).  
**PLAN TEAM RANK: MEDIUM/LOW**                      **STAFF WORKLOAD: HIGH**
  
26. Sell Halibut PSC by GOA flatfish trawl fleet; phase out non-pelagic trawling (GOA CCC). This is a GOA plan amendment proposal to allow retention of trawl halibut bycatch in the GOA and donate proceeds of its sale to a fund for research and to phase out non-pelagic trawling in the GOA. If approved, it should also be expanded to the BSAI. Not all halibut are dead when caught by trawls and may result in increased halibut bycatch mortality. This proposal took the place of the agenda item to address concerns expressed by the Gulf Coastal Communities Coalition.  
**PLAN TEAM RANK: LOW**                      **STAFF WORKLOAD: HIGH**
  
36. Disburse discard over large area (Hillstrand). This is a regulatory amendment to both plans to spread bycatch discards over a wide area to eliminate bottom putrefaction. The Teams noted that the proposal addressed real concerns of unknown biological impacts by discharges, but that this proposal was more appropriate for changes to EPA regulations.  
**PLAN TEAM RANK: Not Applicable**                      **STAFF WORKLOAD:**

Proposal 6 for an IR/IU change could be prepared by NMFS SF staff (Kent Lind) for final action at the June 1999 meeting. This issue was discussed at length during the original IR/IU amendment process where it was decided to allow meal as a primary product.

Proposals 14 would be a significant economic/allocation issue with attendant complex analyses, and would require significant time from either Council or NMFS economists. It is unlikely that this analysis could be completed before late in 1999 (depending on whether other major projects are pursued).

Proposal 26 to retain and sell halibut trawl bycatch would be prepared by Council and possibly IPHC staff (Jane DiCosimo and IPHC staff) for final action at the \_\_\_\_ meeting.

Proposal 36 was deemed not applicable to the Council proposal cycle.

#### Crab Bycatch Closures

Four plan amendment proposals to close BSAI fishing grounds were submitted by industry and ranked as low priorities by the Plan Team. Staff recommends no action at this time on these proposals.

7. Study and close areas of high *opilio* crab bycatch to trawling in BSAI (Hillstrand/ERA). This proposal seeks to create trawl closure zones in areas of high *C. opilio* bycatch rates. Crab Team members were concerned about movement of *C. opilio* crab. Survey data indicate that this stock can have widespread distribution, and the centers of concentration shift annually. Hence, an area that appears to be a low bycatch area this year may contain a lot of snow crabs next year, and vice-versa. The Team was also concerned about tradeoffs with other PSC's by shifting the fleet into other areas. Most Team members felt that the PSC cap approach was adequate to control snow crab bycatch.

**PLAN TEAM RANK: LOW**

**STAFF WORKLOAD: MEDIUM.**

8. Close areas of high *bairdi* bycatch to trawling and dredging in BSAI (Hillstrand). This proposal seeks to create trawl closure zones in areas of high *C. bairdi* bycatch rates. Many of the comments for proposal 7 apply. The team noted that more information on Tanner crab bycatch will be generated from the rebuilding analysis, and ideas from this proposal could be incorporated.

**PLAN TEAM RANK: LOW**

**STAFF WORKLOAD: MEDIUM.**

9. Divide zones 1 and 2 and allocate crab PSCs among new areas (Hillstrand/New ERA). This proposal seeks to subdivide the bycatch limitation zones into smaller management areas. The Crab Team noted that a possible drawback of this would potentially limit the fleet from avoiding areas of high bycatch. Also, because the distribution of crab changes, small areas with specific bycatch limits could potentially create a worse situation for bycatch, and add to the management costs for the groundfish fleet. That said, the Team agreed that bycatch limitation zones for Tanner crab should be examined in the analysis of the *C. bairdi* rebuilding plan. If information warrants splitting the stock into two separate stocks, bycatch management zone boundaries may need to be changed.

**PLAN TEAM RANK: LOW**

**STAFF WORKLOAD: MEDIUM.**

10. Create Bristol Bay closed area to tanner & *bairdi* trawls & scallop dredges (Hillstrand). This proposal is the same as Proposal 8 but the author associates it with EFH. Comments for Proposal 8 apply here.

**PLAN TEAM RANK: LOW**

**STAFF WORKLOAD: MEDIUM.**

The Council recently addressed crab bycatch and area closures with BSAI Amendments 37, 40, and 41. The current closure areas encompass 30,000 square miles, or about 25% of the Bering Sea shelf fished by trawl gear. Proposal 9 will be addressed to some extent in the *C. bairdi* rebuilding plan, which will be ready for final action at the June meeting. The analysis would be prepared by ADF&G, NMFS, and Council staff (David Witherell). The other proposals could be tabled for now.



## Habitat Areas of Particular Concern

The Council received six proposals for BSAI and GOA plan amendments in response to its call to address identification of HAPC. The first four were ranked by the Plan Teams and EFH Core Team as high priority. The EFH Core Team indicated that it would bundle these proposals for analysis. Of the remaining two proposals, Proposal 19 will be addressed in the crab rebuilding plan and Proposal 31 will be addressed in the HAPC evaluation.

19. Establish "no fishing zone" in BSAI to protect bairdi crab (Steele). This proposal seeks to establish a "no fishing zone" in a specified area of the Bering Sea. The stated objective of the proposal is to protect critical habitat for *C. bairdi* crab. The Crab and Plan Teams believes that "no fishing zones" may be appropriate to protect EFH in some situations, but noted that the proposed location did not overlay EFH identified for *C. bairdi*. The Crab Team noted that *C. bairdi* are widely distributed over mud and silt substrates at depths greater than 200 feet, and that the distribution shifted from year to year. The Team suggests that closure areas be given some consideration in the *C. bairdi* rebuilding analysis. The Team further noted that *C. bairdi* were widely distributed over mud and silt substrates, and that the distribution shifted from year to year. The Core Team was apprised of the upcoming rebuilding plan for this crab stock and suggested that some aspects of this proposal be given consideration in the rebuilding analysis.  
**PLAN TEAM RANK: LOW** **STAFF WORKLOAD: MEDIUM**
  
31. Establish HAPC for crabs in GOA (UFMA). This proposal would establish the Kodiak red king crab areas as HAPC. These areas likely contain some shallow water living substrate that is critical for red king crab juvenile survival. The EFH Core Team believes that these areas were originally developed to address both bycatch and habitat concerns, and therefore may not be adequate, per se, as HAPC. The Team believes that the lines drawn on the map for these areas may not adequately describe the shallow water living substrate found in the area and used by red king crab. This information may become available as part of the analysis of proposal 11. An issue was raised about defining HAPC for red king crab, given that this is not an FMP species. The Team believes that HAPC identified (shallow water living substrate) was ecologically important for a number of species in addition to crab. Further, managers are not precluded from taking action to protect crab habitat from potential fishing gear impacts. The Core Team recommends that this proposal be given some consideration in a comprehensive HAPC analysis.  
**PLAN TEAM RANK: MEDIUM/HIGH** **STAFF WORKLOAD: MEDIUM**

**Proposal 19 will be addressed in the crab rebuilding plan.**

**Proposal 31 will be addressed in the HAPC evaluation.**

## General Management

Two industry proposals were submitted on general management issues. Both addressed economic efficiency. One was ranked as high priority.

5. Start third-quarter trawl fisheries after July 4th, rather than before (Groundfish Forum). The Plan Team noted that this regulatory change would aid in-season management, but may have impacts on the timing of the reordered sablefish survey.  
**PLAN TEAM RANK: HIGH** **STAFF WORKLOAD: LOW**
  
25. Framework BSAI fix gear cod seasons (NPLA). This proposal aims to change fishing seasons around the Christmas holiday. The Teams noted that this plan amendment change would have no biological impacts.  
**PLAN TEAM RANK: LOW** **STAFF WORKLOAD: LOW**

Proposals 5 and 25 are unrelated, but could be combined into one analytical package for Council consideration at the \_\_\_\_ meeting. NMFS or Council staff could prepare the analysis.

Western/Central Gulf Pollock and Pacific cod

Four industry proposals were submitted to address allocation and efficiency consideration in the GOA Pollock and Pacific cod fisheries. Proposals 20 and 33 are included in the options being addressed by NMFS for managing fisheries that are impacting Steller sea lions and could be removed from review. Proposals 21 and 32 could be referred to the Western/Central GOA Committee as it reviews the impacts of S.B. 1221 on Gulf fisheries.

20. Change trimester allocations of GOA pollock (AGFDB). This regulatory amendment would readdress fishing efficiency issues related to pollock trimester allocations. The Teams noted that the analysis should address biological and economic (roe quality) considerations, in addition to impacts on Steller sea lions. This was deemed as in progress because the biological opinion might require changes to the timing and location of pollock removals. Two previous apportionment changes were implemented in 1997 and 1998.

**PLAN TEAM RANK: IN PROGRESS                      STAFF WORKLOAD: LOW**

21. Restrictions on processing of trawl caught groundfish in GOA (AGFDB). The Plan Teams noted that this proposal for regulatory changes addressed efficiency and allocations, and had no biological impacts.

**PLAN TEAM RANK: LOW                                      STAFF WORKLOAD: LOW**

32. Limit catcher vessel size in GOA to 125 ft (ADA). This proposal was identified as allocative. It would also lower Observer data on catches. No other biological impacts were identified.

**PLAN TEAM RANK: LOW                                      STAFF WORKLOAD: LOW**

33. Synchronize pollock openings between GOA and BSAI (ADA). This regulatory amendment proposal addresses the same goal as Proposal 20, and may have impacts on Steller sea lions. The Teams deemed this proposal as in progress because of the pending biological opinion.

**PLAN TEAM RANK: IN PROGRESS                      STAFF WORKLOAD: LOW**

Proposal 20 and 33 could be combined into a single analysis, along with other possible alternatives identified as a result of the pending biological opinion, such as Proposals 15, 22, 23, and 24. NMFS staff would likely prepare the analysis in time for final action at the \_\_\_\_ Council meeting.

Proposals 21 and 32 are unrelated but could be combined into one analytical package for Council consideration at the \_\_\_\_ meeting. NMFS or Council staff (Jane DiCosimo) could prepare the analysis.

Allocations

18. Change fixed/trawl gear allocation for sablefish in BSAI. (Clipper Seafoods). This is a BSAI plan amendment to raise the fixed gear allocation to 95%, with 5% as trawl bycatch (the current allocation is 50/50 in the BS and 75%-fixed/25%-trawl in the AI). The Teams noted that catches by gear type result in differentially sized fish with as yet unquantified impacts on stocks and noted that unharvested TACs are reassigned to other fisheries.

**PLAN TEAM RANK: LOW                                      STAFF WORKLOAD: LOW**

Proposal 18 is allocative in nature and would require economic analyst time, but could be prepared by NMFS or Council staff in time for the \_\_\_\_ Council meeting (David Witherell).

**REMOVED FROM CONSIDERATION**

- 28. Shift to weight based system for accounting crab bycatch in BSAI.
- 29. Allow use of MW trawl gear east of 140° in rockfish and pollock fisheries .
- 34. Species endorsement for pollock fishery

Groundfish Plan Team review of 1998 amendment proposals received through September 11							
No.	Proposal	Proposer	Area	Amendment	Effect	Rank	Time
<b>Groundfish Bycatch Management</b>							
6	prohibit the use of IR/TU species as fishmeal as a primary product	Groundfish F	both	plan	B	M	L
14	decrease PSCs by 5, 7.5, or 10% annually over 5 years	AMCC	both	regulatory	B	M/L	
17	require retention of shorttraker/rougheye rockfish bycatch in IFQ fisheries	ALFA	GOA	regulatory	C	H	L
26	donate proceeds of trawl halibut for research; prohibit non-pelagic trawling	GOA CCC	GOA	regulatory	A	L	L
27	ensure prohibited species bycatch mortality is assigned to correct target	NMFS/AKRO	both	regulatory	E	H	L
37	reduce MRB for SR/RE and thornyhead rockfish to 7%	NMFS/AKRO	GOA	regulatory	B	H	M/H
39	avoid closure of CDQ pollock fishery from bycatch of squid, 'other species'	CDQ Comte.	BSAI	plan	E	H	L
<b>Crab Bycatch Management</b>							
3	extend State water ban on non-pelagic trawling in Cook Inlet to EEZ	ADF&G	GOA	regulatory	C	H	
7	create additional trawl closure areas due to high opilio bycatch rates	Hillstrand (2)	BSAI	plan	B	L	M
8	create additional trawl closure areas due to high bairdi bycatch rates	Hillstrand (2)	BSAI	plan	B	L	M
9	subdivide crab zones 1 & 2 and red king, tanner and snow crab PSCs	Hillstrand (2)	BSAI	plan	B	L	M
10	create Bristol Bay closed area to tanner & bairdi trawls & scallop dredge	D. Hillstrand	BSAI	plan	B	L	M
28	count PSC crab by weight instead of numbers	fraser	BSAI	plan	B	M/H	
<b>LLP amendments/Capacity Reduction</b>							
4	amend LLP to create species endorsements for target fisheries	Groundfish F	BSAI	plan	A	L	M
29	amend LLP/allow use of mid-water trawls E of 140 W in rockfish&pollock	fraser	GOA	plan	A	M/H	
30	develop comprehensive IFQ program for groundfish and crab	fraser	both	plan	E	H	
34	amend the LLP to create species endorsements for the pollock fishery	fraser	both	plan	A	L	M
35	develop options for a permit buyback program for BSAI crab fisheries	Blue	Crab	plan	E	P	
<b>Observer Program changes</b>							
1	adjust observer requirements for vessels > 60 ft in IFQ program	FVOA	both	regulatory	E	L	L
2	adjust observer requirements in trawl fisheries	AGDB	both	regulatory	E	L	L
<b>GOA pollock and Pacific cod management</b>							
20	adjust CGOA pollock trimester allocation to: 37.5 (min.)/25 (max.)/37.5 %	AGDB	GOA	regulatory	E	P	
21	limit delivery&processing of trawl-caught groundfish within Areas 620-640	AGDB	GOA	regulatory	A, E	L	
32	limit catcher vessels in CGOA pollock fisheries to <125 ft	ADA	GOA	plan?	A	L	
33	synchronize Central GOA (620-630) pollock openings with BSAI openings	ADA	both	regulatory	A	P	
<b>Other Fishery Management</b>							
5	start third quarter trawl fisheries on first Sunday after July 4	Groundfish F	both	regulatory	E	H	L
18	allocate sablefish: 95% to fixed gear, 5% to trawl gear	Clipper Sfd.	BSAI	plan	A	L	
25	framework season starts in fixed gear Pacific cod fishery	NPLA	BSAI	plan	E	L	
38	start CDQ trawl fisheries on January 1	CDQ Comte.	BSAI	plan	E	L	
<b>Habitat Areas of Particular Concern</b>							
11	identify locations of living substrate in shallow and deep water	AMCC	both	plan	H	H	M
12	analyze seamounts/pinnacles, ice edge, shelf breaks, etc. for HAPC desig.	AMCC	both	plan	H	H	H
13	establish framework procedure to assess impacts on specific HAPC sites	AMCC	both	plan	H	H	M/H
16	designate three specific places as HAPC	AMCC	both	plan	H	H	M/H
19	establish a no fishing zone to protect bairdi crab critical habitat	J. Steele	BSAI	plan	H	L	
31	establish process to identify HAPC for red king crab and c. bairdi in Kodiak	UFMA	GOA	plan	H	M/H	
<b>Marine Mammal Concerns</b>							
15	limit percent allocation, temporal closures, etc. in pollock 'A' season	AMCC	BSAI	regulatory	B	P	
22	extend application of trawl exclusion zones and reduce pollock TAC	Gpeace/AOC	GOA	plan	B	P	
23	seasonal/area closures, yr-round CVOA, close AI, reduce pollock TAC	Gpeace/AOC	BSAI	plan	B	P	
24	extend application of trawl exclusion zones to protect Steller sea lions	Gpeace/AOC	BSAI	plan	B	P	
<b>Essential Fish Habitat</b>							
36	spread bycatch discards over wide area to eliminate bottom putrefaction	N. Hillstrand	both	regulatory	B	L	

A=allocation, B=bycatch reduction, C=conservation, E=efficiency, H=Habitat Area of Particular Concern, P=in progress, NA=not applicable

The Service and Department have submitted the protocol to recognized species and technical experts for peer review to ensure a scientifically sound basis for determination of the presence of the species within its known range.

The Service and the Department will regularly review and modify, as necessary, the survey protocol to ensure that the best available scientific information is incorporated into the prescribed methodology.

**Overall Purpose**

The Service is extending the public comment period to ensure that adequate time is available for the public to provide additional information to more adequately understand the occurrence and biology of the cactus ferruginous pygmy-owl in central and southern Arizona. Until more complete scientific information is available, the Service believes that the use of the take guidance document and the proposed survey protocol document will protect the pygmy-owl while allowing carefully considered development to proceed and will provide the most biologically valid data upon which to determine habitat use and occupancy by the pygmy-owl.

**Author**

The primary author of this document is Tom Gatz, Acting Field Supervisor, Arizona Ecological Services Field Office (see ADDRESSES section).

**Authority**

The authority for this action is the Endangered Species Act (16 U.S.C. 1532 et seq.).

Dated: September 8, 1998.

Nancy M. Kaufman,  
Regional Director, Region 2, Albuquerque,  
New Mexico.

[FR Doc. 98-24776 Filed 9-14-98; 8:45 am]  
BILLING CODE 4310-55-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[I.D. 090898D]

RIN 0648-AK12

**Fisheries of the Exclusive Economic Zone Off Alaska; Amendment 51 to the Fishery Management Plan for Groundfish of the Gulf of Alaska and Amendment 51 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The North Pacific Fishery Management Council (Council) has submitted Amendment 51 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) and Amendment 51 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA) (FMPs). BSAI Amendment 51 would establish the following allocations and management measures for a 3-year period beginning in January 1999. Comments from the public are requested.

**DATES:** Comments on Amendments 51/51 must be submitted on or before November 16, 1998.

**ADDRESSES:** Comments on Amendments 51/51 should be submitted to Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendments 51/51 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared for Amendments 51/51 are available from the North Pacific Fishery Management Council at 605 West 4th Ave., Room 306, Anchorage, AK 99501, telephone 907-271-2809.

**FOR FURTHER INFORMATION CONTACT:** Kent Lind, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each Regional Fishery Management Council submit any fishery management plan (FMP) or plan amendment it

prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a document announcing that the FMP or amendment is available for public review and comment. NMFS will consider the public comments received during the comment period in determining whether to approve the FMP or amendment.

**BSAI Amendment 51**

At its June 1998 meeting, the Council voted 7-4 to adopt BSAI Amendment 51. This amendment, if approved, would make three significant changes to the existing BSAI inshore/offshore pollock allocation provisions: (1) Four percent of the BSAI pollock TAC, after subtraction of reserves, would be shifted to the inshore component resulting in a 39/61 inshore/offshore allocation split; (2) a portion of the inshore component Bering Sea B season allocation, equal to 2.5 percent of the BSAI pollock TAC after subtraction of reserves, would be set aside for small catcher vessels, and would become available on or about August 25 of each year; (3) catcher vessels delivering to the offshore component would be prohibited from fishing inside the CVOA during the B season from September 1 until the inshore component is closed to directed fishing. Amendment 51 would remain in effect for the years 1999 through 2001.

At its June 1998 meeting, the Council voted unanimously to adopt GOA Amendment 51. GOA Amendment 51, if approved, would allocate 100 percent of the GOA pollock TAC and 90 percent of the GOA Pacific cod TAC to vessels catching pollock and Pacific cod for processing by the inshore component. Ten percent of the GOA Pacific cod TAC would be allocated to vessels catching Pacific cod for processing by the offshore component.

A major concern identified during the preliminary review of Amendments 51/51 is that the economic analysis submitted by the Council does not provide a basis upon which to draw unambiguous conclusions about the probable net economic benefits of the competing alternatives. Treated in considerable detail in the document, the reasons for this deficiency pertain to basic data limitations that make conversion from gross to net economic measures impossible.

Completion of the preliminary review with publication of the notice of availability (NOA) for Amendments 51/51 does not mean that either of these two amendments will be approved.

NMFS invites comment on the consistency of the amendments with the provisions of the Magnuson-Stevens Act, the national standards, and other applicable laws. Comments are specifically requested on the adequacy of the analysis to support findings of compliance with national standards 2 (scientific information), 4 (allocations), 5 (efficiency), 7 (costs and benefits), 8 (fishing communities), and 10 (safety of life at sea). Information and analysis that bolster or contradict the conclusions in any of the supporting documents are also welcome.

NMFS will consider the public comments received during the comment period in determining whether to approve Amendments 51/51. A

proposed rule to implement Amendments 51/51 is scheduled to be published within 15 days of this document.

Public comments are being solicited on the amendments through the end of the comment period stated in this NOA; a proposed rule that would implement the amendments may be published in the *Federal Register* for public comment following NMFS' evaluation under the Magnuson-Stevens Act procedures. Public comments on the proposed rule must be received by the end of the comment period on the amendments to be considered in the approval/disapproval decision on the amendments. All comments received by the end of the comment period on the

amendments, whether specifically directed to the amendments or the proposed rule, will be considered in the approval/disapproval decision; comments received after that date will not be considered in the approval/disapproval decision on the amendments. To be considered, comments must be *received* by close of business on the last day of the comment period specified in this NOA; that does not mean postmarked or otherwise transmitted by that date.

Dated: September 10, 1998.

Gary C. Matlock,

*Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.*

[FR Doc. 98-24847 Filed 09-15-98; 8:45 am]

BILLING CODE 3510-22-F

**2.4 Sortation Level**

The actual sortation level (or corresponding abbreviation) is used for the package, tray, sack, or pallet levels required by 2.2 and shown below: [Add new "PSCF" indicator to identify SCF pallets created as a result of package reallocation under M045.5.0, as follows:]

Sortation level	Abbreviation
SCF (pallets) .....	N/A.
SCF (pallets created from package reallocation).	PSCF.

Neva R. Watson,

Attorney, Office of Legal Policy.

[FR Doc. 98-28803 Filed 10-28-98; 8:45 am]

BILLING CODE 7710-12-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-6179-6]

### Michigan: Final Authorization of State Hazardous Waste Management Program Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to grant final authorization to the hazardous waste program revisions submitted by Michigan. In the final rules section of this Federal Register, EPA is authorizing the State's program revisions as an immediate final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for the authorization is set forth in the immediate final rule. If no adverse written comments are received on this action, the immediate final rule will become effective and no further activity will occur in relation to this proposal. If EPA receives adverse written comments, EPA will withdraw the immediate final rule before its effective date by publishing a notice of withdrawal in the Federal Register. EPA will then respond to public comments in a later final rule based on this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action should do so at this time.

**DATES:** Written comments on this proposed rule must be received on or before November 30, 1998.

**ADDRESSES:** Send written comments to: Ms. Judy Feigler, Michigan Regulatory Specialist, U.S. Environmental Protection Agency, Region 5, Waste, Pesticides and Toxics Division (DM-7), 77 W. Jackson Blvd., Chicago, Illinois 60604. Copies of the Michigan program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 9 a.m. to 4 p.m. at the following addresses: Michigan Department of Environmental Quality, 608 W. Allegan, Hannah Building, Lansing, Michigan. Contact: Ms. Ronda Blayer, phone: (517) 353-9548; and EPA Region 5, 77 W. Jackson Blvd., Chicago, Illinois 60604. Contact: Ms. Judy Feigler, phone: (312) 886-4179.

**FOR FURTHER INFORMATION CONTACT:** Ms. Judy Feigler at the above address and phone number.

**SUPPLEMENTARY INFORMATION:** For additional information see the immediate final rule published in the rules section of this Federal Register.

Dated: October 9, 1998.

Gail Ginsberg,

Acting Regional Administrator, Region 5.

[FR Doc. 98-28723 Filed 10-28-98; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 981021263-8263-01; I.D. 090898D]

RIN 0648-AK12

### Fisheries of the Exclusive Economic Zone Off Alaska; Inshore/Offshore Allocations of Pollock and Pacific Cod Total Allowable Catch

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations to implement Amendment 51 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) and Amendment 51 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA) (FMPs). These amendments would allocate pollock in

the BSAI and pollock and Pacific cod in the GOA between inshore and offshore industry components for the years 1999 through 2001. NMFS proposes other associated regulatory measures as well. The amendments and the proposed implementing regulations were submitted by the North Pacific Fishery Management Council (Council) and are intended to promote the socioeconomic goals and objectives of the Council and the FMPs.

**DATES:** Comments on the proposed rule must be received on or before December 14, 1998.

**ADDRESSES:** Comments must be sent to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendments 51/51 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for Amendments 51/51 are available from the North Pacific Fishery Management Council at 605 W. 4th Ave., Room 306, Anchorage, AK 99501, telephone 907-271-2809.

**FOR FURTHER INFORMATION CONTACT:** Kent Lind, 907-586-7228.

**SUPPLEMENTARY INFORMATION:**

#### Background

NMFS manages the groundfish fisheries in the exclusive economic zone of the BSAI and GOA under the FMPs. The Council prepared, and NMFS approved, the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing the groundfish fisheries of the GOA and BSAI appear at 50 CFR parts 600 and 679.

BSAI Amendment 51, if approved, would establish the following allocations and management measures for the years 1999 through 2001: (1) The BSAI pollock total allowable catch (TAC), after subtraction of reserves, would be allocated 61 percent to vessels catching pollock for processing by the offshore component and 39 percent to vessels catching pollock for processing by the inshore component; (2) a portion of the inshore component Bering Sea B season allocation equal to 2.5 percent of the BSAI pollock TAC, after subtraction of reserves, would be set aside for harvest by catcher vessels under 125 ft (38.1 m) length overall (LOA) and would become available on or about August 25 of each year; and (3) all vessels harvesting pollock for processing by the offshore component

would be prohibited from fishing inside the Catcher Vessel Operational Area (CVOA) during the B season (September 1 to November 1) until the date that NMFS closes the inshore component B season allocation to directed fishing.

GOA Amendment 51 would extend the current allocations of pollock and Pacific cod TACs for the years 1999 through 2001. The pollock TAC in the GOA would continue to be allocated 100 percent to vessels catching pollock for processing by the inshore component, and the Pacific cod TAC in the GOA would continue to be allocated 90 percent to vessels catching Pacific cod for processing by the inshore component and 10 percent to vessels catching Pacific cod for processing by the offshore component.

The Council has submitted Amendments 51/51 for Secretarial review and a Notice of Availability of the FMP amendments was published in the Federal Register on September 15, 1998 (63 FR 49540), with comments on the FMP amendments invited through November 16, 1998. Comments may address the FMP amendments, the proposed rule, or both, but must be received by November 16, 1998, to be considered in the approval/disapproval decision on the FMP amendments. All comments received by November 16, 1998, whether specifically directed to the FMP amendments or the proposed rule, will be considered in the approval/disapproval decisions on the FMP amendments.

A major concern identified during the preliminary review of Amendments 51/51 is that the economic analysis submitted by the Council does not provide a basis upon which to draw unambiguous conclusions about the probable net economic benefits to the Nation of the proposed amendments. The reasons for this deficiency are treated in considerable detail in the document. They pertain to basic data limitations which make conversion from gross to net economic measures impossible. Completion of the preliminary review with publication of the proposed rule for Amendments 51/51 does not mean that either of these two amendments will be approved. NMFS invites comment on the consistency of the amendments and the proposed regulations with the Magnuson-Stevens Act, the national standards, and other applicable laws. Comments are specifically requested on the adequacy of the analysis to support findings of compliance with national standards 2 (scientific information), 4 (allocations), 5 (efficiency), 7 (costs and benefits), 8 (fishing communities), and 10 (safety of life at sea). Information and

analysis that bolster or contradict the conclusions in any of the supporting documents are also welcome.

#### Reconciliation of Amendments 51/51 with the American Fisheries Act

On October 21, 1998, the President signed into law the American Fisheries Act (AFA), which, besides affecting Amendments 51/51 in other ways, allocates BSAI pollock differently than BSAI FMP Amendment 51 and these proposed regulations.

Specifically, section 206 of the AFA states:

(a) Pollock Community Development Quota.—Effective January 1, 1999, 10 percent of the total allowable catch of pollock in the Bering Sea and Aleutian Islands Management Area shall be allocated as a directed fishing allowance to the western Alaska community development quota program established under section 305(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)).

(b) Inshore/Offshore.—Effective January 1, 1999, the remainder of the pollock total allowable catch in the Bering Sea and Aleutian Islands Management Area, after the subtraction of the allocation under subsection (a) and the subtraction of allowances for the incidental catch of pollock by vessels harvesting other groundfish species (including under the western Alaska community development quota program) shall be allocated as directed fishing allowances as follows—

(1) 50 percent to catcher vessels harvesting pollock for processing by the inshore component;

(2) 40 percent to catcher/processors and catcher vessels harvesting pollock for processing by catcher/processors in the offshore component; and

(3) 10 percent to catcher vessels harvesting pollock for processing by motherships in the offshore component.

Because this new statute was signed into law only a few days ago, the Council has not had the opportunity to reconcile Amendments 51/51 and the proposed regulations with the new statute. The Council has scheduled a special meeting to examine and respond to the mandates of the AFA and to address management measures that may be necessary to protect endangered Steller sea lions. This meeting will be held in Anchorage, Alaska, on November 10–13, 1998. Additional information on this special meeting is available from the Council (see ADDRESSES) and on the Council's web site: <http://www.fakr.noaa.gov/npfmc/npfmc.htm>.

Because the Council, at its November meeting, will address reconciliation of Amendments 51/51 and this proposed rule with the AFA, NMFS is proceeding with the publication of this proposed rule unchanged so that such regulatory provisions that are unaffected by the

AFA as inshore/offshore allocations of pollock and Pacific cod in the GOA, establishment of a CVOA in the Bering Sea, and technical changes to the existing regulations can proceed in a timely manner. NMFS will reconcile any inconsistencies between Amendments 51/51 (including their proposed implementing regulations) and the AFA at the time of approval/disapproval of the Amendments and in the final rule implementing them after consultation with the Council at its November 1998 meeting and after the public has had opportunity to comment.

#### History of Inshore/Offshore Allocations Amendments 18/23

The first inshore/offshore allocations of pollock and Pacific cod were established in 1992 under Amendments 18/23 to the FMPs. The precipitating event that led to the development of inshore/offshore allocations began in early 1989 when the rapid harvest of the GOA pollock TAC by several large factory trawlers forced an early closure of the GOA pollock fishery and prevented inshore catcher vessels and processors from realizing their anticipated economic benefit from the pollock fishery later in the year. At the April 1989 Council meeting, fishermen and processors from Kodiak Island requested that the Council consider specific allocations of fish for processing by the inshore and offshore components of the fishery to prevent future preemption of resources by one component of the industry. The Council considered the request and the impacts on coastal community development and stability of the fisheries and prepared Amendments 18/23.

After 2 years of analysis, review, and debate on the inshore/offshore issue, the Council took final action on Amendments 18/23 in June 1991. Amendment 18 to the BSAI FMP, as adopted by the Council, established a Community Development Quota (CDQ) program and set aside one half of the pollock reserve (7.5 percent of the BSAI pollock TAC) for CDQ harvest, allocated 35 percent of the remaining BSAI pollock TAC to vessels catching pollock for processing by the inshore component and 65 percent of the remaining BSAI pollock TAC to vessels catching pollock for processing by the offshore component in the first year of the allocation, with the inshore allocation increasing to 40 percent in the second year, and 45 percent in the third and fourth years of the amendment, respectively. Amendment 18 also established a catcher vessel operational area (CVOA) from which



catcher processors and motherships would be excluded throughout the fishing year when operating in a directed fishery for pollock.

Amendment 23 to the GOA FMP, as adopted by the Council, allocated 100 percent of the GOA pollock TAC to vessels catching pollock for processing by the inshore component. Amendment 23 also allocated 90 percent of the GOA Pacific cod TAC to vessels catching Pacific cod for processing by the inshore component, and 10 percent of the GOA Pacific cod TAC to vessels catching Pacific cod for processing by the offshore component.

NMFS's review of the amendments began on December 1, 1991. On March 4, 1992, NMFS approved Amendment 23 to the GOA FMP. On the same date, NMFS partially disapproved Amendment 18 to the BSAI FMP by approving the 35/65 allocation split for 1992 but disapproving the increased inshore component allocations for 1993-1995.

In his March 4, 1992, letter notifying the Council of the approval of Amendment 23 and partial disapproval of Amendment 18, the Under Secretary for Oceans and Atmosphere and Administrator of NOAA (Administrator) stated that NOAA was not opposed to the concept of an allocation between onshore and offshore interests as an interim measure pending development of a solution to overcapitalization—ideally, a market-based solution. NMFS's disapproval of the BSAI pollock allocations for 1993 through 1995 was based in part on a cost/benefit analysis prepared by NMFS that indicated a significant net economic loss to the Nation under the proposed allocations for years 1993 through 1995. The Administrator urged the Council to work as expeditiously as possible toward some other method of allocating fish than either direct competition among participants within an open access fishery, or direct government intervention. Meanwhile, he noted, preventing preemption by one fleet of another, safeguarding capital investments, protecting coastal communities that are dependent on a local fleet, and encouraging fuller utilization of harvested fish are desirable objectives that are provided for under the Magnuson-Stevens Act.

At its April 1992 meeting, the Council considered NMFS's actions and decided to revise Amendment 18. The Council supplemented its previous analysis of allocation alternatives. At a special meeting to consider this issue in August 1992, the Council again considered the comments of its advisory bodies and the public, adopted its preferred alternative,

and submitted it to NMFS as revised Amendment 18. As adopted by the Council, revised Amendment 18 would have established a 35/65 inshore/offshore allocation for 1993, the first year of the revised amendment. The inshore allocation would then have increased to 37.5 percent for 1994 and 1995, the second and third years of the revised amendment. In addition, revised Amendment 18 proposed two changes to the CVOA. Under revised Amendment 18, the CVOA would take effect only during the pollock B Season (September 1 to November 1), and motherships (and catcher processors operating as motherships) were allowed to receive deliveries and process pollock inside the CVOA as long as they did not engage in directed fishing for pollock themselves. In September 1992, the Council submitted revised Amendment 18 to NMFS for review and approval.

On November 23, 1992, after careful consideration of the revised amendment, public comments, the record developed by the Council, and the analysis of the potential effects of the proposed amendment, NMFS partially disapproved revised Amendment 18. NMFS approved pollock allocations of 35 percent and 65 percent for vessels catching pollock for processing by the inshore and offshore components, respectively, for the years 1993 through 1995, and the establishment of the CVOA. However, NMFS disapproved the 2.5 percent increase for 1994 and 1995, finding that the sole purpose of the increased allocation to the inshore component during those years was economic, and therefore, in violation of national standards 4, 5, and 7 of Magnuson-Stevens Act, as well as Executive Order 12291. The final rule implementing these decisions was published on December 24, 1992 (57 FR 61326).

#### *Amendments 38 and 40*

When the Council developed its original inshore/offshore amendments, it stipulated that Amendments 18/23 would expire on December 31, 1995, with the intention that by December 31, 1995, it would have adopted and NMFS would have approved a more comprehensive, long-term management program to address the overcapitalization and allocation problems facing the industry, not only for pollock and Pacific cod, but for all the groundfish and crab fisheries under the Council's authority.

By 1995, the Council had made some progress on its long-term plan. For example, in June 1995, it adopted license-limitation programs for the groundfish and crab fisheries. However,

the Council estimated that it would take 2 or 3 more years to develop and implement a comprehensive rationalization plan that could more directly address these allocation issues. Consequently, the Council decided it would be necessary to extend the provisions of Amendments 18/23 for an additional 3 years to maintain stability in the industry, facilitate further development of the comprehensive management plan, and allow for realization of the goals and objectives of the pollock CDQ program. In making this decision, the Council continued the mandate it established for itself in 1992 when it recognized that a more permanent solution to overcapacity and preemption was needed.

The Council also determined that if the provisions of Amendments 18/23 expired, the fishery would return to the "free-for-all" state that existed before Amendments 18/23, and the inshore sector again would be faced with the threat of preemption by the large and efficient offshore sector. Thus, the Council began the process to extend the provisions of Amendments 18/23. The provisions of Amendment 18 became the basis for Amendment 38 to the BSAI FMP, and the provisions of Amendment 23 became the basis for Amendment 40 to the GOA FMP.

At its meeting in June 1995, the Council voted unanimously to adopt Amendments 38/40 through December 31, 1998, with two changes from Amendments 18/23. First, Amendment 38 decreased the size of the CVOA by moving the western boundary of the area 30 minutes to the east. Second, it allowed catcher processors to engage in directed fishing for pollock inside the CVOA if the inshore component pollock allocation was closed to directed fishing and the offshore component allocation was still open to directed fishing. A proposed rule to implement Amendments 38/40 was published in the *Federal Register* on September 18, 1995 (60 FR 48087). NMFS approved Amendments 38/40 on November 28, 1995, and a final rule to implement Amendments 38/40 was published in the *Federal Register* on December 12, 1995 (60 FR 63654).

#### *Council Development of Amendments 51/51*

In April 1997, recognizing that a comprehensive rationalization plan to address overcapitalization and preemption issues could not be adopted and implemented prior to the expiration of Amendments 38/40, the Council began development of a third set of inshore/offshore FMP amendments. These amendments became identified as

Amendments 51/51. In June 1997, the Council requested information in the form of pollock industry profiles that enabled it to examine the evolution and current status of the BSAI pollock fisheries from 1991 through 1996. At that time, the Council also decided to split the reauthorization of the pollock CDQ program in the BSAI and the reauthorization of BSAI inshore/offshore pollock allocations into separate FMP amendments. Under BSAI Amendments 18 and 38, the CDQ program had been included with the inshore/offshore pollock allocations. However, BSAI Amendment 51 only addresses inshore/offshore pollock allocations. The Council adopted a separate FMP amendment, Amendment 45, to extend the BSAI pollock CDQ program on a permanent basis. A proposed rule to implement Amendment 45 was published in the Federal Register on September 3, 1998 (63 FR 46993).

At its September 1997 meeting, after examination of the industry profiles prepared by Council staff, consideration of public comment, and Council discussion, the Council adopted the following inshore/offshore problem statements for the BSAI and GOA:

**BSAI Problem Statement:** The current inshore/offshore allocation expires at the end of 1998. The Council thus faces an inevitable allocation decision regarding the best use of the pollock resource. Many of the issues that originally prompted the Council to adopt an inshore/offshore allocation (e.g., concerns for preemption, coastal community dependency, and stability), resurface with the specter of expiration of the current allocation.

The current allocation was made on the basis of several critical assumptions including utilization rates, foreign ownership, the balance between social gains and assumed economic losses to the nation, and the nature of progress on the Council's Comprehensive Rationalization Program (CRP) initiative. Many of these assumptions have not been revisited since approval of the original amendment. It is not clear that these assumptions hold or that the Council and the nation are well-served by continuing to manage the pollock fishery without a reexamination of allocation options. The Magnuson-Stevens Act presents the Council with a new source of guidance to evaluate national benefits. In the context of Council deliberations over Inshore-Offshore 3, this includes enhanced statutory emphasis on increased utilization, reduction of waste, and fishing communities.

There have also been substantial changes in the structure and characteristics of the affected industry sectors including number of operations, comparative utilization rates, and outmigration and concentration of capital. These changes are associated with several issues, including: optimization of food production resulting from wide differences in pollock utilization; shares of pollock

harvesting and processing; discards of usable pollock protein; reliance on pollock by fishing communities; and decreases in the total allowable catch of pollock. In addition, changes in fishing patterns could lead to local depletion of pollock stocks or other behavioral impacts to stocks which may negatively impact Steller sea lions and other ecosystem components dependent upon stock availability during critical seasons.

Therefore, the problem facing the Council is to identify what allocation would best serve to ensure compliance with the new Act and address the issues identified above.

**GOA Problem Statement:** Allowing the current Gulf of Alaska Inshore/Offshore allocative regime to expire December 31, 1998, would allow the same preemption of resident fleets by factory trawlers in the pollock and Pacific cod fisheries which occurred in 1989. It was this dramatic preemption which triggered the original proposal for an inshore/offshore allocation. In 1989, there was still pollock available in the Bering Sea when the preemption occurred when vessels moved into the Gulf to take advantage of fish with high roe content.

A rollover of the current Gulf of Alaska inshore/offshore program which allocates 100 percent of the pollock and 90 percent of the Pacific cod to inshore operations is a proactive action to prevent the reoccurrence of the original problem.

#### Alternatives Considered by the Council

In addition to the development of the inshore/offshore problem statements, the Council adopted a complex set of inshore/offshore alternatives at its September 1997 meeting. During the course of the next several Council meetings, these evolved into five basic alternatives and included various suboptions within each alternative. However, for the GOA, the Council considered only Alternatives 1 and 2.

**Alternative 1: No action.** The existing BSAI and GOA inshore/offshore allocations would expire at the end of 1998.

**Alternative 2: Reauthorize existing BSAI and GOA inshore/offshore allocations without change.** This alternative includes suboptions for a 1-year and 3-year effective period for the amendment.

**Alternative 3: Adopt new BSAI pollock allocations within the following ranges.** This alternative includes a range of allocations among three sectors: Inshore sector 25 to 45 percent, "true" motherships 5 to 15 percent, and offshore sector 40 to 70 percent. The analysis defines "true" motherships as offshore motherships that process but do not harvest groundfish. This alternative includes options that assign "true" motherships (and their allocation percentage) to either the inshore or offshore sectors, or establish a separate "true" mothership allocation.

Additional options establish a set-aside of 40 to 60 percent of the inshore and "true" mothership sector allocations for small catcher vessels (defined as catcher vessels less than 125 ft (38.1 m) LOA), and a set-aside of 9 to 15 percent of the offshore quota for catcher vessels delivering to catcher processors.

**Alternative 4: "Harvester's Choice" for small catcher vessels.** This alternative establishes a stand alone or separate allocation for small catcher vessels (defined as catcher vessels less than 125 ft (38.1 m) LOA). This allocation is equal to 40 to 60 percent of the inshore quota, plus 9 to 15 percent of the offshore quota, plus 100 percent of the "true" mothership quota, depending on the sector allocations established under Alternative 3. Small catcher vessels are free to deliver their allocation to any processing sector and the processing sectors compete among themselves for the opportunity to process pollock harvested by small catcher vessels.

**Alternative 5: "Harvester's Choice" for catcher vessels 155 ft (47.2 m) LOA and shorter.** This alternative is the same as Alternative 4 except that the catcher vessel allocation is available to all catcher vessels 155 ft (47.2 m) LOA and shorter.

Also included as options under Alternative 2 through 5 were four CVOA suboptions: (1) Retain the CVOA as currently defined, (2) prohibit catcher processors from operating inside the CVOA during both pollock seasons, (3) prohibit motherships from operating inside the CVOA during either pollock A season or pollock B season but not both, and (4) repeal the CVOA.

Finally, the Council considered two expiration date options for Alternatives 3 through 5: (1) The selected alternative(s) do not expire, but serve as interim measures until the Council's comprehensive rationalization plan has been completed, and (2) the selected alternative(s) remain in effect for a 3-year period.

#### Council Adoption of BSAI Amendment 51

At its June 1998 meeting, after examination of the EA/RIR/TRFA, consideration of the recommendations of its Advisory Panel (AP) and Scientific and Statistical Committee (SSC), and after extensive public testimony and deliberation, the Council voted 7-4 to adopt Amendment 51 to the BSAI with the following changes from the allocation scheme established under Amendment 38: (1) Shift four percent of the BSAI pollock TAC, after subtraction of reserves, would be shifted to the inshore component resulting in a 39/61

inshore/offshore allocation split: (2) set aside a portion of the inshore component Bering Sea B season allocation, equal to 2.5 percent of the BSAI pollock TAC after subtraction of reserves, for small catcher vessels, and to become available on or about August 25 of each year; and (3) prohibit catcher vessels delivering to the offshore component from fishing inside the CVOA during the B season from September 1 until the inshore component B season allocation is closed to directed fishing. Amendment 51 would remain in effect for the years 1999 through 2001.

**BSAI pollock allocation.** Under BSAI Amendment 51, the BSAI pollock TAC, after subtraction of reserves, would be allocated 61 percent to vessels catching pollock for processing by the offshore component and 39 percent to vessels catching pollock for processing by the inshore component. In developing this preferred alternative, much of the Council discussion focused on a last minute proposal by major inshore and offshore industry representatives that would have established a 3-way allocation split: 40 percent inshore, 50.5 percent offshore, and 9.5 percent to "true" motherships. A separate category for "true" motherships would have enabled the remaining factory trawlers in the offshore sector to establish a harvesters cooperative similar to the cooperative operating in the hake fishery off the Pacific coast. However, several Council members expressed unease with the cooperative idea and uncertainty about the potential spillover effects into other fisheries. As a result, the Council rejected the industry agreement and chose to maintain a 2-way allocation split.

In rejecting the industry's 3-way split proposal, the Council noted that the industry proposal came very late in the process and that many affected members of the public did not have adequate time to analyze and comment on it. While the statutory moratorium on the development of new individual fishing quota (IFQ) programs does not prohibit the Council from adopting a 3-way allocation split, some Council members expressed concern that adopting a 3-way allocation split for the explicit purpose of facilitating a harvesters cooperative could be seen as violating the intent of the Congressional moratorium on IFQ programs.

In adopting its preferred allocation alternative for BSAI Amendment 51, the Council indicated that a shift of pollock TAC to the inshore component was warranted for several reasons. First, the Council noted that the analysis prepared for Amendments 38/40 concluded that

the expected net losses to the Nation's economy were probably overstated in the cost/benefit analysis prepared for Amendments 18/23. A majority of the Council believed that the rationale for partially disapproving the original Amendment 18 in 1991 no longer was valid and that the allocation proposed under Amendment 51 was closer to the Council's original intent under Amendment 18. Second, the Council noted that the EA/RIR/IRFA prepared for Amendments 51/51 concludes that the inshore sector realizes greater gross revenues per metric ton of pollock than the offshore sector due to the higher recovery rates achieved by the inshore sector. The analysis generates gross revenue estimates for the various processing components using 1996 data and concludes that 4 percent of the BSAI pollock TAC (the amount shifted under Amendment 51) would generate the following gross revenues if processed by each of the following industry components, respectively: Inshore component \$24.1 million; mothership component, \$21.4 million; offshore component \$21.7 million. Third, the Council noted that coastal communities in Alaska where onshore processors are located are disproportionately dependent on pollock processing compared to the communities in which offshore processors are based.

**Small catcher vessel set-aside.** Over the course of developing Amendments 51/51 the Council received substantial testimony from owners and operators of smaller catcher boats who indicated that, under the current BSAI inshore/offshore regime, their share of the catch was eroding constantly. The industry sector profiles prepared as part of the EA/RIR/IRFA also confirmed that the share of the BSAI pollock harvest taken by catcher vessels under 125 ft (38.1 m) LOA has eroded since 1991. The percentage of total catcher vessel pollock harvest taken by catcher vessels under 125 ft (38.1 m) LOA declined from 65 percent in 1991 to 42 percent in 1996 despite the fact that the number of catcher vessels under 125 ft (38.1 m) LOA increased from 71 to 89 during the same time period. Recognizing this trend, and the fact that many of these small catcher vessels are considered "small entities" under the Regulatory Flexibility Act (RFA), the Council examined a range of options to preserve the pollock harvest share of smaller catcher vessels as outlined above.

Most of the alternatives considered by the Council included TAC set-asides for small catcher vessels that would be available for harvest during the A and B pollock seasons. However, NMFS

informed the Council that the agency's TAC monitoring system would be unable to monitor TAC set-asides based on vessel size without major changes in recordkeeping and reporting requirements that could not be implemented by January 1999. Based on this constraint, and on the advice of its Advisory Panel, the Council chose to establish a small catcher vessel set-aside that would be available prior to the pollock B season. Because only small catcher vessels delivering to inshore processors would be allowed to fish during this period, recordkeeping and reporting changes would not be required to monitor the set-aside.

Based on this information, the Council voted to set aside a portion of the inshore component Bering Sea B season allocation for small catcher vessels (defined as catcher vessels under 125 ft (38.1 m) LOA). The amount of this set-aside would be equal to 2.5 percent of the BSAI pollock TAC after subtraction of reserves. This small vessel set-aside would become available on or about August 25 of each year with the actual opening date announced by NMFS in the Federal Register on an annual basis. NMFS would base the actual start date for the set-aside fishery on the amount of the set-aside, the projected harvest rate, and the number of small catcher vessels expected to participate so that overharvest or underharvest of the set-aside is minimized.

While the amount of the set-aside would be equal to 2.5 percent of the BSAI TAC after subtraction of reserves, the set-aside would be available in the Bering Sea only, and would be taken out of the inshore component B season allocation. The effect of this action would be to allow small catcher vessels to begin fishing for the inshore component B season allocation on or about August 25, effectively giving them a 6-day "head start" over catcher vessels that are 125 ft (38.1 m) LOA or longer. Any underages or overages of the set-aside would be added to or subtracted from the amount available to the inshore component Bering Sea B season.

**Exclusion of offshore catcher vessels from the CVOA.** BSAI Amendment 51, if approved, would exclude all vessels engaged in directed fishing for pollock for processing by the offshore component from fishing inside the CVOA during the B season from September 1 until the date that NMFS closes the inshore component B season allocation to directed fishing. The Council, in adopting this change, noted that the proportion of catch taken by mothership operations has increased at the expense of catcher processors over

the period examined by the EA/RIR/IRFA (1991 through 1996). Under current regulations, catcher vessels that deliver pollock to either the inshore or offshore component for processing may operate within the CVOA. Additionally, vessels in the offshore component that do not catch groundfish but do process pollock, such as motherships, may operate within the CVOA. Although these regulations permit a catcher processor to operate as a mothership within the CVOA, catcher processors typically catch pollock in a directed fishery during the B season and are therefore excluded from the CVOA. Catcher vessels that deliver their catch to offshore catcher processors must operate within relatively close proximity to their processor because codends, once retrieved, cannot be towed for significant distances without damaging the pollock. On the other hand, motherships can operate where their offshore catcher vessels are fishing, either inside or outside the CVOA. As a result of the current regulations, mothership operations may have a competitive advantage over catcher processors because they have the opportunity to operate inside the CVOA during the B season where pollock may be more abundant. By excluding all catcher vessels that harvest pollock for processing by the offshore component in the CVOA during the B season, the Council sought to establish a more level playing field between the two elements of the offshore component—catcher processors and motherships.

**Council Adoption of GOA Amendment 51**

After receiving the recommendations of the AP, SSC and public testimony, the Council voted unanimously to extend the provisions of GOA Amendment 40 without change for an additional 3 years. GOA Amendment 51, if approved, would allocate 100 percent of the GOA pollock TAC and 90 percent of the GOA Pacific cod TAC to vessels catching pollock and Pacific cod for processing by the inshore component. Ten percent of the GOA Pacific cod TAC would be allocated to

vessels catching Pacific cod for processing by the offshore component. The Council believed that an extension of the existing allocation percentages would maintain stability in the GOA pollock and Pacific cod fisheries and would prevent a reoccurrence of the preemption by large factory trawlers that led to the original inshore/offshore amendments.

**Technical Changes That Will Be Made by This Proposed Rule**

In addition to the basic regulatory provisions contained in Amendments 51/51, this proposed rule would make two technical changes to the existing regulatory definitions of the inshore and offshore components. First, definitions of the inshore and offshore components at 50 CFR 679.2 would be revised to indicate that all groundfish processors operating in the BSAI or GOA must be identified as belonging to either the inshore or offshore component regardless of whether they process pollock harvested in a directed fishery for pollock in the BSAI or GOA, or Pacific cod harvested in a directed fishery for Pacific cod in the GOA. This change appears to be necessary because NMFS must assign all catch of pollock in the BSAI and GOA and all catch of Pacific cod in the GOA to either the inshore or offshore components when the catch of those species is taken in a directed fishery for pollock or Pacific cod, and when it is taken as incidental catch in fisheries directed at other species. Second, the inshore component definition would be revised to eliminate obsolete language defining how NMFS determines a single geographic location for inshore floating processors. This language no longer is necessary because NMFS now requires that processors identify themselves as inshore or offshore when applying for Federal groundfish permits.

**Classification**

At this time, NMFS has not determined that Amendments 51/51 are consistent with the national standards, other provisions of the Magnuson-Stevens Act, and other applicable laws.

NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

An RIR was prepared for this action that describes the management background, the purpose and need for action, the management action alternatives, and the economic and social impacts of the alternatives. For BSAI Amendment 51, the RIR evaluated a range of alternatives from a return to pre-1992 "open access" management, through retention of the current allocation scheme, to a series of incremental reallocations of TAC among the several BSAI industry components. For GOA Amendment 51, the RIR evaluated two alternatives, a return to pre-1992 "open access" management, and retention of the current allocation scheme.

The Council prepared an IRFA as part of the RIR that addresses the economic impacts of the preferred alternative on small entities. The IRFA concludes that BSAI Amendment 51 would have a significant economic impact on a substantial number of small entities in the BSAI, but GOA Amendment 51 would not have a significant economic impact on a substantial number of small entities in the GOA. A copy of the IRFA is available from the Council (See ADDRESSES).

The IRFA determines that the only small businesses that participate directly in the BSAI pollock fishery are independent catcher vessels. All other business entities that participate directly in the BSAI pollock fishery (catcher processors, motherships, shoreside processors, and processor-affiliated catcher vessels) are considered large entities under the RFA. Independent catcher vessels participate in both sectors of the BSAI pollock fishery. Of the 49 independent catcher vessels estimated to be small entities, 45 are under 125 ft (38.1 m) LOA and 4 are 125 ft (38.1 m) LOA or larger. The estimated numbers of catcher vessels that participated in the 1996 BSAI pollock fishery by sector, vessel size, and small or large entity status are displayed in the following table:

Catcher vessel size and sector	Small entities		Large entities	
	<125'	≥125'	<125'	≥125'
Inshore sector .....	35	2	17	15
Offshore sector .....	9	2	16	0
Both sectors .....	1	0	12	9
Total .....	45	4	45	24

If implemented, BSAI Amendment 51 presents three types of impacts on independent catcher vessels. First, the allocation shift itself would impact catcher vessels participating in both sectors. Second, the small vessel TAC set-aside would have impacts on catcher vessels of all sizes. Finally, the exclusion of offshore catcher vessels from the CVOA would impact catcher vessels delivering to the offshore sector. Each of these impacts is summarized below.

*Impacts of the Allocation Shift on Season Lengths.* Quantitative predictions about the impacts of the Council's preferred alternative on net revenues of catcher vessels are impossible because information on gross and net revenues for individual catcher vessels is not available. However, using data from 1997, the most recent full year for which data are available, it is possible to estimate how BSAI pollock fishing season lengths would have been affected under the Council's preferred alternative if it had been in effect in 1997.

If BSAI Amendment 51 had been in place during 1997, inshore catcher vessels equal to or longer than 125 ft (38.1 m) would have gained an additional 3 fishing days during the A season (January 20 to April 1) and would have lost one fishing day during the B season for a net gain of 2 fishing days. Two small entities fall into this category. Offshore catcher vessels over 125 ft (38.1 m) LOA would have lost 2 fishing days during the A season (January 25 to April 1) and 2 fishing days during the B season for a net loss of 4 fishing days or 7.1 percent of their total fishing days compared to the actual 1997 fishery. Two small entities fall into this category. The value of a fishing day during the A season may be marginally greater than the value of a fishing day during the B season because the catchability of pollock in the BSAI is generally greater during the A season, and most processors give fishermen a monetary bonus based on proceeds from the roe season.

As noted above, 45 of the 49 catcher vessel small entities that participated in the BSAI pollock fishery in 1996 are under 125 ft (38.1 m). If BSAI Amendment 51 had been in place during 1997, inshore catcher vessels under 125 ft (38.1 m) LOA would have gained an additional 3 fishing days during the A season, would have lost 1 fishing day during the B season and would have gained 6 fishing days during the small catcher vessel set-aside fishery for a net gain of 8 fishing days. Thirty-five small entities fall into this category and one small entity delivers to

both sectors. All of these small entities will benefit from the Council's preferred alternative. Offshore catcher boats under 125 ft (38.1 m) LOA would have lost 2 fishing days during both the A season and B season, and would have gained approximately 5 fishing days during the small catcher vessel set-aside fishery, assuming they were able to secure inshore markets, for a net gain of 1 fishing day. Nine small entities fall into this category. Because offshore catcher vessels would be excluded from the CVOA during the B season, these catcher vessels would lose at least one fishing day while they transit to waters outside the CVOA prior to the start of the B season and, therefore, would be unable to take advantage of the entire 6-day set-aside fishery.

*Estimating the effects of the small catcher vessel set-aside.* A set-aside fishery for small catcher vessels has never been conducted in the BSAI or GOA groundfish fisheries. Consequently, it is difficult to project the costs and benefits of such a fishery on small entities. Anecdotal information from inshore processors indicates that all of the inshore processors in the BSAI intend to participate in this fishery and that they intend to operate their plants at full capacity. This suggests that the 25 offshore catcher vessels under 125 ft (38.1 m) (9 of which are small entities) may be able to secure inshore markets for this 6-day fishery. However, offshore catcher vessels may not be able to participate in the entire set-aside fishery if they intend to be in position to begin fishing for their offshore processors outside the CVOA beginning September 1. Inshore processors also have stated that they may use large catcher vessels as tenders to ferry pollock from the fishing grounds to the plants. The use of tenders would enable small catcher vessels to fish non-stop during the opening, although they would likely receive a lower price for fish transferred to large catcher vessels at sea than for fish delivered to a plant. At present, projecting the net revenues to the small catcher vessel fleet as a result of this set-aside is impossible because the prices that inshore processors are willing to pay for these fish are unknown. Inshore processors may have little incentive to bargain with small catcher vessels because any unharvested quota from this fishery would become immediately available to all inshore catcher vessels on September 1. Because inshore processors own (or have financial affiliations with) most of the large inshore catcher vessels, inshore processors may benefit financially if the set-aside is under-harvested.

*Impacts from excluding offshore catcher vessels from the CVOA.* Under BSAI Amendment 51, catcher vessels that deliver to the offshore component would be prohibited from fishing inside the CVOA during B season, from September 1 until the date that NMFS closes the inshore component B season allocation to directed fishing. Excluding offshore catcher vessels from the CVOA would impact catcher vessels delivering to motherships more than catcher vessels delivering to factory trawlers. Codends, once retrieved, cannot be towed for significant distances without damaging the pollock, which means that offshore catcher vessels must operate within relatively close proximity to their processor. For this reason, a catcher vessel delivering to a factory trawler that is fishing outside the CVOA must also fish outside the CVOA unless both vessels are fishing very close to the boundary of the CVOA. Currently, catcher vessels delivering to motherships do not face this restriction because motherships are allowed to operate within the CVOA, and the mothership fleet has a history of operating within the CVOA during the B season. During public testimony, representatives for mothership operations expressed concerns about vessel safety if they are required to fish outside the CVOA during the B season. The extent to which these concerns are justified is difficult to evaluate. The US Coast Guard indicated that no statistics exist to suggest that fishing outside the CVOA is more dangerous than fishing inside the CVOA. However, excluding offshore catcher vessels from the CVOA would force these vessels to operate further offshore during the B season, which may have some unquantifiable impact on vessel safety. It could also impose additional costs on these vessels to the extent that they are forced to transit farther from port to begin fishing.

*Effects of GOA Amendment 51 on small entities.* The IRFA concludes that GOA Amendment 51 would affect the entire GOA commercial fishing fleet. In 1996, the most recent year for which vessel participation information is available, 1,508 vessels participated in the groundfish fisheries of the GOA; 1,254 longline vessels, 148 pot vessels, and 202 trawl vessels. Most of these vessels are considered small entities under the RFA. The commercial pollock catch in the GOA totaled 51,000 mt in 1996 with an exvessel value of \$10.3 million. The Pacific cod catch in the GOA totaled 68,000 mt in 1996 with an exvessel value of \$25.2 million. Most of the businesses involved in the support service industry for the groundfish



fisheries of the GOA (e.g., equipment, supplies, fuel, groceries, entertainment, transportation) are also considered to be small entities.

GOA Amendment 51, which would allocate 100 percent of the pollock TAC and 90 percent of the Pacific cod TAC to the vessels fishing for processing by the inshore component, would positively impact nearly all small entities participating in the pollock and Pacific cod fisheries of the GOA because nearly all of these small entities are part of the inshore component. The absence of Amendment 51 would open up the GOA pollock and Pacific cod fisheries to exploitation by large catcher processors, which are not small entities, and the current small entity participants in the GOA pollock and Pacific cod fisheries would be largely displaced as a result.

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

The Council prepared an environmental assessment (EA) for these FMP amendments that discusses the impact on the environment as a result of this rule. The fisheries for pollock and Pacific cod and the affected human environment are described in the FMPs, the environmental impact statement prepared for Amendments 18/23, the EA prepared for Amendments 38/40, and in the EA prepared for this action. A copy of the EA is available from the Council (see ADDRESSES).

A formal section 7 consultation under the Endangered Species Act was initiated for Amendments 51/51. A biological opinion is under preparation that will determine whether the fishing activities conducted under Amendments 51/51 and its implementing regulations are likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat.

#### List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: October 23, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

#### PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.2, the definitions of "inshore component" and "offshore component" are revised to read as follows:

#### § 679.2 Definitions.

\* \* \* \* \*

*Inshore component* (applicable through December 31, 2001) means the following three categories of the U.S. groundfish fishery that process groundfish harvested in the GOA or BSAI:

(1) Shoreside processing operations.  
(2) Vessels less than 125 ft (38.1 m) LOA, that process no more than 126 mt per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod.

(3) Vessels that process pollock or Pacific cod harvested in a directed fishery for those species at a single geographic location in Alaska State waters during a fishing year.

\* \* \* \* \*

*Offshore component* (applicable through December 31, 2001) means all vessels not included in the definition of "inshore component" that process groundfish harvested in the BSAI or GOA.

\* \* \* \* \*

3. In § 679.7, paragraph (a)(7) heading is revised to read as follows:

#### § 679.7 Prohibitions.

\* \* \* \* \*

(a) \* \* \*

(7) *Inshore/offshore* (Applicable through December 31, 2001). \* \* \*

\* \* \* \* \*

4. In § 679.20, the applicable dates in the headings of paragraphs (a)(6), (b)(1)(iv), (b)(2)(i), (b)(2)(ii), and (c)(4) are revised to read: "Applicable through December 31, 2001."; paragraph (a)(6)(i) is revised; and paragraph (a)(6)(vi) is added to read as follows:

#### § 679.20 General limitations.

\* \* \* \* \*

(a) \* \* \*

(6) \* \* \*

(i) *BSAI pollock*. The apportionment of pollock in each BSAI subarea or district and season will be allocated 39 percent to vessels catching pollock for processing by the inshore component and 61 percent to vessels catching pollock for processing by the offshore component.

\* \* \* \* \*

(vi) *Bering Sea subarea pollock set-aside fishery for catcher vessels less than 125 ft (38.1 m) LOA—(A) Calculation of amount*. An amount

equal to 2.5 percent of the BSAI pollock TAC, after subtraction of reserves, will be set aside from the inshore component B season allowance. This set-aside will become available to catcher vessels less than 125 ft (38.1 m) LOA catching pollock for processing by the inshore component on or about August 25 of each year as set out at § 679.23(e)(2)(ii)(E).

(B) *Underages and overages*. Any harvest underage or overage of the small vessel set-aside established under paragraph (a)(6)(vi)(A) will be added to or subtracted from inshore component B season allowance.

\* \* \* \* \*

5. In § 679.22, paragraph (a)(5) is revised to read as follows:

#### § 679.22 Closures.

(a) \* \* \*

(5) *Catcher Vessel Operational Area (CVOA)* (applicable through December 31, 2001). The CVOA is defined as the area of the BSAI east of 167° 30' W. long., west of 163° W. long., and south of 56° N. lat. (see Figure 2 of this part).

(i) *Effective time period*. The CVOA is established annually during the B season, defined at § 679.23(e)(2)(i)(B), from September 1 until the date that NMFS closes the inshore component B season allocation to directed fishing.

(ii) *Offshore component restrictions*. Vessels in the offshore component or vessels catching pollock for processing by the offshore component are prohibited from conducting directed fishing for pollock in the CVOA unless they are operating under a CDP approved by NMFS.

(iii) *Fisheries other than pollock*. Vessels that harvest or process groundfish in directed fisheries for species other than pollock may operate within the CVOA consistent with the other provisions of this part.

6. In § 679.23, paragraph (e)(2) is revised to read as follows:

#### § 679.23 Seasons.

\* \* \* \* \*

(e) \* \* \*

(2) *Directed fishing for pollock*. (i) Subject to other provisions of this part, and except as provided in paragraphs (e)(2)(ii) through (e)(2)(iv) of this section, directed fishing for pollock is authorized only during the following two seasons:

(A) *A season*. From 0001 hours A.I.t. January 1 through 1200 hours A.I.t. April 15.

(B) *B season*. From 1200 hours A.I.t. September 1 through 1200 hours A.I.t. November 1.

(i) *Offshore component restrictions* (applicable through December 31,

2001)—(A) *Offshore A season*. Subject to the other provisions of this part, directed fishing by the offshore component or by vessels delivering to the offshore component is authorized from 1200 hours A.l.t. January 26 through 1200 hours A.l.t. April 15.

(B) *Offshore A season "fair start" requirement*. Directed fishing for pollock by the offshore component, or by vessels catching pollock for processing by the offshore component is prohibited through 1200 hours, A.l.t., February 5, for any vessel that is used to fish in a non-CDQ fishery for groundfish in the BSAI or GOA, or for

king or Tanner crab in the BSAI prior to 1200 hours, A.l.t., January 26 of the same year.

(iii) *Set-aside for catcher vessels less than 125 ft (38.1 m) LOA (applicable through December 31, 2001)*. Subject to other provisions of this part, directed fishing for pollock by catcher vessels less than 125 ft (38.1 m) LOA catching pollock for processing by the inshore component will be authorized beginning on or about August 25 of each year by notification in the **Federal Register**. NMFS will base the opening date on the amount of the set-aside, the projected harvest rate, and the number of vessels

expected to participate in the set-aside fishery.

(iv) *B season "fair start" requirement*. Except as provided for in paragraph (e)(2)(iii) of this section, directed fishing for pollock is prohibited from 1200 hours A.l.t., September 1 through 1200 hours, A.l.t., September 8, for any vessel that is used to fish for groundfish with trawl gear in a non-CDQ fishery in the BSAI or GOA between 1200 hours A.l.t., August 25, and 1200 hours A.l.t., September 1.

\* \* \* \* \*

[FR Doc. 98-28893 Filed 10-28-98; 8:45 am]  
BILLING CODE 3510-22-P

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

*Board Support Section*

**TONY KNOWLES, GOVERNOR**

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November 4, 1998

Mr. Richard B. Lauber, Chairman  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

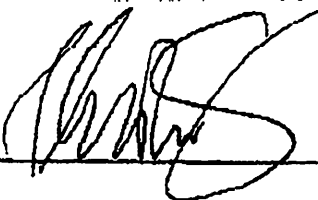
Dear Chairman Lauber:

The Alaska Board of Fisheries understands that the North Pacific Fishery Management Council will be considering the combined impacts of SB 1221 and the council's License Limitation Program (LLP) on the State of Alaska's management of Bering Sea and Aleutian Islands king and Tanner crab fisheries during your special November meeting. The Board of Fisheries wishes to provide the following comments.

Several BSAI crab stocks have experienced recent periods of low abundance. The Board of Fisheries adopted a conservative harvest strategy for Bristol Bay red king crabs in 1996, and we plan to similarly consider a conservative harvest strategy and rebuilding plan for Eastern Bering Sea Tanner crabs in March 1999. These new management plans may not maximize yield but they will provide better biological protection when stocks are low.

For some time now the Board of Fisheries has been concerned with maintaining a manageable number of vessels in the BSAI crab fisheries. An effort limitation program needs to recognize that crab stocks are not characterized by stability: periodic recruitment leads to large increases and decreases in stock abundance over relatively short periods of time. In the past, periods of high crab productivity stimulated increases in fishing effort that led to a highly overcapitalized fleet during periods of average or low crab productivity. The Board believes that the appropriate number of vessels is significantly less than 250 vessels. Increased participation substantially affects the Board's and the Staff's ability to manage these fisheries.

There is a substantial record to support this determination. A presentation of the salient portions of this record will be presented at the Council meeting. The Board respectfully requests that the Council revisit its recent action affecting the crab LLP and lowers its determination of the number of vessels able to participate in these fisheries.



Dr. John White, Chairman  
Alaska Board of Fisheries



## AGENDA C-1



**REPORT TO THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL  
SUPPORTING THE ALASKA BOARD OF FISHERIES' CONCERN FOR  
BSAI CRAB CONSERVATION AND MANAGEMENT  
UNDER LLP ALTERNATIVE 9 AND SB 1221**

November 6, 1998

The North Pacific Fishery Management Council (Council) amended the crab and groundfish License Limitation Program (LLP) October 1998 to reduce latent capacity in the Bering Sea Aleutian Islands (BSAI) crab fisheries. At that time the Council also recognized that passage of Senate Bill 1221 could alter the outcome of their action with regard to the crab LLP. The Council requested a report from Alaska Department of Fish and Game (ADF&G) be presented November 1998 concerning the impact of recent participation requirements and SB1221 on conservation and management of the Bering Sea Aleutian Islands king and Tanner crabs. The following report provides information on the crab fishery management plan (FMP) and Board of Fisheries (Board) conservation and management policies that regulate effort in BSAI crab fisheries, the stock management and conservation concerns under SB 1221, and impacts of fleet size on management of crab fisheries.

Conservation and Management Policies for Effort Regulation in BSAI Crab Fisheries

In 1989, the Council adopted *The Fishery Management Plan for King and Tanner crab Fisheries in the Bering Sea and Aleutian Islands*. The FMP defers much of the crab fishery management to the State of Alaska following three categories of management measures: those that are fixed and require an FMP amendment by the Council (e.g. limited access); those that are frameworked and may be changed by the Board following specific criteria (e.g. pot limits) and those measures which are at the discretion of the Board (reporting requirements). Because the FMP fixes limited access, the Board is constrained from directly addressing overcapitalization. The Board has been confined to the tools available under Categories 2 and 3 when attempting to mitigate impacts on management from overcapitalization.

In the past, periods of high crab productivity stimulated increases in fishing effort that led to a highly overcapitalized fleet during periods of average or low crab productivity. As the fleet became more efficient (better electronics, lengthening and sponsoning of old vessels or adding

new ones) and competition for the existing crab resource became greater, the number of pots each vessel fished increased. This led to safety concerns, grounds crowding and preemption, concerns over gear loss and an inability to cap fishing power and improve management control. In evaluating management measures to address these issues the Board has recognized that crab stocks are not characterized by stability: periodic recruitment leads to large increases and decreases in stock abundance over relatively short periods of time. This volatility necessitates protection of reproductive stock and requisite conservation measures.

The Board has a record of conservation measures adopted for BSAI crab fisheries to protect, maintain, improve and extend these resources for the greatest overall benefit to Alaska and the Nation. Several actions have been in concert with the Council. These include: pot limits; harvest strategies (Bristol Bay red king crab); coincident seasons for fisheries with low guideline harvest levels (GHL) (Pribilof and St. Matthew Islands); coincident fishery openings (Bristol Bay red king and Tanner crab) fishery closures; gear escape mechanisms; overfishing thresholds (Board and Council); trawl closure areas (Board and Council); and bycatch caps in groundfish fisheries (Council).

One of the most significant management measures implemented by the Board to constrain effort is pot limit restrictions. Prior to 1992 the number of pots a vessel could fish was unlimited. Increases in the number of vessels and pots combined with small to moderate GHLs lead to very short seasons. One of the reasons pot limits were implemented in crab fisheries was to extend the length of the fishing season. The department believes that fisheries must extend for sufficient time to allow inseason data collection and analysis to minimize the risk of overfishing. If total effort confounds inseason management precision then more restrictive effort controls such as preseason closures and low pot limits are necessitated to insure conservation of the resource. The agency can manage the fishery at almost any fleet size but management might occur at significant social and economic costs to the fleet: for example, with 1000 vessels a limit of one pot per vessel might be needed to achieve inseason management.

Because the BSAI crab fisheries are managed under a federal FMP, the delegation requires that the Board's management consider social and economic ramifications of their management options. It is this requirement to consider net benefits in constructing management regimes that result in selecting approaches that lead to inseason management. Greenberg and Hermann (1997) noted that pre-announced season closures (announced prior to the season's opening) mostly lead to significant under harvest due to the need for conservative estimates when setting pre-season closures. On the other hand, inseason management can provide managers with flexibility to target either the upper or lower bounds of the GHL, depending on inseason reassessment of stock levels. Additionally, if a storm occurs, or other factors that slow the fishery, seasons can be extended to allow for the entire GHL to be harvested. Clearly inseason management presents the best scenario for maximizing net benefits.

Early in the Board's efforts to constrain fishing effort using pot limits Greenberg and Hermann (1994) noted that fleet participation had to remain constant to cap the total amount of gear on the

grounds. A stable fleet is thus important to provide access to the effort controls afforded by pot limits. At a fixed fleet size, pot limits allow predetermination of fishing effort and should improve estimates of daily catch rates. A stable fleet size from year to year would enhance the manager's ability to predict fishery performance and project season closure to align with the achievement of annual GHL.

In order to reduce latent capacity in the BSAI crab fisheries, the Council considered alternatives to amend the LLP. They selected alternative 9 which reduced the overall number of eligible vessels in the fleet from 365 to 286. Under the context of a stable annual participation, this alternative reduced some latent capacity. Unfortunately, this conclusion may not reflect reality if groundfish season constraints are removed and participation increases as a result of trawl vessel crossover.

The Board frameworked their pot strategy to aid in management at low GHLs. In the past, participation somewhat followed the magnitude of the GHL. But, in more recent years participation has increased by participants attempting to qualify for LLP licenses. In addition, Council and Congressional actions on the comprehensive rationalization plan (CRP) encouraged vessel owners that are let into fisheries under the LLP and moratorium to maintain participation and accumulate catch history. Greenberg and Hermann (1997) believe that they will continue to participate in a fishery even if fishery costs exceed expected revenues on the anticipation of capturing free rents.

The Northern Economic report illustrates that the two groups of vessels which had posed the greatest concern in respect to latent capacity in the BSAI crab fisheries were the groundfish trawl vessels and the dedicated crab vessels that had left the north Pacific. Under the various alternatives the Council considered in October 1998, recent participation requirements could reduce vessel permits for those no longer fishing the north Pacific and consistency requirements eliminate casual participants.

The Council had already implemented criteria of non-severability to groundfish/crab licenses. The Council made this choice to recognize and limit the casual level of participation of the trawl crossover vessels. Their licenses were made non-severable so as not to increase capacity in the crab fisheries. It was recognized that though a few vessels had on-going participation, most had speculatively entered the fishery during the moratorium. Those vessels only participated in crab harvests when pollock seasons provided opportunity (Figure 1). Any action which altered this constraint would be expected to stimulate use of these latent permits.

#### Stock Management and Conservation Concerns Under SB 1221

The passage of SB 1221 confounds the constraints provided by the LLP and provides an avenue for unanticipated annual participation by trawl crossover vessels in BSAI crab fisheries. When the Board developed its program to index tiered pot limits and preseason/inseason management for the Bristol Bay red king crab fishery, the projections were based upon an average number of

vessels participating in a particular manner (Figure 1, Table 1). SB 1221 provides for a harvest cooperative (co-op) so that the pollock industry participants can consolidate and rationalize. It will allow trawl vessels to schedule their pollock harvest around crab seasons. These vessels are not only large and very efficient; their fixed cost will likely be covered under their co-op and/or through funds provided under SB 1221. In essence, the average fleet used to make our tiered pot limit index projections may well be larger, more efficient and of higher capacity.

Additionally, under the Council's LLP no distinction was made between *Chionoecetes bairdi* (Tanner crabs) or *C. opilio* (snow crabs). If a vessel qualified for one species, it also received an endorsement for other. In fact, many of the cross-over Bristol Bay red king crab pollock trawl vessels never targeted Tanner crab, but landed it as allowed bycatch during the red crab fishery (Table 1). These vessels, many of which never fished *C. opilio* but are now endorsed for it, can - under the options provided by SB 1221 - fish the opening of the opilio season and then return to fish the pollock "A" season when roe quality is highest.

SB 1221 also increases the percent allocation of pollock to the inshore fleet. Much of this increased pollock harvest will occur in the catcher vessel operational area (CVOA). The CVOA is coincident with important Tanner crab habitat (Figure 2). The Council should be reminded that the crab plan team has initiated a rebuilding plan for Eastern Bering Sea Tanner crab. Conservation of Tanner crabs is paramount as this crab resource is overfished. In 1997 the National Marine Fisheries Service survey of the Eastern Bering Sea encountered about 50% of the small male and female Tanner crabs in the CVOA. The 1998 survey encountered about 30% of small crabs in the CVOA. During both survey years 20% of the large males and 30-35% of the large females were encountered in the CVOA. Observed groundfish harvests in this area have relatively high rates of bycatch of Tanner crab per ton of catch.

#### Impacts of Fleet Size on Management of Crab Fisheries

In context of impacts of fleet size relative to management of Bering Sea king and Tanner crab fisheries, "manage a fishery" means "to control and direct a fishery harvest towards desired goals." Those goals can, among other considerations, include optimum yield, conservation, vessel safety, and orderliness of the fishery. Generally, the management goals are achieved by directing the fishery towards its GHL that is determined pre-season. However, conservation goals may be achieved by closing the fishery below the GHL, if information gathered in-season indicates a conservation concern (e.g., performance indicating that the lower end of guideline harvest range is more appropriate for stock conditions or high incidence of crab in soft-shell condition). On the other hand, the harvest may be allowed to exceed a GHL if the situation warrants and no conservation concern is indicated (e.g., to accommodate safety and orderly fishery concerns or if fishery performance indicates that the upper end of guideline harvest range is more appropriate for stock conditions).

ADF&G employs two approaches to active fisheries management in Bering Sea king and Tanner crab fisheries. The first is in-season management, in which information collected during the

current fishery is used to manage that fishery. In inseason management, trends in effort, performance, and harvest from the current fishery are coupled with expectations from historic fisheries to predict the "best" time to close a fishery. The other approach is that of the preseason closure announcement, in which the effort, performance, and harvest trends from past fishery seasons are used to predict the "best" time to close a fishery. In this approach closure time is announced prior to or shortly after the fishery opening so that the only current information from the fishery that is available is the number of vessels and pots registered for the fishery. Inseason management is the preferred approach of ADF&G because it is based on additional and more current information and allows for reacting to current conditions. The preseason announcement approach is only used when inseason management appears infeasible.

The impact of increased fleet size on crab fishery management is obvious. More vessels lead to more pots fished, thus increasing the harvesting capacity of the fleet. That, in turn, can increase the rate at which the harvest accumulates towards the GHL. Large fleet size becomes an important and, occasionally, acute concern when the harvesting capacity is large relative to the GHL (Tables 2, 3 and 4, Figure 3). That situation is especially likely to occur when GHLs are low, such as occurs when stock sizes are low or under conservative harvest strategies. Under such conditions inseason management cannot be implemented without seriously risking a harvest significantly greater than the GHL. When the GHL is low and the harvesting capacity is high, the daily harvest can be so large relative to the GHL that the harvest accumulates towards and beyond the GHL faster than it can be tracked or responded to. It is, in fact, possible for the harvest to reach the GHL in less time than is necessary to gather inseason data and estimate fishery trends. That is exactly what occurred in the 1996 Bristol Bay red king crab fishery when the 5 million-pound GHL was exceeded by 68% by 196 vessels in a 4-d season.

ADF&G and the Board have addressed the management problems of high harvest capacity relative to the GHL by two approaches. The first is to abandon the preferred inseason management approach in favor of preseason closure announcements. That approach was used to manage the St. Matthew blue king crab fishery in 1990, 1991, and 1992. The other approach has been to establish per-vessel pot limits. The intent of pot limits is to reduce harvest capacity of the fleet by reducing the harvesting efficiency of individual vessels. The goal is to slow down the harvest accumulation rate and thus prolong the season to a duration that can accommodate inseason management. Given the importance of inseason management in achieving management goals, the Board has established pot limits in fisheries to minimize the need for preseason closure announcements. Due to such concerns, as well as to reduce pot loss during fisheries, beginning in 1992 pot limits were established for the Bristol Bay red king crab, St. Matthew Island blue king crab, Pribilof Islands blue and red king crab, Bering Sea *C. bairdi*, and Bering Sea *C. opilio* fisheries (Figure 3). Note that, although they may vary from fishery to fishery, in all the BSAI crab fishery pot limits, a vessel < 125' LOA is limited to 80% of the pots allowed to vessels > 125'.

The large potential fleet size for these fisheries, however, has allowed for high annual variability in fleet size: over the last 10 fishery seasons fleet size has, for example, varied by 106 vessels in

the Bristol Bay red king crab fishery and by 185 vessels in the Bering Sea bairdi fishery (Table 2). The inseason management goal of pot limits can be thwarted by this high annual variability in fleet size. A notable example of this occurred between the 1991 and 1992 St. Matthew Island blue king crab fisheries. A preseason closure announcement was necessitated in the 1991 fishery when 68 vessels registered 13,100 pots to fish towards a 3.2 million-pound GHL. Following the 1991 season a limit of 100 pots per vessel was instituted for the St. Matthew fishery. A preseason announcement was nonetheless necessitated for the 1992 season because an increase in fleet size resulted in an increase in number of registered pots: 174 vessels registered 17,400 pots to fish towards a 3.1 million-pound GHL for the 1992 season.

The most recent attempt by ADF&G and the Board to solve the problems of inseason management resulting from a high harvesting capacity relative to the GHL is provided in the pot limit regulations established in 1997 for the 1997 and 1998 seasons (5 AAC 34.825 (i); Table 5). The Board took up management issues for the Bristol Bay red king crab fishery in 1997 in response to a petition from ADF&G that outlined problems of inseason management in the fishery following adoption of a more conservative harvest strategy by the Board in 1996. Although scheduled for review and possible change during the March 1999 Board meeting, 5 AAC 34.825 (i) provides a template for regulatory determination of pot limits and management approach that is likely to remain with the Bristol Bay red king crab fishery. It is possible that this approach may also be extended to other BSAI fisheries. There are three key components of this regulation: a minimum GHL for the season to open, per-vessel pot limits that increase with increasing GHLs and decrease with increasing number of participating vessels, and a maximum fleet size for inseason management at lower GHLs. Relative to the current discussion on the license limitation program for BSAI crab fisheries it is notable that the Board determined the Bristol Bay red king crab fishery cannot be managed inseason when the number of participating vessels exceeds 250 and the GHL is less than 12 million pounds.

ADF&G and the Board have yet to address the issue of manageability relative to fleet sizes and GHLs in the Pribilof Islands king, St. Matthew Island blue king, Bering Sea *C. bairdi*, Bering Sea *C. opilio* fisheries. Nonetheless, these issues will likely need to be addressed in the near future for most of these fisheries. For any future considerations, it should be noted that implementation of more conservative harvest strategies in any of these fisheries will be made more problematic by a fleet with a large and unpredictable harvesting capacity. It was, after all, the adoption of a more conservative harvest strategy for the Bristol Bay red king crab fishery that brought the problems of inseason management in that fishery to a head in 1996.

Inseason management towards low (2-5 million pound) GHLs in the St. Matthew Island blue crab fishery, for example, has been maintained since the 1993 season only because of a concurrent season opening with the Pribilof Islands fishery that serves to "split" the fleet (Tables 2, 3, and 4). Was the Pribilof Island fishery to not open in the near term, as is very possible, the number of vessels entering the St. Matthew fishery could increase to a level that would require a preseason closure announcement the present pot limits and GHLs. The Pribilof Islands had been closed for

five straight years between 1988 and 1992. Those considerations serve to expose the limitation of using concurrent seasons to control fleet size in low GHL fisheries.

Fleet size and pot limits will also likely become critical considerations at the reopening of the Bering Sea *C. bairdi* fishery. That stock has been closed for the last two seasons and is now considered overfished. Trends in effort and performance from past fisheries may have little application to expectations for fisheries of the near term because a rebuilding strategy being developed for Bering Sea *C. bairdi*. That strategy will undoubtedly involve a more conservative harvest strategy than currently in place and may involve the division of Bering Sea *C. bairdi* into two separate stocks for management. Hence, upon its reopening, the GHLs for the Bering Sea *C. bairdi* fishery (or fisheries) will likely be low and, like the Bristol Bay red king crab fishery, fleet sizes in excess of 250 vessels may pose problems to inseason management. On the other hand, the ability to manage the Bering Sea *C. opilio* fishery inseason has not been a concern because of the typically large GHLs and long-duration seasons: the lowest Bering Sea *C. opilio* GHL in the last 10 seasons was 50.7 million pounds, whereas the shortest Bering Sea fishery *C. opilio* fishery occurred in 1995 when 75.3 million pounds was harvested by 253 vessels in 33 d (Tables 2,3, and 4). Bering Sea *C. opilio* stocks are currently in decline, however, and it is unclear how low GHLs will be and what problems fleet size will pose to management in the near future.

Figure 1. Comparison of Bering Sea crab and pollock fishing seasons; total vessels and Alt. 9/SB 1221 qualified vessels.

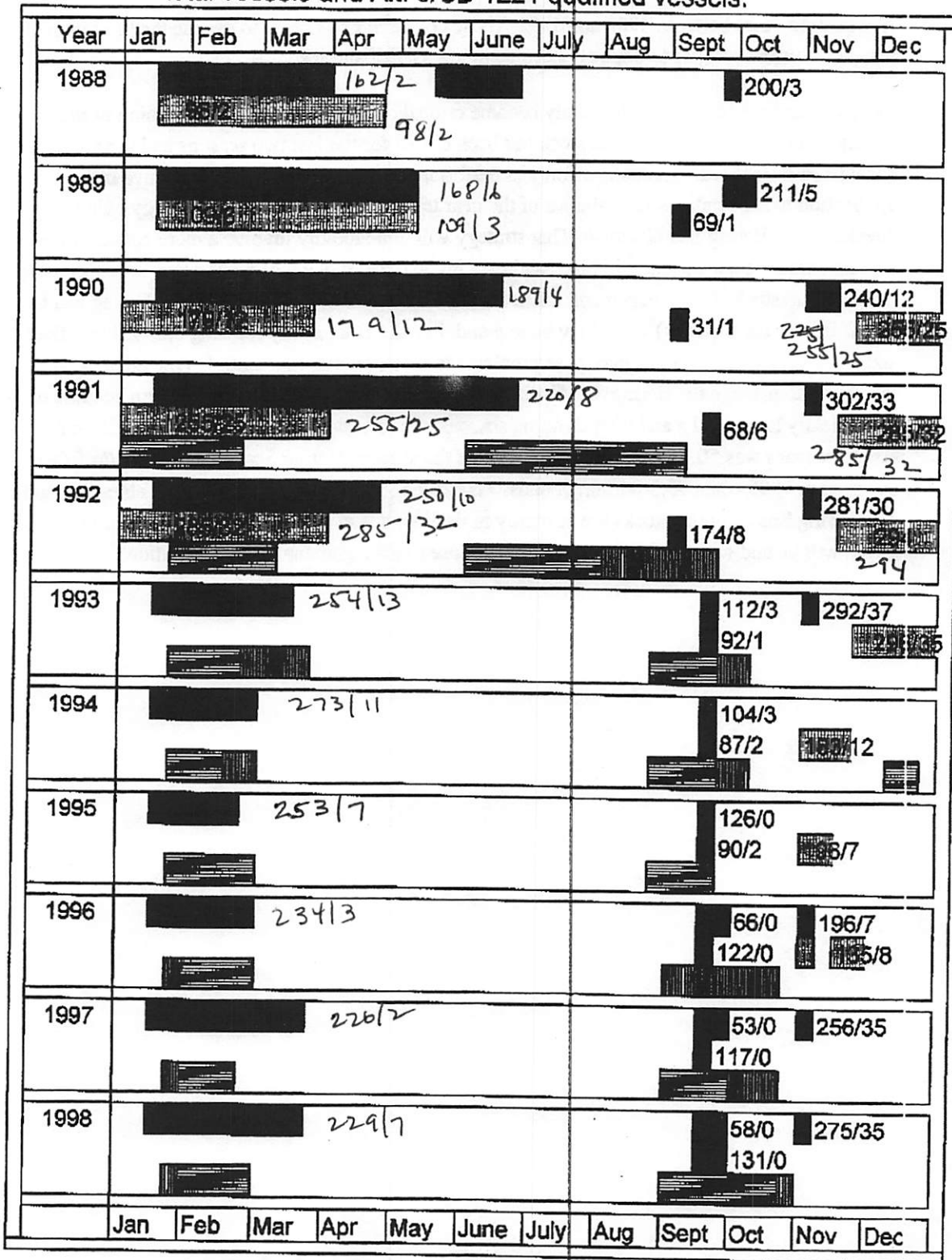




Figure 2. Distribution of Tanner (*C. bairdi*) crabs in the CVOA.

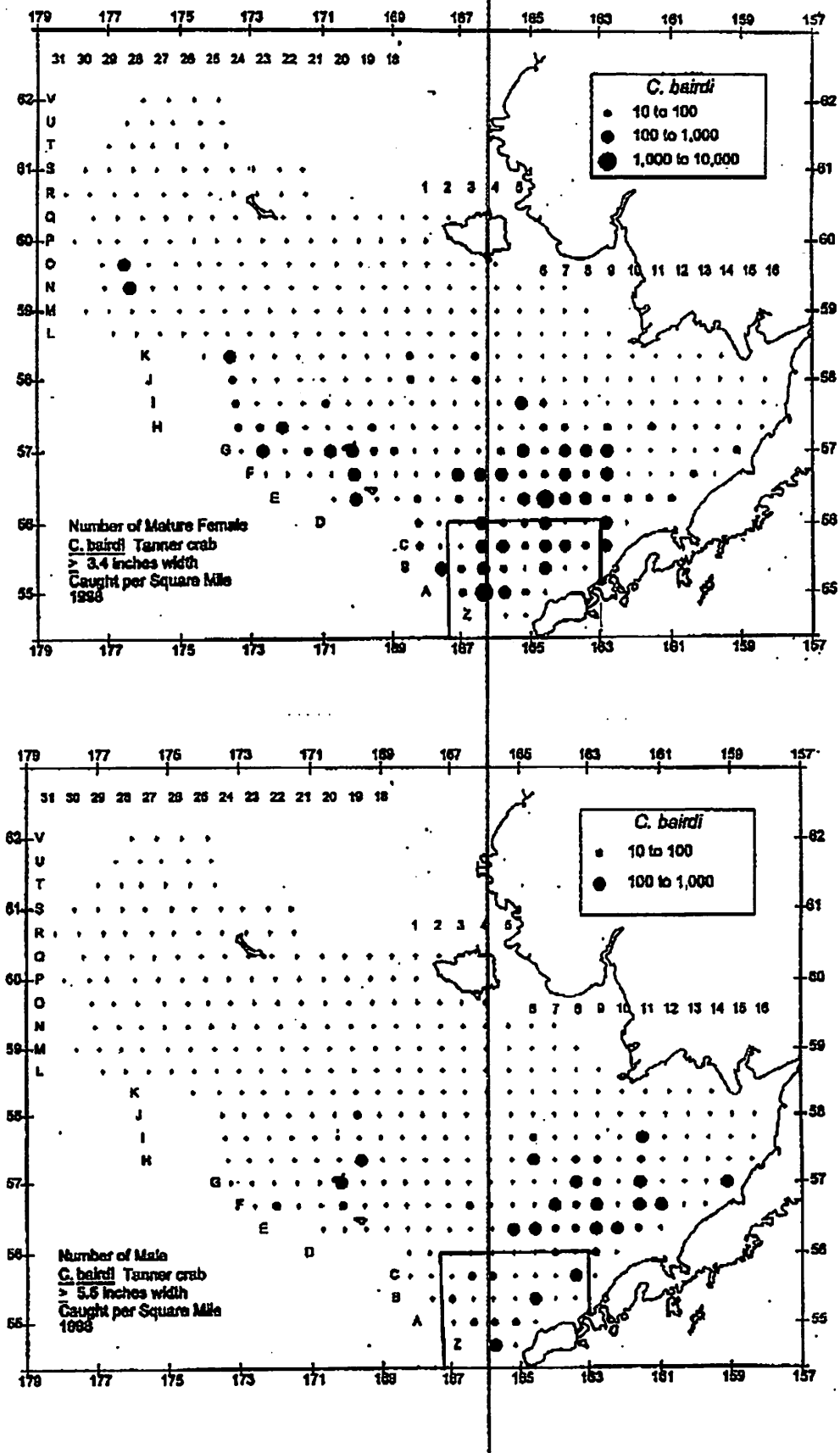


Figure 3. Bering Sea crab fishery characteristics.

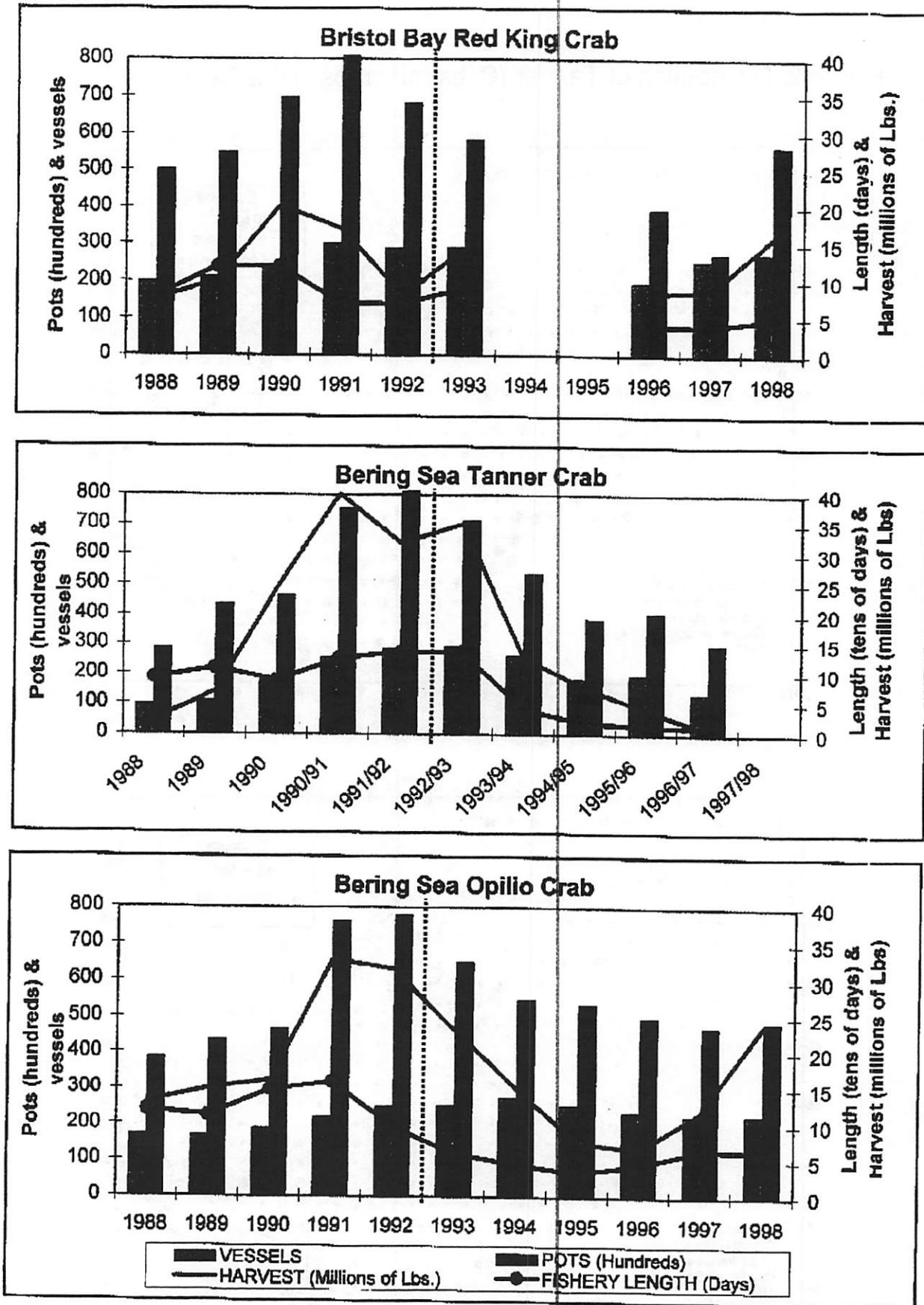


Figure 3 (cont.). Bering Sea crab fishery characteristics

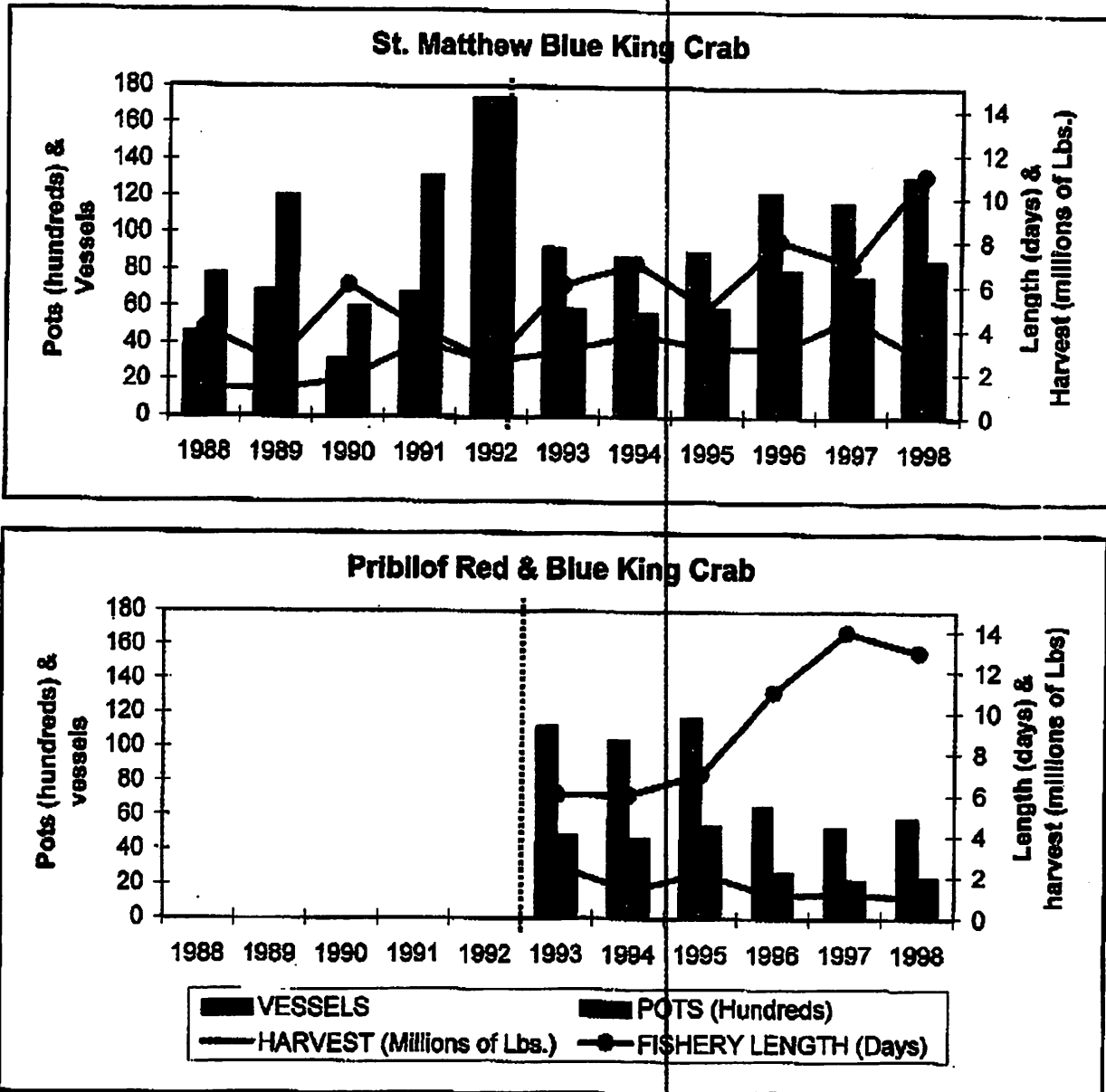


Table 1. Total vessel participation in Bering Sea crab fisheries and the number of vessels that qualified under LLP alternative 9 and SB 1221 Vessels

Fishery	Bristol Bay Red King		Bering Sea Tanner ( <i>C. bairdi</i> )		Bering Sea Snow ( <i>C. opilio</i> )		Pribilof Blue & Red king		St. Matthew Blue King	
	Total	SB 1221	Total	SB 1221	Total	SB 1221	Total	SB 1221	Total	SB 1221
1988	200	3	98	2	162	2		1	46	2
1989	211	5	109	3	168	6	0	0	69	1
1990	240	12	179	12	189	4	0	0	31	1
1991	302	33	255	25	220	8	0	0	68	6
1992	281	30	285/294	32	250	10	0	0	174	8
1993	292	37	296	35	254	13	112	3	92	1
1994	0	0	183	12	273	11	104	3	87	2
1995	0	0	196	19	253	7	126	0	90	2
1996	196	7	135	8	234	3	66	0	122	0
1997	256	35	0	0	226	2	53	0	117	0
1998	275	35	0	0	229	7	58	0	131	0

Table 2. Number of Vessels Registered for Bering Sea Crab

Fishery Season	Bristol Bay Red King Crab	Bering Sea Tanner ( <i>C.bairdi</i> )	Bering Sea Snow ( <i>C.opilio</i> )	Pribilof Blue and Red King Crab	St Matthew Blue King Crab
1989	211	109	168	no commercial season	69
1990	240	179	189	no commercial season	31
1991	302	255	220	no commercial season	68
1992	289	285/294	250	no commercial season	174
1993	292	281	254	112	92
1994	no commercial season	183	273	104	87
1995	no commercial season	196	253	117	90
1996	196	135	234	66	122
1997	256	no commercial season	226	53	117
1998	275	no commercial season	229	58	131



Table 3. Number of Registered Pots for Bering Sea Crab

Fishery Season	Bristol Bay Red King Crab	Bering Sea Tanner ( <i>C.bairdi</i> )	Bering Sea Snow ( <i>C.opilio</i> )	Pribilof Blue and Red King Crab	St Matthew Blue King Crab
1989	55,000	43,607	43,607	no commercial season	11,983
1990	69,906	46,440	46,440	no commercial season	6,000
1991	89,068	75,356	76,056	no commercial season	13,100
1992	68,169	85401/71481	77,858	no commercial season	17,400
1993	58,581	53,737	65,081	4,860	5,895
1994	no commercial season	38,870	54,837	4,675	5,685
1995	no commercial season	40,827	53,707	5,400	5,970
1996	39,461	29,955	50,169	2,730	8,010
1997	27,499	no commercial season	47,036	2,270	7,650
1998	56,640	no commercial season	48,855	2,398	8,546

Table 4. Total Harvest (millions of Lbs) and Duration of Fishing Season (days) for Bering Sea Crab

Fishery Season	Bristol Bay Red King Crab	Bering Sea Tanner ( <i>C.bairdi</i> )	Bering Sea Snow ( <i>C.opilio</i> )	Pribilof Blue and Red King Crab	St Matthew Blue King Crab
1989	10.2 in 12 d	7.0 in 110 d	149.5 in 112 d	no commercial season	1.2 in 2.5 d
1990	20.2 in 12 d	24.5 in 89 d	161.8 in 148 d	no commercial season	1.7 in 6 d
1991	17.1 in 7 d	40.1 in 126 d	328.6 in 159 d	no commercial season	3.4 in 4 d
1992	8.0 in 7 d	31.8/35.1 in 137 d	315.3 in 97 d	no commercial season	2.5 in 2.5 d
1993	14.5 in 9 d	12.8 in 42 d	230.8 in 59 d	2.6 in 6 d	3.0 in 6 d
1994	no commercial season	7.8 in 20 d	149.8 in 45 d	1.3 in 6 d	3.8 in 7 d
1995	no commercial season	4.2 in 15 d	75.3 in 33 d	2.2 in 7 d	3.2 in 5 d
1996	8.4 in 4 d	0.8 in 12 d	65.7 in 45 d	1.1 in 11 d	3.1 in 8 d
1997	8.7 in 4 d	no commercial season	119.5 in 65 d	1.2 in 14 d	4.6 in 7 d
1998	16 in 5 d	no commercial season	240.0 in 64 d	1.0 in 13 d	2.7 in 11 d

Table 5. 1997 Board of Fisheries tiered pot limits for Bristol Bay red king crab.

GHL Range	Number of Vessels	Number of Pots		Management
		Vessels <del>&gt;</del> 125' 	Vessels <del>&gt;</del> 125' 	
<4.0	Any	0	0	Season Closed
4.0-5.9	<200	80	100	Inseason
	200-250	60	75	Inseason
	>250	60	75	Pre-announce Closure
6.0-8.9	<200	120	150	Inseason
	200-250	100	125	Inseason
	>250	100	125	Pre-announce Closure
9.0-12	<200	200	250	Inseason
	200-250	160	200	Inseason
	>250	160	200	Pre-announce Closure
>12	Any	200	250	Inseason

11/12/98  
10:00 AM  
NMGs

Groundfish and PSC Cap Estimates

1999 GROUND FISH LIMITS USING GROUND FISH HARVESTED BY THE 20+9 IN ALL TARGETED FISHERIES

Target Species	Area	1995-1997			1999 ITAC	1999 Limit
		Total Catch	Available TAC	Ratio		
Atka mackerel <sup>1</sup>	Eastern AI	-	-	-	-	-
	Central AI	-	-	0.115	19,040	2,190
	Western AI	-	-	0.200	22,950	4,590
Arrowtooth flounder	BSAI	2,915	36,873	0.079	13,600	1,075
Other flatfish	BSAI	12,668	92,428	0.137	76,019	10,419
Flathead sole	BSAI	7,676	87,975	0.087	85,000	7,416
Greenland turbot	AI	33	6,839	0.005	4,208	20
	BSAI	280	16,911	0.017	8,543	141
Other species	BSAI	5,737	65,925	0.087	21,930	1,908
Pacific Cod trawl <sup>2</sup>	BSAI	17,509	51,450	0.340	41,948	14,275
Pacific ocean perch <sup>3</sup>	BSAI	131	5,760	0.023	1,190	27
	Central AI	116	6,195	0.019	2,933	55
	Eastern AI	146	6,265	0.023	2,610	61
	Western AI	356	12,440	0.029	4,743	136
Other rockfish	AI	97	1,924	0.050	582	29
	BS	49	1,026	0.048	314	15
Rock sole	BSAI	18,258	202,107	0.090	85,000	7,679
Sablefish trawl <sup>4</sup>	AI	0	1,135	0.000	293	-
	BS	11	1,736	0.006	553	4
Sharpchin/Northern	AI	1,034	13,254	0.078	3,596	281
Squid	BSAI	1,253	3,670	0.341	1,675	572
Shortraker/Rougheye	AI	76	2,827	0.027	314	8
Other red rockfish	BS	177	3,034	0.058	227	13
Yellowfin sole	BSAI	125,094	527,000	0.237	187,000	44,388

(1) In section 211(b)(2)(C) of the American Fisheries Act, catcher processors described in paragraphs 1-20 of section 208(e) are prohibited from harvesting Atka mackerel in excess of 11.5 percent in the CAI area and 20 percent in the WAI area of the directed harvest limits. It is prohibited for such catcher processors to harvest Atka mackerel in the EAI subarea.

(2) For Pacific Cod, 47 percent of the ITAC is allocated to trawl and of that 50 percent is available for catcher processors. Data was not available for 1995 and 1996 therefore only 1997 was used to calculate the historic ratio.

(3) 1995 was excluded from the calculations due to a lack of data.

(4) 25 percent of the Sablefish ITAC is allocated to trawl in the AI subarea, 50 percent of the ITAC is allocated to trawl in the BS subarea.

**1999 GROUND FISH LIMITS USING GROUND FISH HARVESTED BY THE 20+9 IN NON-POLLOCK TARGETED FISHERIES**

Target Species	Area	1995-1997			1999 ITAC	1999 Limit
		Total Catch	Available TAC	Ratio		
Atka mackerel	Eastern AI	-	-	-	-	-
	Central AI	-	-	0.115	19,040	2,190
	Western AI	-	-	0.200	22,950	4,590
Arrowtooth flounder	BSAI	788	36,873	0.021	13,600	291
Other flatfish	BSAI	12,145	92,428	0.131	76,019	9,989
Flathead sole	BSAI	3,030	87,975	0.034	85,000	2,928
Greenland turbot	AI	31	6,839	0.005	4,208	19
	BSAI	168	16,911	0.010	8,543	85
Other species	BSAI	3,551	65,925	0.054	21,930	1,181
Pacific Cod trawl	BSAI	13,547	51,450	0.263	41,948	11,045
Pacific ocean perch	BSAI	58	5,760	0.010	1,190	12
	Central AI	95	6,195	0.015	2,933	45
	Eastern AI	112	6,265	0.018	2,610	47
	Western AI	356	12,440	0.029	4,743	136
Other rockfish	AI	95	1,924	0.049	582	29
	BS	39	1,026	0.038	314	12
Rock sole	BSAI	14,753	202,107	0.073	85,000	6,205
Sablefish trawl	AI	1	1,135	0.001	293	0
	BS	8	1,736	0.005	553	3
Sharpchin/Northern	AI	1,034	13,254	0.078	3,596	281
Squid	BSAI	7	3,670	0.002	1,675	3
Shortraker/Rougheye	AI	68	2,827	0.024	314	8
Other red rockfish	BS	75	3,034	0.025	227	6
Yellowfin sole	BSAI	123,003	527,000	0.233	187,000	43,646

(1) In section 211(b)(2)(C) of the American Fisheries Act, catcher processors described in paragraphs 1-20 of section 208(e) are prohibited from harvesting Atka mackerel in excess of 11.5 percent in the CAI area and 20 percent in the WAI area of the directed harvest limits. It is prohibited for such catcher processors to harvest Atka mackerel in the EAI subarea.

(2) For Pacific Cod, 47 percent of the ITAC is allocated to trawl and of that 50 percent is available for catcher processors. Data was not available for 1995 and 1996 therefore only 1997 was used to calculate the historic ratio.

(3) 1995 was excluded from the calculations due to a lack of data.

(4) 25 percent of the Sablefish ITAC is allocated to trawl in the AI subarea, 50 percent of the ITAC is allocated to trawl in the BS subarea.



1999 GROUND FISH LIMITS USING GROUND FISH HARVESTED BY THE 20+9 IN POLLOCK FISHERIES

Target Species	Area	1995-1997			1999 ITAC	1999 Limit	1999 Adjusted Limit <sup>5</sup>
		Total Catch	Available TAC	Ratio			
Atka mackerel <sup>1</sup>	Eastern AI	-	-	-	-	-	-
	Central AI	-	-	0.115	19,040	2,190	1,592
	Western AI	-	-	0.200	22,950	4,590	3,337
Arrowtooth flounder	BSAI	2,127	36,873	0.058	13,600	785	570
Other flatfish	BSAI	523	92,428	0.006	76,019	430	313
Flathead sole	BSAI	4,646	87,975	0.053	85,000	4,489	3,263
Greenland turbot	AI	2	6,839	0.000	4,208	1	1
	BSAI	112	16,911	0.007	8,543	57	41
Other species	BSAI	2,186	65,925	0.033	21,930	727	529
Pacific Cod trawl <sup>2</sup>	BSAI	3,962	51,450	0.077	41,948	3,230	2,348
Pacific ocean perch <sup>3</sup>	BSAI	73	5,760	0.013	1,190	15	11
	Central AI	21	6,195	0.003	2,933	10	7
	Eastern AI	34	6,265	0.005	2,610	14	10
	Western AI	0	12,440	0.000	4,743	-	-
Other rockfish	AI	2	1,924	0.001	582	1	0
	BS	10	1,026	0.010	314	3	2
Rock sole	BSAI	3,505	202,107	0.017	85,000	1,474	1,072
Sablefish trawl <sup>4</sup>	AI	-	1,135	0.000	293	-	-
	BS	3	1,736	0.002	553	1	1
Sharpchin/Northern	AI	0	13,254	0.000	3,596	-	-
Squid	BSAI	1,246	3,670	0.340	1,675	569	413
Shortraker/Rougheye	AI	8	2,827	0.003	314	1	1
Other red rockfish	BS	102	3,034	0.034	227	8	6
Yellowfin sole	BSAI	2,091	527,000	0.004	187,000	742	539

(1) In section 211(b)(2)(C) of the American Fisheries Act, catcher processors described in paragraphs 1-20 of section 208(e) are prohibited from harvesting Atka mackerel in excess of 11.5 percent in the CAI area and 20 percent in the WAI area of the directed harvest limits. It is prohibited for such catcher processors to harvest Atka mackerel in the EAI subarea.

(2) For Pacific Cod, 47 percent of the ITAC is allocated to trawl and of that 50 percent is available for catcher processors. Data was not available for 1995 and 1996 therefore only 1997 was used to calculate the historic ratio.

(3) 1995 was excluded from the calculations due to a lack of data.

(4) 25 percent of the Sablefish ITAC is allocated to trawl in the AI subarea, 50 percent of the ITAC is allocated to trawl in the BS subarea.

(5) The adjusted 1999 Limit applies the ratio of the catcher processor allocation as set forth in the American Fisheries Act compared to historical catch under inshore / Offshore allocation (.40/.50).

This is the PSC table for the PR

	Prohibited Species and Zone					
	Halibut Mortality (mt)	Herring (mt)	Red King Crab (animals)	C. opilio (animals)	C. bairdi (animals)	
	BSAI	BSAI	Zone 1 <sup>1</sup>	COBLZ <sup>2</sup>	Zone 1 <sup>1</sup>	Zone 2 <sup>1</sup>
<b>TRAWL FISHERIES</b>						
Yellowfin sole	930	268	18,500	3,142,614	255,592	990,675
Rocksole/oth.flat/flat sole <sup>2</sup>	735	22	138,750	774,891	273,848	330,225
Turbot/sablefish/arrowtooth	.....	.....	.....	43,050	.....	.....
Rockfish	69	8	.....	43,050	.....	6,475
Pacific cod	1,434	22	13,875	129,149	123,232	180,375
Pelagic trawl pollock	.....	1,239	.....	.....	.....	.....
Pollock/Atka/other <sup>4</sup>	324	155	13,875	172,198	41,077	434,750
<b>TOTAL TRAWL PSC</b>	<b>3,492</b>	<b>1,714</b>	<b>185,000</b>	<b>4,304,950</b>	<b>693,750</b>	<b>1,942,500</b>
<b>NON-TRAWL FISHERIES</b>						
Pacific cod	749					
Other non-trawl	83					
Groundfish pot & jig	exempt					
Sablefish hook & line	exempt					
<b>TOTAL NON-TRAWL</b>	<b>833</b>					
<b>PSQ RESERVE</b>	<b>351</b>	<b>.....</b>	<b>15,000</b>	<b>349,050</b>	<b>56,250</b>	<b>157,500</b>
<b>GRAND TOTAL</b>	<b>4,675</b>	<b>1,714</b>	<b>200,000</b>	<b>4,654,000</b>	<b>750,000</b>	<b>2,100,000</b>

**1999 PSC LIMITS USING PSC HARVESTED BY THE 20+9 IN ALL FISHERIES**

PSC species	1995-1997			1999 PSC	1999 limit
	PSC catch	Total PSC	Ratio		
Halibut mortality	1,389	11,325	0.123	3,492	428
Herring	1,356	5,137	0.264	1,714	452
Red king crab	15,883	473,750	0.034	185,000	6,202
C. bairdi					
Zone 1	451,827	2,750,000	0.164	693,750	113,984
Zone 2	442,244	8,110,000	0.055	1,942,500	105,926

**1999 PSC LIMITS USING PSC HARVESTED BY THE 20+9 IN NON-POLLOCK TARGETED FISHERIES**

PSC species	1995-1997			1999 PSC	1999 limit
	PSC catch	Total PSC	Ratio		
Halibut mortality	955	11,325	0.084	3,492	294
Herring	62	5,137	0.012	1,714	21
Red king crab	7,641	473,750	0.016	185,000	2,984
C. bairdi					
Zone 1	385,978	2,750,000	0.140	693,750	97,372
Zone 2	406,860	8,110,000	0.050	1,942,500	97,451

**1999 PSC LIMITS USING PSC HARVESTED BY THE 20+9 IN POLLOCK FISHERIES**

PSC species	1995-1997			1999 PSC	1999 limit
	PSC catch	Total PSC	Ratio		
Halibut mortality	434	11,325	0.038	3,492	134
Herring	1,294	5,137	0.252	1,714	432
Red king crab	8,242	473,750	0.017	185,000	3,219
C. bairdi	-				
Zone 1	65,849	2,750,000	0.024	693,750	16,612
Zone 2	35,384	8,110,000	0.004	1,942,500	8,475

1999 PROPOSED PSC BY FISHERY USING NON-POLLOCK TARGETED DATA

TRAWL FISHERIES	Prohibited Species and Zone				
	Halibut Mortality (mt)	Herring (mt)	Red King Crab (animals)	C. bairdi (animals)	
	BSAI	BSAI	Zone 1 <sup>1</sup>	Zone 1	Zone 2
Yellowfin sole	930	268	18,500	255,592	990,675
Ratio	0.242	0.053	0.030	0.365	0.093
Limit	225	14	555	93,291	92,133
Rocksole/oth.flat/flat sole <sup>2</sup>	735	22	138,750	273,848	330,225
Ratio	0.029	.....	0.005	0.005	.....
Limit	21	.....	694	1,369	.....
Turbot/sablefish/arrowtooth <sup>3</sup>	.....	.....	.....	.....	.....
Ratio	0.270	.....	.....	.....	.....
Limit	.....	.....	.....	.....	.....
Rockfish	69	8	.....	.....	6,475
Ratio	0.062	.....	.....	.....	.....
Limit	4	.....	.....	.....	.....
Pacific cod	1,434	22	13,875	123,232	180,375
Ratio	0.046	0.230	0.014	0.042	0.026
Limit	66	5	194	5,176	4,690
Atka mackerel/other <sup>1</sup>					
Ratio					
Limit	17				
<b>TOTAL</b>	<b>334</b>	<b>19</b>	<b>1,443</b>	<b>99,836</b>	<b>96,823</b>

(1) The limit for the Halibut PSC for the Atka Mackerel category was calculated directly from historic catch levels in the targeted fishery. Data is not available for the category overall to calculate a ratio.

The Fair Fisheries Coalition Safeguards Proposal

The Fair Fisheries Coalition represents fishermen, processors, and communities that are adversely impacted by the American Fisheries Act (AFA). We recommend that the Council analyze and adopt the following safeguards pursuant to section 211(c) of the AFA in order to minimize the adverse impacts of the AFA on non-pollock processors and harvesters.

1) Limit Eligible Catcher Vessels to Pollock Only The Council should recommend that fishing vessels eligible to harvest pollock under section 208 be restricted to the Bering Sea pollock fishery only for the duration of the AFA (i.e., until 2004), notwithstanding any prior participation in other fisheries.

The Council should task staff to develop options that examine the impacts of prohibiting participation of Bering Sea pollock catcher vessels in: all other fisheries; all crab fisheries; and all crab and Gulf of Alaska groundfish fisheries only. The Council should consider as a sub-option allowing Bering Sea pollock eligible catcher vessels less than 125 feet to permanently elect to fish either Bering Sea pollock or all other species for which they are eligible.

2) Expansion of Processing Cap for Pollock Processors to All Species The Council should recommend expanding the existing safeguard in section 211(c)(2)(A) that caps the ability of inshore and mothership operators to process crab to:

- (A) apply to all species of groundfish as well as crab, and
- (B) to include owners of catcher processors eligible under section 208(e).

The Council should task staff to evaluate the impacts of using the three-year aggregate contained in section 211(c)(2)(A) on the availability of markets for fishermen in non-pollock fisheries, as well as the sub-options of reducing the traditional processing cap by 25% and 50%.

3) Establishment of Excessive Share Caps The Council should recommend by July 1, 1998 that the harvesting and processing caps in section 210(e) be expanded to apply to Gulf of Alaska pollock as well, and recommend a combined excessive share cap of -

- A) 17.5% for harvesting Bering Sea and Gulf of Alaska pollock; and
- B) 12% for processing Bering Sea and Gulf of Alaska pollock. As provided in section 210(e)(2), any entity over that amount should be capped at their existing level or 17.5%, whichever is lower.

The Council should defer action on establishing excessive harvesting and processing shares for non-pollock fisheries until a later date when more information is available.

The Council should task staff to analyze the impact on markets for fishermen of combined pollock processing caps of 10%, 12%, 15% and 17.5%. The Council should task staff to develop for next year an analysis of harvesting and processing shares that currently exist in all non-pollock fisheries.

4) Removal of Fishery Cooperative Delivery Restrictions The Council should recommend removal of two restrictions placed on fishery cooperatives under section 210(b). The restrictions on which processors fishermen may form cooperatives with and who they may deliver to should be eliminated. In addition, the Council should recommend that up to 30 percent of the inshore allocation be available for delivery under fishing cooperatives to processors not listed in section 208(f).

The Council should task staff to examine the impact of eliminating the "qualified catcher vessel" restriction for establishing cooperatives and the limitation on which processors fishing cooperatives may deliver pollock to. NOAA GC should be asked to evaluate the legal authority of the Council to supercede the restrictions in section 208(f). To the extent the Council has such authority, staff should develop options for allowing delivery of 10%, 20%, and 30% of the inshore pollock to processors not eligible under section 208(f). Each of the options should require non-eligible processors to participate in the loan buyout provisions to the extent that they process Bering Sea pollock.

5) Establishment of a Public Data Base to Analyze Impacts The Council should initiate the data gathering program recommended by the Advisory Panel.

6) The Definitions of Shoreside Processor and Eligible Facilities Should Be Clarified The Council should recommend that the definition of shoreside processor include only vessels operating at a single geographic location, and that specific facilities be identified as eligible under section 208(f) instead of corporate entities.

7) Safeguards Should be Required in Fishery Cooperative Contracts The Council should recommend that fishery cooperatives be limited to one year in duration, that linkages to delivery of non-pollock catches be prohibited, and that all contracts must be filed no later than December 1 of the year prior to when fishing begins. In addition, catch and bycatch information should be made available on a vessel-by-vessel basis.

8) Cooperatives Should Be Required to Reduce Bycatch and Address Sea Lion Concerns to A Greater Extent than Non-Cooperative Fisheries The Council should recommend that conservation and management measures required to address bycatch and Stellar Sea lion issues be applied separately to cooperative and non-cooperative fisheries. The flexibility granted cooperatives to control

fishing effort and timing provides greater ability to those fishermen to undertake conservation measures.

The Council should task staff with developing options for applying separate conservation regimes to cooperative and non-cooperative fisheries that maximize the conservation and management objectives while still allowing fishermen the opportunity to prosecute the fishery successfully.

RE: American Fisheries Act  
Presentation to NPFMC, November 11, 1998

**Thank you Mr. Chairman members of the Council. I am Garry Loncon, and I represent Royal Aleutian Seafoods, Inc. As background, Royal Aleutian Seafoods is a 100% American owned seafood company that operates from a single processing location in Dutch Harbor and is engaged almost exclusively in crab processing.**

**Before I begin my comments regarding American Fisheries Act I would like to express my appreciation to the Council and this process, specifically that these proceedings are conducted in a public forum, where all industry participants have an opportunity to comment.**

**We are fundamentally opposed to two principals of the Act:**

- 1) The creation of a protected class of pollock processors and the prohibition of open access to the pollock fishery. Limiting processors is a watershed event in Alaskan fisheries legislative history. There is simply no rationale to a limitation on the number of processors and such a limitation serves only the economic interests of the protected class. Imagine if this form of legislation existed in 1988, when Royal Aleutian Seafoods, was formed. Well there would be no Royal Aleutian Seafoods.**
- 2) The requirement that catcher vessels in an inshore fishery cooperative may deliver their catch to only one processor. This establishment of restrictive cooperatives that limit a fisherman from marketing their catch to a processor of choice is a second unprecedented aspect of AFA.**

**In combination, the closed class and restrictive cooperatives are tantamount to a processor IFQ.**

**Having stated this I am remindful that AFA is law. A protected class of processors, and namely the shoreside processors, with a new found economic windfall in the form of a 42% increase in pollock processing share, remain Royal Aleutian Seafoods' primary competitors in crab processing. The ways in which the protected class is able to exploit its economic and operating advantages leaves an independent crab company quite vulnerable.**

**Public testimony will well document that various fishing groups, municipalities, and generally the balance of the non-pollock processing participants across the state of Alaska are rightfully calling for safeguards. So how does the Council address protection of the other fisheries, or the implementation and enforcement of the so-called safeguard provisions? I submit, that duplicating 1221 in other areas, or simply put attempting to build protective fences around each industry segment, such as Kodiak is not a workable solution. Replicating 1221 represents challenges to the Council in terms of legality, management of the Council's limited resources, and is an impossible task to accomplish by July 1, 1999. A workable solution for safeguards is to clearly restrict the harvesters and processors that have benefited from the Act. In other words, build only one fence around the protected class.**



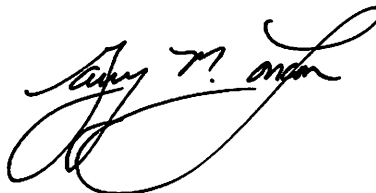
So what safeguards must the Council address:

- 1) The Council should limit the participation in other fisheries by vessels that can participate in fishery cooperatives for Bering Sea pollock. This can be done through a number of measures, which could include limiting or eliminating eligibility for certain non-pollock fisheries, or by requiring vessels that contribute catch history to a pollock cooperative to either fish that history or not participate in other fisheries until after the close of the pollock fishery.
- 2) The Council should expand the existing safeguard in section 211(c)(2)(A) that limits the ability of inshore and mothership operators to process crab to (A) apply to all species of groundfish as well as crab, and (B) to include catcher processors eligible under section 208(e).
- 3) The Council should establish by July 1, 1999 a two-tiered standard for excessive harvesting and processing shares. The AFA itself sets out a two tier standard by setting limits on Bering Sea pollock harvesting and processing in section 210(e) and on harvesting and processing for all other species in section 211(c)(2)(B). The Council should follow this model by establishing two standards for excessive share caps – one that applies to the closed class of harvesters and processors for Bering Sea pollock, and a second standard that applies to all other harvesters and processors.

**IN THE EVENT OF DIRECT QUESTION:** [For example, under this approach any entity that is eligible to harvest Bering Sea pollock would be capped at 17.5 percent for pollock, and 5 percent of the overall TAC for all other species, with no more than 10 percent of the TAC for any one species. For harvesters not eligible to catch Bering Sea pollock, the excessive harvesting cap would be 10 percent of the overall TAC, with no more than 20 percent of the TAC for any one species. A similar cap can be set for processing.]

Clearly, Congress intended to protect processors not eligible to participate in the pollock fishery from adverse effects from the AFA or fishery cooperatives. Congress recognized the special need to establish protective measures for the non-pollock participants in the Bering Sea crab fisheries including harvesters and processors. Congress specifically restricted the growth in crab of the motherships and shoreside processors, but failed to include catcher processors, which requires a Council remedy.

The non-pollock participants in Alaska are relying on the Council to implement and enforce safeguards that Congress envisioned and to carry out the spirit of AFA, namely to protect non-pollock processors as a result of the Act.



**Alaska Groundfish Data Bank**

P.O. Box 2298 • Kodiak, Alaska 99615

TO: RICK LAUBER, CHAIRMAN  
NORTH PACIFIC FISHERY MANAGEMENT COUNCILRE: POLLOCK CO-OP PROVISIONS  
GULF OF ALASKA

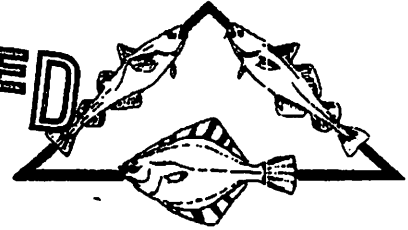
DATE: NOV. 4, 1998

SENT BY FAX: 5 PP

**RECEIVED**

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**PROPOSAL FOR DEVELOPING PROVISIONS TO ALLOW POLLOCK CO-OPERATIVES IN THE GULF OF ALASKA**SUBMITTED BY ALASKA GROUND FISH DATA BANK  
NOVEMBER 4, 1998**REQUEST FOR THE NPFMC TO BEGIN DEVELOPING PROVISIONS FOR GULF OF ALASKA POLLOCK COOPERATIVES.**

The Gulf of Alaska fishing industry is pleased that Senate Bill 1221 will increase the amount of pollock which will be processed onshore in the Bering Sea and promises a more efficient fishery.

However, the Congressional decision to provide provisions for pollock co-ops in the Bering Sea pollock fishery not only took the Gulf of Alaska by surprise, it also tilted the playing field by leaving the Gulf of Alaska disadvantaged with no options other than open access. Obviously, if co-ops are advantageous for the Bering Sea fleets, they will also be advantageous for the Gulf of Alaska.

To assure the Gulf of Alaska pollock industry the same opportunities as the Bering Sea pollock industry and the same potential market advantages we request that the North Pacific Fishery Management Council begin development of provisions and sideboards for Co-ops in the Gulf of Alaska. We feel it imperative that the provisions for pollock co-ops in the Gulf of Alaska be in place at the same time the shorebased provisions for the Bering Sea are implemented in the year 2000.

**WE ASK THAT DEVELOPING GULF OF ALASKA CO-OP PROVISIONS BE ONE OF THE ACTIONS INCLUDED AS PART OF STAFF TASKING UNDER AGENDA ITEM C-1 SENATE BILL 1221.**

**AREAS WHERE THE GULF CO-OP PROVISIONS SHOULD DIFFER FROM THE BERING SEA PROVISIONS**

The Kodiak pollock industry believes co-op provisions for the Gulf of Alaska should, as closely as possible, mirror the provisions for the Bering Sea as contained in Senate Bill 1221. The members of AGDB have spent time since the passage of Senate Bill 1221 reviewing the Bering Sea provisions and identifying those provisions which should be modified to reflect the difference between the Bering Sea pollock industry and the Gulf of Alaska pollock industry.

PROPOSAL FOR GULF OF ALASKA CO-OPERATIVES -- PAGE 2 OF 6

During four two hours meetings the Kodiak processors and pollock fishermen reviewed the provisions of Senate Bill 1221. Provisions which were unanimously felt to be inappropriate for the Gulf are

**SB 1221 SECTION 208 - CATCHER VESSEL ELIGIBILITY**

1. Qualifying years for eligible onshore catcher vessels: For the Gulf the preferred years are 1996, 1997 or between January 1, 1998 and the date of the November Council meeting. [Hopefully the earliest date which is justifiable].
2. Qualifying tonnage: 100,000 LBS. [Allows all vessels now fishing pollock to qualify in the Gulf].

**SB 1221 SECTION 208(F) - PROCESSOR ELIGIBILITY**

3. Qualifying years and tonnage for eligible shoreside processors: processed more than 2,000 MT of pollock round weight in any two of the three years 1996, 1997 or 1998. [Assures that all Gulf processors now processing pollock will qualify].
4. Structural Loss: In the Case of the total structural loss of an eligible processor, the processor's vessels may co-op with another eligible processor. [There is enough processing capacity to take care of vessels orphaned by loss of a processing facility as demonstrated when Tyson's plant burned.]

**SB 1221 SECTION 208 (g) - REPLACEMENT VESSELS**

5. Replacement Vessel: A replacement vessel used for directed fishing of pollock cannot exceed 125 feet LOA. [It was felt that limiting the LOA of replacement vessels would be an appropriate step toward decreasing over capitalization].

**SB 1221 SECTION 210(b) - CATCHER VESSEL CO-OPERATIVES**

6. Calculation of a vessel's quota share: deferred to a later date (Consensus building requires more time.)
7. Vessel Qualification for a co-op: more time for discussion needed. [Concerns expressed about being "tied" for life to the same processor.]

**SB 1221 SECTION 211(c) - CATCHER VESSELS AND SHORESIDE PROCESSOR RESTRICTIONS**

8. Consensus that Gulf catcher vessels eligible for pollock co-ops should be prevented from exceeding their aggregate harvest levels in Bering Sea fisheries. [Since many vessels fish all fisheries in the Gulf of Alaska, this provision may not be appropriate for Gulf pollock co-op eligible vessels fishing other Gulf fisheries. More discussion is required.]

**OTHERS ISSUE FOR DISCUSSION:**

1. Catcher vessels eligible to participate in both a Bering Sea and Gulf pollock coop shall be allowed to participate in both co-ops.
2. For the purpose of determining excess share use the aggregated Gulf wide quotas AREAS 610, 620, 630 AND 640 AND 649 combined. [Processors buy fish from all areas]
3. Separate Gulf pollock co-ops may be established for Area 610 and the combined Areas 620, 630, 640 and 649 reporting areas.

4. Following implementation of pollock co-op provisions, develop co-op provisions for other trawl target species. The eligibility and catch time frames used for other species should be the same time frames adopted for the formation of pollock co-ops.

PROPOSAL FOR GULF OF ALASKA CO-OPERATIVES -- PAGE 3 OF 6

**SENATE BILL 1221 -- ISSUES FOR DEVELOPMENT OF A POLLOCK CO-OP IN THE GULF OF ALASKA**

Following are the SB 1221 summarized provisions contained in 1221 for the Bering Sea and the suggested changes (underlined) which appear more appropriate for the Gulf of Alaska as described above.

BERING SEA	WY AND CENT GULF OF ALASKA
<p><b>SEC. 208</b>  <b>ELIGIBLE ONSHORE CATCHER VESSELS</b>                      1. <b>MUST BE ELIGIBLE UNDER LICENSE LIMITATION</b>                      2. <b>QUALIFYING YEARS - 1996, 1997 OR BETWEEN JAN. 1, 1998 AND SEPT. 1, 1998</b>                      3. <b>LANDING CRITERIA - ONE LANDING IN ANY ONE OF THE QUALIFYING YEARS</b>                      4. <b>TONNAGE CRITERIA</b>                          <b>&gt;60 FT LOA - 250 MT IN ANY ONE OF THE QUALIFYING YEARS</b>                      5. <b>&lt; 60 FT LOA - 40 MT IN ANY ONE OF THE QUALIFYING YEARS</b></p> <p><b>IF THE BS QUOTA INCREASES BY MORE THAN 10% OVER THE 1970 QUOTA OR IN THE CASE OF THE TOTAL STRUCTURAL LOSS OF AN ELIGIBLE PROCESSOR THE NPFMC MAY RECOMMEND AND THE SECRETARY APPROVE MEASURES TO ALLOW CATCHER VESSELS TO DELIVER POLLOCK TO SHOREBASED PROCESSORS NOT ELIGIBLE UNDER THIS SECTION.</b></p>	<p><b>ELIGIBLE ONSHORE CATCHER VESSELS</b>                      1. <b>MUST BE ELIGIBLE UNDER LICENSE LIMITATION</b>                      2. <b>QUALIFYING YEARS - 1996, 1997 OR BETWEEN JAN. 1, 1998 <u>AND DATE OF THE NOVEMBER 1998 NPFMC COUNCIL MEETING</u></b>                      3. <b>LANDING CRITERIA - ONE LANDING IN ANY ONE OF THE QUALIFYING YEARS</b>                      4. <b>TONNAGE CRITERIA - 100,000 LBS.</b></p> <p><b><u>IN THE CASE OF THE TOTAL STRUCTURAL LOSS OF AN ELIGIBLE PROCESSOR THE VESSELS MAY COOP WITH ANOTHER ELIGIBLE PROCESSOR.</u></b></p>

PROPOSAL FOR GULF OF ALASKA CO-OPERATIVES -- PAGE 4 OF 6

BERING SEA	WY AND CENT GULF OF ALASKA
<p>SEC. 208(f) ELIGIBLE SHORESIDE PROCESSORS ELIGIBLE SHOREBASED CATCHER VESSELS MAY DELIVER ONLY TO SHOREBASED PROCESSORS WHICH MET THE FOLLOWING CRITERIA</p> <ol style="list-style-type: none"><li>1. HAVE A SINGLE GEOGRAPHIC LOCATION IN THE STATE OF ALASKA</li><li>2. PROCESSED MORE THAN 2,000 MT OF POLLOCK ROUND WEIGHT 1996 AND 1997</li><li>3. PROCESSORS WHICH HAVE PROCESSED LESS THAN 2,000 MT ROUND WEIGHT AS OF JANUARY 1, 2000 MAY NOT PROCESS MORE THAN 2,000 MT.</li></ol>	<p>ELIGIBLE SHORESIDE PROCESSORS ELIGIBLE SHOREBASED CATCHER VESSELS MAY DELIVER ONLY TO SHOREBASED PROCESSORS WHICH MET THE FOLLOWING CRITERIA</p> <ol style="list-style-type: none"><li>1. HAVE A SINGLE GEOGRAPHIC LOCATION IN THE STATE OF ALASKA</li><li>2. PROCESSED MORE THAN 2,000 MT OF POLLOCK ROUND WEIGHT <u>1996, 1997 OR 1998 IN ANY TWO OF THE THREE QUALIFYING YEARS.</u></li></ol>

PROPOSAL FOR GULF OF ALASKA CO-OPERATIVES -- PAGE 5 OF 6

BERING SEA	WY AND CENT GULF OF ALASKA
<p><b>SEC, 208 (g)</b>  <b>REPLACEMENT VESSELS</b>  <b>IN THE EVENT OF TOTAL LOSS OR CONSTRUCTIVE TOTAL LOSS OF AN ELIGIBLE VESSEL MAY BE REPLACED</b></p> <ol style="list-style-type: none"> <li>1. IF THE LOSS IS NOT BY WILLFUL MISCONDUCT OF THE OWNER OR AGENT</li> <li>2. WAS BUILT IN THE US AND IF EVER REBUILT WAS REBUILT IN THE US.</li> <li>3. THE FISHERY ENDORSEMENT OF THE REPLACEMENT VESSEL IS ISSUED WITHIN 36 MONTHS OF THE LAST YEAR THE ELIGIBLE VESSEL HARVESTED POLLOCK IN THE DIRECTED POLLOCK FISHERY</li> <li>4. IF THE ELIGIBLE VESSEL IS GREATER THAN 165 FT LOA GREATER THAN 750 GROSS TONS AND GREATER THAN 3,000 SHAFT HORSEPOWER, THE REPLACEMENT VESSEL CANNOT EXCEED ANY OF THE ABOVE SPECIFICATIONS</li> <li>5. IF THE ELIGIBLE VESSEL WAS LESS THAN THE ABOVE SPECIFICATIONS THE SPECIFICATIONS MAY BE EXCEEDED BY 10% IN THE REPLACEMENT VESSEL.</li> </ol>	<p><b>REPLACEMENT VESSELS</b>  <b>IN THE EVENT OF TOTAL LOSS OR CONSTRUCTIVE TOTAL LOSS OF AN ELIGIBLE VESSEL MAY BE REPLACED</b></p> <ol style="list-style-type: none"> <li>1. IF THE LOSS IS NOT BY WILLFUL MISCONDUCT OF THE OWNER OR AGENT</li> <li>2. WAS BUILT IN THE U.S. AND IF EVER REBUILT WAS REBUILT IN THE US.</li> <li>3. THE FISHERY ENDORSEMENT OF THE REPLACEMENT VESSEL IS ISSUED WITHIN 36 MONTHS OF THE LAST YEAR THE ELIGIBLE VESSEL HARVESTED POLLOCK IN THE DIRECTED POLLOCK FISHERY</li> <li>4. <u>A REPLACEMENT VESSEL USED FOR DIRECTING FISHING OF POLLOCK CANNOT EXCEED 125 FEET LOA.</u></li> <li>5. IF THE ELIGIBLE VESSEL WAS LESS THAN THE ABOVE SPECIFICATIONS THE SPECIFICATIONS MAY BE EXCEEDED BY 10% IN THE REPLACEMENT VESSEL</li> </ol>

PROPOSAL FOR GULF OF ALASKA CO-OPERATIVES -- PAGE 6 OF 6

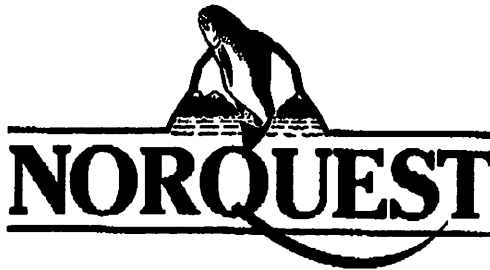
BERING SEA	WY AND CENT GULF OF ALASKA
<p><b>CO-OP QUOTA</b>                      THE AGGREGATE OF THE CO-OP VESSELS DIRECTED POLLOCK CATCH FOR THE YEARS 1995, 1996 AND 1997 AS A PERCENT OF THE POLLOCK HARVESTED FOR THE COMBINED YEARS</p> <p><b>VESSEL QUALIFICATION FOR CO-OP</b>                      VESSEL QUALIFIES FOR A CO-OP IF IN THE PRIOR YEAR THE VESSEL DELIVERED MORE POLLOCK TO THE SHORESIDE PROCESSOR WITH WHICH THE VESSEL INTENDS TO CO-OP THAN TO ANY OTHER SHOREBASED PROCESSOR</p>	<p><b>CO-OP QUOTA</b>  <u>TO BE DEVELOPED LATER</u></p> <p><b>VESSEL QUALIFICATION FOR CO-OP</b>  <u>TO BE CONSIDERED LATER</u></p>

BERING SEA	WY AND CENT GULF OF ALASKA
<p><b>CATCHER VESSEL AND SHORESIDE RESTRICTIONS</b></p> <ol style="list-style-type: none"> <li>1. PREVENT CATCHER VESSELS ELIGIBLE FOR A CO-OP FROM EXCEEDING AGGREGATE HARVEST LEVELS IN OTHER FISHERIES.</li> <li>2. PROTECT PROCESSORS INELIGIBLE TO PARTICIPATE IN THE DIRECTED POLLOCK FISHERY FROM THE ADVERSE EFFECTS OF CO-OPS.</li> </ol>	<p><b>CATCHER VESSEL AND SHORESIDE RESTRICTIONS</b></p> <ol style="list-style-type: none"> <li>1. <u>PREVENT CATCHER VESSELS ELIGIBLE FROM EXCEEDING AGGREGATE HARVEST LEVELS IN BERING SEA FISHERIES.</u></li> <li>2. <u>PROTECTIONS FOR OTHER GULF FISHERIES: TO BE CONSIDERED LATER</u></li> <li>2. PROTECT PROCESSORS INELIGIBLE TO PARTICIPATE IN THE DIRECTED POLLOCK FISHERY FROM THE ADVERSE EFFECTS OF CO-OPS.</li> </ol>

**RECEIVED**

NOV - 2 1998

N.P.F.M.C.



November 2, 1998

Mr. Richard B. Lauber, Chairman  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Ave., Suite 306  
Anchorage, Alaska 99501-2252

Re: Senate Bill 1221

Dear Mr. Lauber,

The Council has placed a discussion of Senate Bill 1221 on its agenda for the November, 1998 meeting. However, there is no specific action noticed to the public, and as a consequence of that our comments cannot be directed towards any proposed Council action.

Having said that, we have some general concerns that we would like to express that I hope will give you some flavor of the concerns our company has.

There are two principles within S. 1221 which create hazards for the industry, in our opinion:

- For the first time ever a processor "limited entry" program has been developed for a public fishery resource with the limitations on what companies may process pollock in the future
- Independent pollock fishermen may be restricted from seeking alternative processors of their raw product

The Council needs to provide clear guidance to the industry on the circumstances under which new processors may compete with existing processors in the purchase of pollock from the Bering Sea. This should include the criteria that will be employed, the time frame that will be required and the duration that a new processor will be allowed to compete with existing processors.

Since the "privilege" to become a new processor in the Bering Sea pollock fishery is of no value without access to raw product, the Council must likewise set forth the conditions under which fishermen will be allowed to sell their product to alternative processors. Additionally, the Council needs to squarely determine whether a pollock fisherman is prohibited from establishing its own processing entity and vertically integrating its business.

**NorQuest Seafoods, Inc.**

4225-23rd Avenue West • Seattle, Washington 98199  
Telephone: (206) 281-7022 • Fax: (206) 285-8159

Crusader Fisheries • Lafayette Fisheries • Silver Lining Seafoods



For the record, NorQuest Seafoods is opposed to restrictions on the privilege to process any seafood in the North Pacific. We are opposed to regulations which restrict the ability of fishermen to change who their buyer will be.

We recognize that S. 1221 is now law, and the Council cannot change that. However, the Council will be required to implement its provisions, including so called "safeguards" against negative impacts to other fishermen and processors by the provisions in S. 1221.

NorQuest believes that "safeguards" will inevitably lead towards more restrictions in other fisheries on who can buy raw product, and under what conditions. We are concerned that safeguards will lead in the long term to a highly structured, complex web of restrictions on processing and fishing. These effects need to be very carefully analyzed and understood. There is a great danger that the net sum of Council action can be detrimental to the dynamic nature of our industry which is necessary to confront the continual changes in raw product, harvesting technology and market demands.

At the same time, we are fearful of the new found power and wealth S. 1221 creates for a select few processors. Those few processors will now have the ability to behave differently in other activities than they otherwise would, with unpredictable short and long term consequences for every other fishery in the North Pacific. Those consequences should be understood to include not only fisheries under the jurisdiction of the Magnuson - Steven Act, but also fisheries under the jurisdiction of the States. The Congress recognized the immediate impacts that would result for the Bering Sea crab fisheries by providing special provisions to restrict growth in the Bering Sea Crab fisheries by shore based pollock participants. Given the special privileges granted to pollock processors, we must support these provisions, and believe that the same provisions should apply to those involved in the offshore sector of the pollock fishery.

You must give the public adequate time to understand the consequences of your implementation of S. 1221, and to comment with a vision not only of what you might do this year but what you foresee the consequences to be two years, five years and further out from today. Since S. 1221 did not undergo a hearing process, with respect to the two general principles stated at the beginning of this letter, there is much that is not understood by us and others in the industry. It is up to the Council process to ensure that there is now adequate notice to the public, and information to understand the consequences, of proposed Council action.

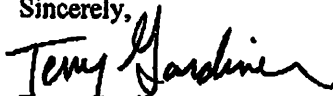
As envisioned in the Legislation, we assume the Council will create a process that will measure the activities of the pollock processors in all other fisheries, compared to their current status, and allow for an open review of the extent to which S. 1221 privileges have contributed to those activities. A logical first starting point would be an accumulation of all data reflecting the historical and current activities of all pollock processors in all non-pollock fisheries. This should include both raw product acquisition and market share data. It should reflect both directly owned and controlled operations and those indirectly owned or controlled.

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The Council should also institute, now, a system to gather data reflecting the future activities of the pollock processors in non-pollock fisheries, so the it can be accumulated in a comprehensive, timely, and systematic manner. That will be necessary to have a true measure of the impacts of S. 1221.

We wish you well in the daunting task in front of you.

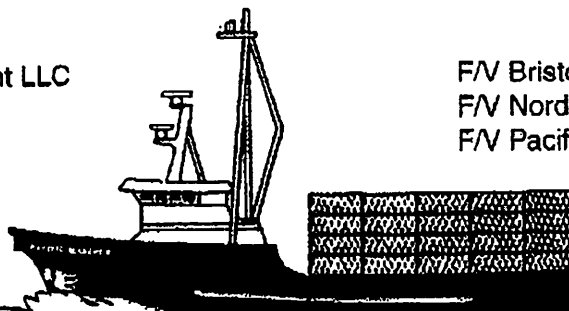
Sincerely,



Terry Gardiner  
President

Kaldestad Management LLC  
F/V Aleutian Mariner  
F/V Arctic Mariner

F/V Bristol Mariner  
F/V Nordic Mariner  
F/V Pacific Mariner



5470 Shilshole Ave. N.W. #410 • Seattle, WA 98107 • (206) 783-3018 FAX (206) 783-3145

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November 03, 1998

NOV - 4 1998

**N.P.F.M.C**

North Pacific Management Council  
605 West 4th Avenue, Suite 306  
Anchorage, AK 99501-2252

Re: Crab LLP and Senate Bill 1221

Dear Council Members,

The council's action on adopting alternative #9 for the recent participation requirement for crab licenses, along with the provisions of SB 1221, would create undue hardship on the dedicated crab fleet if allowed to go forward for the following reasons:

1) The number of crab licenses created would be approximately 284 which exceeds the number of active and dedicated vessels which rely on the crab fisheries for their primary source of income. The main crab fisheries, Bristol Bay red crab and Bering Sea opilio fisheries, had 196 vessels in 1996 and 256 vessels in 1997 for red crab and 234 vessels in 1996 and 226 vessels in 1997 for opilio according to the 1998 Crab SAFE document prepared by NPFMC.

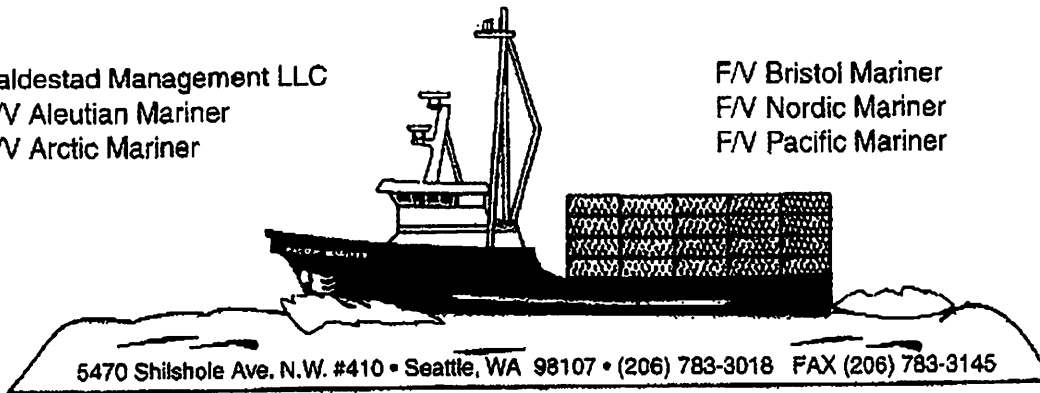
2) Once a license is created, it becomes an asset and will be more likely to be used. One needs only to look to the Bristol Bay salmon fishery to see an example of this. The passage of SB 1221, which allows for pollock co-ops to form, provides an opportunity for crossover pollock vessels to participate in the main crab fisheries.

3) The State of Alaska Board of Fisheries, who is responsible for managing crab fisheries, has stated that if the fleet size exceeds 250 vessels for Bristol Bay red crab under certain quota scenarios, then management measures such as reduced pot limits and pre-announced season closures can be in effect. The reduced pot limits create increased handling mortality for females and undersized crab. The pre-announced creates added fishing pressure on vessels in the crab fishery given a limited amount of time to produce successfully.

4) The crab fisheries have historically experienced the highest rate of deaths and injuries in the fishing fleets. To add capacity to the existing fleet under a license limitation plan is absurd. In

Kaldestad Management LLC  
F/V Aleutian Mariner  
F/V Arctic Mariner

F/V Bristol Mariner  
F/V Nordic Mariner  
F/V Pacific Mariner



the Status of BSAI Crab Stocks report which the Council received in October, it is well noted that the opilio stocks in the Bering Sea will "decline dramatically over the next two years." This fishery has been the crab fleets mainstay for the past several years. More vessels in the fishery and economics will create situations where vessels again have to fish harder to survive. This will not create a safer working environment for crab vessels and crewmembers. The Magnuson-Stevens bill mandates that safety be considered in future fisheries management plans. The issuance of more crab licenses than are currently participating does not meet this test.

5) If the proposed crab permit buyback program is to go forward, the high number of permits initially issued make it prohibitably expensive and unworkable. In order for the program to accomplish it's intended goal of a reasonable fleet size that can economically exist in the crab fisheries, a lower starting number of crab permits must be realized.

The council should reconsider the action taken at the October meeting and adopt a more reasonable and equitable alternative such as Alternative 4 which, in light of SB 1221, provide fairness for the crab fleet which depends almost exclusively on the crab fisheries to earn a living.

Sincerely,



Kevin L. Kaldestad

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**Alaska Groundfish Data Bank**

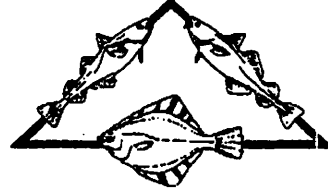
P.O. Box 2298 • Kodiak, Alaska 99615

**TO: RICK LAUBER, CHAIRMAN  
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL**

**RE: PROPOSAL 21**

**DATE: NOVEMBER 4, 1998**

**SENT BY FAX: 3 PP**



**REQUEST TO CONSIDER PROPOSAL 21 AS PART OF THE DELIBERATIONS ON  
SENATE BILL 1221**

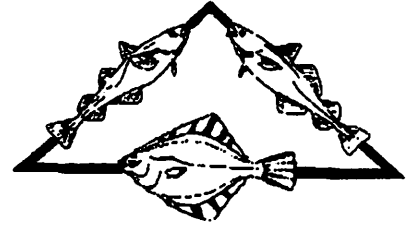
The following proposal was submitted to the Council as part of the 1998 proposal cycle. The proposal would require that product caught in the 640, 630 and 620 Gulf reporting areas be processed within the aggregate boundaries. We appreciate your consideration of our request.

A handwritten signature in black ink, appearing to read "Chris Blackburn", with a long horizontal line extending to the right.

**Chris Blackburn, Director  
Alaska Groundfish Data Bank**

# Alaska Groundfish Data Bank

P.O. Box 2298 • Kodiak, Alaska 99615



## GROUND FISH FISHERY MANAGEMENT PLAN AMENDMENT PROPOSAL North Pacific Fishery Management Council

Please check applicable box(es)

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Bycatch Reduction             | <input type="checkbox"/> BSAI Groundfish FMP | <input type="checkbox"/> GOA Groundfish FMP |
| <input type="checkbox"/> BSAI Crab FMP                 | <input type="checkbox"/> Scallop FMP         | <input type="checkbox"/> Observer Program   |
| <input type="checkbox"/> Habitat of Particular Concern |  |   |

Name of Proposer: ALASKA GROUND FISH DATA BANK Date: AUG. 11, 1998

Address: P.O. BOX 948, KODIAK, AK. 99615

Telephone: 907-486-3033 FAX: 907-486-3461

Fishery Management Plan: GOA

### Brief Statement of Proposal:

The intent of this proposal is to require trawl caught groundfish in Central Gulf/West Yakutat, Reporting Areas 620, 630 and 640, to be delivered only to processors in the combined reporting areas and to restrict processors in the Central Gulf/West Yakutat area from processing trawl caught groundfish taken outside the Central Gulf/West Yakutat reporting area.

This proposal does not restrict factory trawlers since factory trawlers process in the area in which they are fishing.

The Western Gulf is not included because the needs of the Western Gulf may be different than those of the Central Gulf/West Yakutat reporting areas. The Eastern Gulf is closed to all trawling, so would not be affected by this proposal.

### Objectives of Proposal: (What is the problem?)

Currently trawl vessels are able to fish the Central Gulf/West Yakutat reporting areas and deliver the catch to processors outside the Central Gulf/West Yakutat reporting areas, depriving the local communities of the benefits of the fish on their "door steps."

This proposal does not limit vessel effort, but does assure that the communities within the Central Gulf/West Yakutat reporting areas benefit from the fish caught within the combined reporting area.

Currently pollock and Pacific cod are the species most likely to be caught in the Central Gulf/West Yakutat Area and processed outside the area.

REQUIRE PROCESSING OF FISH WITHIN REGIONAL AREA -- PAGE 2 OF 2

**Need and Justification for Council Action: (Why can't the problem be resolved through other channels?)**

Only the Council can recommend allocative measures to the Secretary of Commerce.

**Foreseeable Impacts of Proposal: (Who wins, Who loses?)**

The Central Gulf/West Yakutat communities win. Processors outside the Central Gulf/West Yakutat reporting area who expect to process trawl caught groundfish from the Central Gulf/West Yakutat will lose.

**Are There Alternative Solutions? If so, what are they and why do you consider your proposal the best way of solving the problem?**

Exclusive registration is an alternative solution, but restricts vessels and does not guarantee that fish caught in the Central Gulf/West Yakutat area are processed within the area.

**Supportive Data & Other Information: What data are available and where can they be found?** NMFS has data on fishing patterns. ADF&G has fish ticket data for catcher vessel catch and delivery sites.

**NOTE:** West Yakutat is included in this proposal because the License Limitation provisions allow vessels which qualify for the Central Gulf to also fish West Yakutat.

**Signature:**



Chris Blackburn, Director  
Alaska Groundfish Data Bank



# NORTH PACIFIC PROCESSORS, INC.

□ HOME OFFICE: 2909 EASTLAKE AVE. EAST • SEATTLE, WASHINGTON 98102 • (206) 726 9900

□ PROCESSING PLANT: 59179 • SEATTLE, WASHINGTON 98103-1117

□ PROCESSING PLANT: 608-1040 • CORDOVA, ALASKA 99574

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NOV - 4 1998

N.P.F.M.C

Nov. 4, 1998

To: Chairman Lauber and Honorable Council Members, North Pacific Fishery Management Council

Fm: Ken Roemhildt, Supt., North Pacific Processors, Cordova AK

Subj: Written comments pertaining to the November meeting.

North Pacific Processors of Cordova, Alaska would like to make the following written comments concerning agenda item C-1 C-1 Senate Bill 1221. This bill provides a reasonable plan for the Bering Sea fisheries. It will allow participants to use their limited resources to do a better job. Unfortunately, the rest of the Gulf of Alaska is not covered, and that will put us at a great disadvantage. While we all want to increase recoveries and reduce waste and discards, the nature of the extremely short duration fisheries makes it necessary for us to use our resources to expand volumes. Giving some reasonable plan for Gulf Pollock fisheries would also allow us to maximize more desirable things than just volume.

The Pollock fishery is extremely important to North Pacific in Cordova and also to the City of Cordova. Pollock accounts for about one third of our total purchases, and provides about 200 shoreside jobs and between \$1,000,000 and \$1,500,000 in total labor cost and taxes. In a small Coastal Alaskan City, in the middle of the winter when NOTHING else is going on, that's important. And these wintertime jobs are the ones that allow people to live in Cordova year around. Jobs and some money circulating in the winter is a real benefit to the whole community: the Utilities and many of the merchants up town are really pleased that their bills are being paid on time because of this fishery. Beside that, six to ten boats are also involved, with fishermen earning in the million dollar range.

A reasoned approach to the Pollock fishery in the Gulf of Alaska is necessary for the well being of our industry and our Coastal Communities. Please help us in this matter by considering the Gulf Industry Plan, which would put us on par with the Bering Sea Plan.

Thank You,

*Ken Roemhildt, Supt.*

Ken Roemhildt, Supt

*Processors of Quality Alaska Seafoods*



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November 4, 1998

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NOV - 4 1998  
N.P.F.M.C

To: Rick Lauber, Chairman  
North Pacific Fishery Management Council

Re: Pollock/Gulf of Alaska

From: Margy Johnson  
Innkeeper *Margy Johnson*

The gulf of Alaska must have a better plan for the pollock season. The Cordova area fisheries have been hit hard in the past few years. SBA has declared this a disaster area. The pollock season comes a time when the community is at its lowest financial ebb.

North Pacific Processors alone provides:

200 shore side jobs (Most of the employees that time of year are locals.)

\$1 to 1.5 million in gross labor

\$1 million to fisherman

Cordova needs those jobs and that cash in order survive. These are difficult times for resource based economies. Please support the Gulf Industry plan similar to the Bering Sea plan in SB 1221.





November 4, 1998

# ALASKA PACIFIC SEAFOODS

DIVISION OF NORTH PACIFIC PROCESSORS, INC.  
□ HOME OFFICE: 2200 EAST LAKE AVE. EAST • SEATTLE, WASHINGTON 98102 • (206) 725-0700  
P.O. BOX 91179 • SEATTLE, WASHINGTON 98108-1179  
□ PROCESSING PLANT: 627 SHELIKOF AVE • KODIAK, ALASKA 99518 • (907) 486-2224

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N.P.F.M.C

**Rick Lauber, Chairman;  
North Pacific Fishery Management Council**

We are seriously concerned over our interests in the Gulf of Alaska Pollock and Groundfish Fisheries. Alaska Pacific Seafoods, Division of North Pacific Processors, Inc. has a long history in Groundfish and helped pioneer the Pollock Fishery. Beginning in 1984, prior to SB1221, the Inshore/Offshore debate, and the 1989 Factory Trawler Raid of the Gulf of Alaska, the Alaska Fisheries Development Foundation secured a grant to Americanize Shorebased processing of surimi in Alaska. The project was hosted in Kodiak at Alaska Pacific Seafood and the original Baader 182 that helped mechanize the Alaskan Fishery was part of that project and is still productive for our corporation.

North Pacific Processors have a long and significant history in the Pollock Fishery and want to make sure that our interest and investment are not jeopardized in haste or in the wake of SB1221.

The Gulf of Alaska has been vulnerable to Bering Sea interests in the past. The 1989 Factory Trawler Raid that laid the foundation for Inshore/Offshore serves as a reminder. We have fears that the Gulf of Alaska may be seriously exposed again, as the Bering Sea Industry; plants, vessels, and quota are nearly ten times the size of those in the Gulf. Provisions are needed to keep the fish harvested in the Gulf of Alaska processed in the Gulf of Alaska. Left with little or no protection from the Bering Sea the Gulf of Alaska is ripe for another raid.

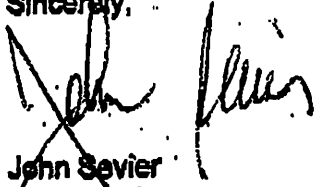
We hope that in response to recent efforts like SB1221 to provide rationalization for the Bering Sea that you may provide some rational protection for the Gulf of Alaska. The coastal communities within the Gulf of Alaska are most dependent upon the health and stability of fisheries resources and Pollock is a key component in the Gulf Seafood Industry. Economic stability is tenuous in Gulf communities like Kodiak and Cordova with the current instability in the world marketplace. Pollock has provided employment for hundreds of employees during the off seasons and winter months and allowed North Pacific Processors to keep our plants open and viable.

We are concerned that in providing Bering Sea rationalization guaranteeing a large portion of the Alaskan Pollock quota to a very small number of corporations jeopardizes current market balance. SB 1221 may force consolidation into the Gulf of Alaska of companies not already participating in the Bering Sea with those currently in the Gulf. A few huge corporations from the Bering Sea will essentially control the market. We think that when one side of an equation is balanced the other side must be balanced also. We hope that you have intentions of protecting the vested interests of communities and processing plants in the Gulf of Alaska and providing some balance to the equation.

*Processors of Quality Alaska Seafoods*

We respectfully submit these concerns, realizing that this does not address all the issues. We would gladly be available for any comments or input.

Sincerely,



John Sevier  
General Manager  
Sitka Sound Seafood Division  
North Pacific Processors, Inc.



Matthew Moir  
General Manager  
Alaska Pacific Seafood Division  
North Pacific Processors, Inc.

November 4, 1998

Richard B. Lauber  
Chairman  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue  
Anchorage, Alaska 99501-2252

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N.P.F.M.C

Dear Mr. Chairman:

This letter is to request that the Council discuss and make recommendations regarding safeguards to address a number of pressing issues with respect to implementation of the American Fisheries Act (AFA) that was recently enacted into law (Division C, title II, Public Law 105-277). Section 211 of the AFA specifically requires that the Council "recommend for approval by the Secretary such conservation and management measures as it determines necessary to protect [the non-pollock] fisheries under its jurisdiction and the participants in those fisheries, including processors, from adverse impacts caused by [the American Fisheries] Act or fishery cooperatives in the directed pollock fishery." We applaud you and the Council for expeditiously scheduling the November 10 -12 meeting, and hope that you will be proactive in considering and implementing the safeguards discussed herein.

The two provisions of the AFA that most greatly impact non-pollock processors and both pollock and non-pollock fishermen are the establishment of a closed class of pollock processors in the inshore and mothership sectors and the requirement that catcher vessels in an inshore fishery cooperative may deliver their catch to only one processor. While section 210(b)(6) would appear to permit catcher vessels in a cooperative to deliver up to ten percent of their collective catch to a second processor, the veto given the primary processor in section 210(b)(1)(B) ("...and that such shoreside processor has agreed to process such pollock") will likely make this alternative market option ephemeral unless the Council recommends a number of safeguards to the Secretary that clarify the requirements for cooperative contracts in order to enhance their value to fishermen.

**Opening the Closed Processing Class.** Perhaps the most unprecedented aspect of the AFA is the creation of a closed class of inshore pollock processors and motherships. While this Council, the State of Alaska, and indeed the Congress have in the past taken steps to limit the number of fishing vessels in order to prevent or mitigate overfishing, there is no conservation benefit or rationale to a limitation on the number of entities who may process the fish once caught. Such a limitation serves only the economic interests of the protected class, while reducing market pressure on the price paid to fishermen for their fish. The inshore and mothership sectors will point to the limitation on the number of catcher processors as a justification - however, that limitation is the defacto result of a limitation on the massive harvesting capacity of those vessels, and not the processing capacity per se. Congress likewise limited the harvesting capacity in the inshore and mothership sectors. In fact, there is no restriction on increases in processing

capacity in any sector of the pollock fishery, but rather only a restriction on the number of entities that may engage in pollock processing.

Section 211(c)(1)(B) clearly directs the Council to recommend actions "to protect processors not eligible to participate in the directed pollock fishery from adverse effects" from the AFA or fishery cooperatives. The most appropriate action to protect against adverse effects would be to permit the non-pollock processors to be able to have direct access to at least a portion of the new windfall that has been transferred inshore by the AFA. Only then will those processors not listed in section 208(f) be able to effectively compete for fish with the closed class. One approach the Council should consider is a parallel to the cap contained in section 211(c)(2)(A), which effectively limits the owners of mothership and shoreside processor operations identified in section 208 from processing more than their collective historical percentage of each species of crab. The appropriate parallel which would be a safeguard that permits shoreside processors not identified in section 208 to have direct access to no more than 30 percent of the inshore allocation, thus ensuring that the identified processors in section 208(f) are able to catch no less than their historical percentage of the TAC (and more to the extent that other processors do not outbid them for the fish).

Senator Stevens, in his summary of the AFA in the *Congressional Record*, suggested that the Secretary could open the closed class in the context of its clear safeguard authority under sections 211 and 213. This would indicate that the Council would be within its purview to recommend such a measure. It would greatly mitigate the adverse effects of the AFA if the Council were to suggest such a measure. To the extent that the Council or the Secretary believes they cannot legally open the closed class, it would be helpful to the non-pollock processors and to the debate to clearly establish why that is so.

**Excessive Shares.** Another related safeguard on processing that sections 210(e)(2) and 211(c)(2) specifically ask the Council to address is the issue of "excessive" processing shares of Bering Sea pollock, groundfish, and crab. In the absence of any Council action to address this issue, no processing cap at all is established under these sections. In order to prevent further concentration in the processing sector, promote competition in the price paid to fishermen, and to maintain the economy of coastal communities in Alaska, Washington, and Oregon through a diversified processing base, the Council should establish reasonable caps on the amount of any species that a single entity can process.

It should be noted that in the context of the halibut and sablefish fisheries the Council prohibited processor ownership of IFQs and limited owners of catcher vessels to no more than 1 percent of the total quota share for any area. While higher limits are in order here, clearly something considerably less than the 17.5 percent harvesting cap is necessary if the Council is to protect fishermen and non-pollock processors from the adverse effects that flow from a windfall transfer of fish inshore, a closed class (even if partially opened

Richard B. Lauber  
November 4, 1998  
Page 3 of 5

per the above safeguard), and the use of fishery cooperatives. We would suggest a discussion of a cap on the order of 10 to 12 percent in pollock would be appropriate, especially in light of the statutory grandfather of any entity that may be processing over that amount.

**Fishery Cooperative Safeguards.** With respect to fishery cooperatives, a number of safeguards should be recommended by the Council in order to maximize the opportunity those cooperatives provide to fishermen and to mitigate the considerable control that the AFA gives to the closed class of inshore processors with whom those cooperatives must be formed. Sections 211 and 213 specifically provide the Council with authority to recommend safeguards for fishery cooperatives, and we urge the Council to adopt a number of specific recommendations to mitigate the adverse impacts of the cooperative provisions on fishermen and other fisheries. In addition, as with many of the provisions of the AFA, the Council should make concrete recommendations to clarify ambiguities that may otherwise be exploited to the detriment of others.

Two important safeguards would be to remove the limitations in section 210(b) on who inshore fishermen may form a cooperative with, as well on who they may deliver pollock to. Under section 210(b) as written, inshore fishermen may only form a cooperative with the approval of a specific processor, and that processor is pre-determined to be only the processor to whom they delivered the most fish in the preceding year. Only by removing these two limitations will any action to open the closed processing class be able to have any effect. In the event that opening the class itself is not possible, removal of these limitations, combined with the clarifications listed below, is still critical to make fishery cooperatives operate to the benefit of fishermen, rather than solely to the advantage of the processor to whom they will otherwise be bound.

One clarification that the Council should recommend to the Secretary is that the entire contract itself be public, in order to minimize the collusive effect such contracts will have on the conduct of the fisheries. At a minimum, in addition to the items listed in the statute, the price that is paid for the fish should be made public, as it is today when processors compete for the delivery of fish.

Two critical additional clarifying safeguards that should be recommended by the Council with respect to fishery cooperative contracts are 1) that any restrictions or other provisions or agreements in the contracts that affect the harvesting or processing of non-pollock species should be prohibited; and 2) all contracts must be filed no later than December 1 of the year prior to the year in which fishing will occur, and may be no longer than one year in duration. The prohibition on linkages to other fisheries is essential to prevent the closed class from using their veto over fishery cooperatives to leverage concessions or commitments out of pollock fishermen or boat owners who participate in multiple fisheries.

The filing time frame and one year duration are essential to preserving the opt-in and open access provisions as viable alternatives for fishermen. Without the filing deadline, fishermen who are not part of a contract can be frozen out of being able to exercise their rights notwithstanding the 30 day pre-filing requirement simply by the coop filing the contract a few days before, or even after, the start of the calendar year in which the fishing will occur. The limitation to one year is suggested in section 210(b)(1)(B), and is necessary to give the Council maximum oversight and the fishermen maximum opportunity to use the fishery cooperative to negotiate a fair price for their fish.

In the specific case of inshore processors, the Council should recommend that the Secretary prohibit processors from refusing to agree to a fishery cooperative because the fishermen choose to exercise the right to deliver up to 10 percent of the cooperative's fish to a processor other than the primary processor. The fishermen should be free to exercise that right at any time during the fishing season, in order to ensure that there continues to be some competition, however minimal, among the closed class of processors for the fish that is being harvested.

With respect to mothership processors, the Council should recommend that the Secretary clarify that section 210(d) does not permit the mothership operators to form a separate cooperative that allocates processing shares. Rather, the section is intended to allow the motherships, with the concurrence of at least 80 percent of the catcher vessel owners, to enter into the same cooperative with the catcher vessels. This interpretation would help ensure, to the extent possible with a closed class of processors, that the catcher vessels would preserve their option to deliver their catch to the mothership offering the best price, rather than the motherships being able to collude amongst themselves to allocate processing shares so that they can avoid competing on price.

**Definition of Inshore Sector.** Another clarification that the Council should recommend to the Secretary to minimize the adverse impacts of the AFA on non-pollock processors is to clarify that vessels being used for processing in the inshore sector must remain at a single geographic location, as is presently the requirement under the Council's fishery management plan. The definition of "inshore processor" included in the AFA omits this requirement, though it is alluded to in the identification of the closed class of inshore processors under section 208(f). Nothing in the AFA conflicts with the existing requirement, and the absence of such a clarification invites the opportunity for owners of eligible pollock processing operations under section 208(f) to further overcapitalize the processing sector to the detriment of other processors. The closed class could easily do this by bringing mobile floaters into State waters to process the increased allocation of pollock, and use that new mobile processing capacity for other fisheries as well using the flexibility granted them by fishery cooperatives.

**Conservation Measures.** In addition to establishing safeguards, the Council should recommend that additional conservation and management

Richard B. Lauber  
November 4, 1998  
Page 5 of 5

measures should apply with respect to fish harvested under a fishery cooperative. Bycatch and adverse impacts on marine mammals, crab, and other fisheries should be able to be reduced due to the elimination of the "race for fish," which has often been cited as a key justification for the type of fishery cooperatives made possible by the AFA.

Thank you for your attention to the issues raised in this letter.

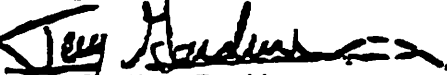


Sincerely,

ICICLE SEAFOODS, INC.

  
Don Giles, President & CEO

NORQUEST SEAFOODS

  
Terry Gardiner, President

SNOWPAC PRODUCTS, INC.

  
Greg Blakey, President

ALL ALASKAN SEAFOODS, INC.

  
Lloyd Cannon, Chairman of the Board

ROYAL ALEUTIAN SEAFOODS, INC.

  
Gary Koncor, CEO

701 Dexter Avenue N., Suite 403  
Seattle, WA 98109  
206) 283-6605 / (206) 282-4572

## Royal Aleutian Seafoods, Inc.

PO Box 920128  
Dutch Harbor, AK 99692  
(907) 581-1671 / (907) 581-1743

November 4, 1998

Richard B. Lauber, Chairman  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501

Re: Senate Bill 1221

Dear Mr. Lauber,

Please accept this letter as Royal Aleutian Seafoods, Inc. ("RAS") comments regarding Senate Bill 1221. This letter follows a previous letter dated September 29, 1998, that was submitted to NPFMC ("Council") prior to S. 1221's passage.

As background, RAS is a 100% American owned seafood company that operates from a single processing location in Dutch Harbor, Alaska. RAS is primarily a crab processor and can be characterized as a non-pollock processor.

To restate, RAS remains opposed to two principles of S. 1221; 1) the creation of a protected class of pollock processors and the prohibition of open access to the pollock fishery, and 2) the establishment of restrictive cooperatives that limit fisherman from marketing their catch to a processor of choice.

However, now S. 1221 has become law and RAS is concerned with the Council's management measures to protect other fisheries, or the implementation and enforcement of the so-called "safeguard" provisions. Congress clearly intended to protect non-pollock processors from adverse effects as a result of S. 1221. Congress recognized the special need to establish protective measures for the non-pollock participants in the Bering Sea crab fisheries including harvesters and processors. Congress specifically restricted the growth in crab of the motherships and shoreside pollock processors through capping market share to historical levels.

One of the primary criticisms of the evolution of S. 1221 was the lack of public notice and process. It is incumbent upon the Council to provide adequate public notice and

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## Royal Aleutian Seafoods, Inc.

NPFMC

November 4, 1998

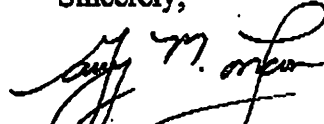
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participation in order for effected parties to evaluate the short and long term consequences of implementing the safeguards that Congress intended.

Inclusive in S. 1221 is to measure the activities of the pollock processors in order to determine their adverse effect on all other fisheries. To fulfill this requirement of the Act, the Council needs to establish a baseline of information, that reflects the historical market share of the pollock processors in all non-pollock fisheries. With respect to crab, the baseline information becomes the foundation for establishing the market share cap for the mothership and shoreside pollock processors.

The non-pollock participants in Alaska are relying on the Council to implement the safeguards that Congress envisioned and to carry out the spirit of S. 1221, namely to protect non-pollock processors as a result of S. 1221.

Sincerely,



Garry M. Loncon  
CEO

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## Royal Aleutian Seafoods, Inc.

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November 4, 1998

Richard B. Lauber, Chairman  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501

Re: Crab License Limitation Program

Dear Mr. Lauber,

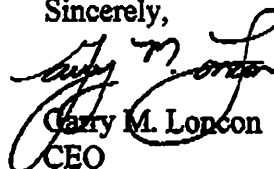
Please accept this letter as Royal Aleutian Seafoods, Inc. ("RAS") comments regarding the License Limitation Program. RAS is concerned with NPFMC's ("the Council") recommendation to adopt Alternative 9. RAS supports the adoption of Alternative 4, which qualifies approximately 250 vessels in the BSAI crab fisheries. Alternative 9 would qualify approximately 290 vessels to fish crab. The difference between Alternative 4 and Alternative 9, in essence adds approximately 40 trawlers that have limited participation in BSAI crab fisheries and fail to demonstrate an economic dependency on crab.

Senate Bill 1221, Section 211, directs the Council to recommend conservation and management measures to (A) prevent the pollock catcher vessel fleet from being able to exceed in the aggregate the traditional harvest levels of such vessels in other North Pacific fisheries (Bering Sea crab fisheries) as a result of coops in the pollock fishery; and (B) protect non-pollock processors from adverse effects as a result of S. 1221 or fishery cooperatives. The Council's adoption of Alternative 9 runs counter to Congress' intent to protect non-pollock participants from adverse effects of S. 1221.

Further, in a recent meeting, the Alaska Board of Fisheries ("BOF") expressed concerns with the passage of LLP that would allow greater than 250 vessels and adversely effect the management of crab fisheries.

RAS strongly encourages the Council to revisit action taken during the October meeting relative to the number of vessels qualified to fish crab under LLP. The adoption of Alternative 4; (A) satisfies the intent of S. 1221 to limit adverse effects to other fisheries, (B) addresses the concerns of BOF regarding management issues and fleet size and (C) preserves the integrity of the proposed Crab Buyback Program.

Sincerely,

  
Gary M. Loncon  
CEO

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## Royal Aleutian Seafoods, Inc.

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September 29, 1998

Richard B. Lauber, Chairman  
North Pacific Fisheries Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501  
Hand Delivered

RE: S. 1221

Dear Mr. Lauber,

Please accept this letter as Royal Aleutian Seafoods, Inc. ("RAS") brief comments regarding Senate Bill 1221. We are most disturbed with the Draft Legislation dated September 23, 1998, how it differs significantly from the original legislation. This letter is not intended to be a detailed analysis of S. 1221, given the "closed door" policy which with this legislation has been drafted. RAS has had limited opportunity to review this latest draft and reserves the right to further comment once proper analysis has been conducted.

As background, RAS is a 100% American owned seafood company that operates from a single processing location in Dutch Harbor, Alaska. RAS primarily engages in crab processing in the Bering Sea arena. It was with a passing interest to review S. 1221, only to discover that the crab business as well as all seafood sectors that do business in the Bering Sea will be dramatically impacted by its passage.

Originally, the S. 1221 was a legislative solution to reduce foreign ownership and rationalize the Bering Sea pollock fishery. The latest draft of S. 1221, while reduces Bering Sea participants, fails to Americanize the pollock fishery and includes provisions that will have sweeping changes to the North Pacific seafood industry. Further, the bill serves to benefit a few select shore-based companies to the detriment of others that are not currently engaged in pollock processing.

RAS is concerned with the following provisions:

- Establishes an exemption to anti-trust laws for certain processors.

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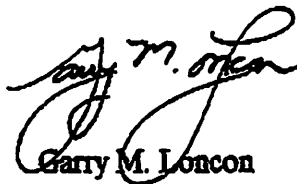
**Royal Aleutian Seafoods, Inc.**

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- Allows the establishment of cooperatives that among other issues will result in a significant number of pollock vessels free to fish in the crab business that have little or no historical basis. The crab business is currently overcapitalized, which with the passage of S. 1221 will further worsen the economics of the crab business.
- 
- Serves to strengthen control of U.S. fisheries by foreign interests.
- Eliminates the opportunities of American owned independent processors and harvesters.
- Transfers power, control and ultimately financial wealth to a few select beneficiaries of the bill.

In summary, S. 1221 circumvents the council process, public comment, and serves to benefit a few companies, while independent seafood companies and harvesters are disadvantaged. RAS is strongly against the passage of S. 1221 in its present form and welcomes the opportunity to thoroughly review to detail the far-reaching ramifications.

Sincerely,



Garry M. Loncon  
 CEO

**ALASKA CRAB COALITION**

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SEP 29 1998  
N.P.F.M.C

Date: September 24, 1998

To: Jeanne Bumpus, Justin Leblanc, Trevor McCabe and Bill Woolf

FROM: Arni Thomson, Executive Director *AT*

RE: SUBSTITUTE LANGUAGE, S. 1221, PROTECTION FOR BERING SEA ALEUTIAN ISLANDS CRAB FISHERIES

**RATIONALE:** The revised language in S. 1221 allows catcher vessels and catcher processors that fished in any crab fishery in 1997 to fish in all crab fisheries. Almost all the pollock vessels, estimated 39, that fished crab in 1997, only fished Bristol Bay king crab, while only 5 made a landing of opilio crab. The present language would grandfather all these boats into the opilio fishery, which is the basis for 75% of the crab fleet's annual revenue, similar to the economic significance of the pollock fishery to the Bering Sea trawl fleet. Pollock represents 70% of that fleet's revenue and S. 1221 provides special protection measures for them. Further, there are an estimated 3 pollock vessels that fished Bristol Bay king crab in 1997 under a moratorium qualification, however, they are not qualified for the crab LLP program. S. 1221, as worded, could grandfather them into the crab LLP, contrary to the intent of the NPFMC. We do not believe it was the intent of the protection language—in a bill fundamentally designed to reduce overcapacity—to create special measures to allow for expansion of these vessels in the extremely depressed and overcapitalized crab fisheries.

SECTION (b), p.22, September 23, 1998 Draft, S.1221

**(b) CATCHER-VESSEL RESTRICTIONS**

- (1) BERING SEA CRAB.—~~Catcher vessels listed~~ Any vessel subject to in section 204(a), (b), or (c) may not participate in directed fishing harvesting for any of a species of crab in the Bering Sea and Aleutian Islands Management Area unless such the catcher vessel was used to catch harvest crab in a directed fishery for that species of crab in that the Bering Sea and Aleutian Islands Management Area during 1997- and is qualified under the applicable License Limitation Program to participate in directed harvesting of that species of crab in that Area. Nothing in the preceding sentence or this Act shall preclude the North

*landed at least 250,000 pounds of crab in '97,*

Pacific Regional Fishery Management Council from recommending or the Secretary of Commerce from approving measures to prohibit ~~catcher-vessels listed in subject to section 204 (a), (b), or (c)~~ that were used to ~~catch~~ harvest crab in a directed fishery for crab in such the ~~Bering Sea and Aleutian Islands Management Area~~ during 1997 from participating in directed fishing for crab in such Area.

Thank you for the opportunity to comment.



Comment of the Alaska Crab Coalition and Capacity Reduction and Buyback Group  
on "Basic Elements of Agreement on S.1221 - 9/11/98"  
September 16, 1998

The Alaska Crab Coalition ("ACC") and the Capacity Reduction and Buyback ("CRAB") Group provide this comment to staff of Senators Stevens, Gorton, Murray, and Murkowski on "Basic Elements of Agreement on S.1221 - 9/11/98" ("Elements").

The ACC is a nonprofit trade association representing owners of Bering Sea crab fishing vessels. The ACC strongly supports management measures for the improvement of conservation, safety, and economic conditions in the Bering Sea/Aleutian Islands ("BSAI") crab fisheries. Adoption of management measures that would provide these improvements through the reduction of excess harvesting capacity is an immediate priority of the ACC. The ACC strongly opposes any measure that would perpetuate existing excess capacity or lead to increased capacity in future.

An estimated 128 BSAI crab fishing vessels, including virtually all members of the ACC, qualify for participation in the groundfish fisheries under the License Limitation Program ("LLP"). These vessels are, as history has shown, especially well-suited for conversion to trawling. Consequently, the ACC has a direct interest in, and strongly supports, improved management of the groundfish fisheries.

The ACC works to ensure that all fishery management measures affecting its members are fair and equitable. This is always an important objective of the ACC, but is an especially high priority, when its members are confronted with serious economic challenges, as is now the case.

The CRAB Group is a nonprofit organization of owners of Bering Sea crab fishing vessels. The objective of the CRAB Group is the establishment of an industry-

funded buyback of licenses, in accordance with section 312 of the Magnuson-Stevens Fishery Conservation and Management Act ("Act"), for crab fisheries that are subject to the Fishery Management Plan for Commercial King and Tanner Crab Fisheries of the Bering Sea ("Crab FMP"). The CRAB Group supports management measures that facilitate, in a fair and equitable manner, the establishment of that capacity reduction program. The CRAB Group strongly opposes any measures that would frustrate efforts to achieve such a program.

The ACC and CRAB Group note that they were not invited to participate in closed-door meetings that led to the Elements. However, the ACC and CRAB Group did inform interested staff of concerns regarding those meetings and the agreement that emerged from them. The ACC and CRAB Group appreciate the willingness of staff to consider those concerns, and are grateful for the opportunity to provide this comment. The ACC and CRAB Group commend Members of Congress and staff for their efforts to achieve the goals of capacity reduction and Americanization.

The following points summarize the position of the ACC and CRAB Group on the Elements:

- The means by which Americanization and capacity reduction are pursued must be very carefully considered. Serious damage may be unnecessarily and unfairly inflicted on sectors of the industry that are not the primary objects of a particular Americanization and capacity reduction effort. This is true in the case of the proposal set forth in the Elements.
- The Bering Sea/Aleutian Islands crab fisheries suffer from massive harvesting overcapacity. Major stocks of BSAI crab are severely depressed, and at current levels of harvesting capacity, are extremely difficult to manage. Depressed resource conditions have resulted in complete closures of the important, red king crab fisheries. Guideline harvest levels (OYs) have been exceeded, due to overcapacity. Economic conditions in the BSAI crab fisheries have declined to historically low levels. Vessel revenues have dropped by more than 50% in the past several years.

Overcapacity also has contributed to safety problems; BSAI crab fishing is the most dangerous occupation in the United States.

- The proposal set forth in the Elements should be amended to ensure that the solution to overcapacity in the pollock fisheries does not seriously aggravate the problem of the BSAI crab fisheries. In particular, the proposal should provide that only those vessels with a demonstrated history of dependence on the BSAI fisheries should be permitted to participate. This would prevent latent capacity in the pollock fisheries from flooding into the BSAI crab fisheries, and would thereby ensure that already severe conservation, economic, and safety problems are not exacerbated. **Vessels principally dependent upon pollock (and other groundfish) should not be allowed to supplement their incomes by prosecuting crab fisheries that are the principal source of revenues for other vessels that are already operating in unsustainable, marginal economic conditions. An influx of these pollock vessels into the BSAI crab fisheries would lead directly to widespread financial failure among vessels in the dependent crab fishing fleet. Legislation that would both allow that influx and preclude the participation of otherwise qualified BSAI crab vessels in the pollock fisheries would inflict the worst possible damage on the crab fleet. *The ACC and the CRAB Group would not oppose precluding vessels that are dependent upon the BSAI crab fisheries from participating in the pollock fisheries, if at the same time, vessels that are dependent on the pollock fisheries were precluded from the BSAI crab fisheries, and if this were accomplished in a fair and reasonable manner.***
- The ACC and CRAB Group understand that there is a proposal to allow any vessel that has one landing in the BSAI crab fisheries in 1997, alone, to remain eligible to continue to participate. This proposal would render the BSAI crab fisheries decidedly unsustainable, by establishing an estimated, permanent fleet size of 290 vessels. *The effect of this proposal would be to grandfather 36 pollock vessels that are not dependent on the BSAI crab fisheries, including 5 that are qualified under the moratorium, but not under the LLP.* (Eight pollock trawlers would qualify for those fisheries under Proposed Action 5, Alternative 4.) These numbers are derived from State of Alaska Commercial Fisheries Entry Commission data, 1991-1998, and on the Analysis of the Proposed License Limitation Amendment Package ("Analysis"), dated August 21, 1998. See also attached letter from Pennoyer to Lauber, dated September 12, 1997, approving the LLP on the understanding that further capacity reduction measures will be taken (note reference to allocations by gear sector). A single landing in a single year does not demonstrate dependence, and does not permanently entitle a vessel to supplement its income from its primary fishery by participating in, and reducing average vessel revenues in, a fishery upon which other vessels depend for economic survival. Such an entitlement would, in the case of the BSAI fisheries, lead to financial failures among the participants who depend upon, and have, over the past decade, paid a very high price for, conservation efforts to restore the crab resources.

- The ACC and the CRAB Group understand that there is a proposal to allow only vessels with landings in 1997 in the pollock fisheries to continue to participate. This would preclude the participation in those fisheries of 128 otherwise qualified BSAI crab vessels. This result would be tolerable only if, at the same time, a fair and reasonable criterion were established for participation in the BSAI crab fisheries.
- The North Pacific Fishery Management Council has decided to address the overcapacity problem in the BSAI crab and groundfish fisheries. For the BSAI crab fisheries, the Council is considering analyses of eleven alternatives. The ACC and the CRAB Group support Proposed Action 5, Alternative 4, which would require at least one landing in any BSAI crab fishery in both of the years, 1996 and 1997, for continued participation under the LLP. **That requirement would fairly reflect dependence on the BSAI crab fisheries. One landing in a single year would not. The criterion in Proposed Action 5, Alternative 4, would prevent 120 non-dependent vessels—of any gear type—from causing financial ruin to BSAI crab vessels in the effort to supplement income from other fisheries.** A list of the <sup>345</sup> vessels remaining qualified for the BSAI crab fisheries under Proposed Action 5, Alternative 4, will be provided.

The critical need to preclude future participation of the 120 non-dependent vessels from the BSAI fisheries is readily illustrated. Had they fully participated, these highly capable vessels, based on the average vessel catch, could have harvested 47% of the total BSAI crab catch in 1995, 51% in 1996, and 47% in 1997. Based on the average ex vessel revenue, the 120 vessels could have displaced \$99,509,880 of the crab fleet's total revenue of \$209,800,000, in 1995. Similarly, for the years 1996 and 1997, these 120 vessels could have displaced \$66,102,480 and \$62,894,880 of the fleet's total revenue of \$128,900,000 and \$134,700,000, respectively.

Revenues to individual vessels have dramatically declined in the BSAI crab fisheries over the past several years. The average vessel revenues in 1989 were \$1.6 million. In each of the years, 1996 and 1997, those revenues were slightly above \$600,000. Thus, the 1995 to 1997 period represented an approximately 50% decline in average vessel revenue. See Average Crab Vessel Revenue Adjusted for Inflation, attached. Had the identified 120 vessels participated in the BSAI crab fisheries in 1995, 1996, and 1997, the average vessel revenues in those fisheries would have been reduced to \$562,466, \$364,124, and \$357,294, that is, by 32%, 34%, and 32%, respectively.

**The foregoing analysis demonstrates that, were the latent capacity of the identified 120 vessels to become fully active, the impact upon the fleet that is dependent on BSAI crab would be extremely severe. In view of the fact that the financial condition of the currently active BSAI crab fleet has seriously deteriorated, is now marginal, and cannot be sustained, an influx of such latent capacity would lead to widespread business failures.**

It is most notable that, since the Council voted to establish the LLP qualification dates on June 17, 1995, registrations for the major BSAI crab fisheries have dropped to a range of 196 to 253 vessels, very far below the 365 authorized by the LLP, and the 290 which would be authorized by the criterion of a single landing in 1997. *Moreover, analysis shows that using one landing in 1997 as the criterion for participation in the BSAI crab fisheries would increase the cost of the proposed license buyback from \$60 million, wholly funded by industry, to \$105.8 million, which would exceed the statutory limit and the industry could not afford.*

Another, important factor must be taken into account. In the groundfish fisheries upon which the 120 identified vessels depend, economic conditions, while difficult, have been far superior to those in the BSAI crab fisheries. Were the case otherwise, a large number of those vessels would have participated both regularly and recently in the BSAI crab fisheries. The total BSAI groundfish trawl revenues in 1995 and 1996 were \$373,400,000 and \$332,500,000, respectively.<sup>1</sup> The BSAI trawl groundfish average ex vessel revenues in 1995 and 1996 were \$2,062,983 for 181 vessels and \$1,731,770 for 192 vessels, respectively. With respect to the BSAI longline fleet, the corresponding total revenues were \$65,300,000 for 175 vessels and \$65,900,000 for 158 vessels and average ex vessel revenues were, \$373,142 for 175 vessels and \$417,088 for 158 vessels. *See Economic Status of the Groundfish Fisheries Off Alaska, 1996, Socioeconomic Task, November 21, 1997. (Note that the longline revenues apply to a fleet that is primarily comprised of small vessels that are dependent upon IFQs in the Gulf of Alaska ("GOA"), and large, shelterdecked, freezer longline vessels that are dependent on BSAI cod and turbot and BSAI and GOA IFQ fisheries. Very few, if any, of the small vessels, nor the great majority of the large vessels, would be suitable for fishing crab in the BSAI.)*<sup>2</sup>

In addition, the fisheries upon which the 120 identified vessels depend do not face the severe conservation and safety problems confronting the BSAI crab fisheries. The groundfish fisheries are not depressed. Fishing crab, not groundfish, in the BSAI is the most dangerous occupation in the United States. *See Report, Centers for Disease Control and Prevention, National Institute for Occupational Safety and Health, Division of Safety Research, Alaska Field Station, November 4, 1997.*


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<sup>1</sup> This decrease was not due to resource conditions, but was a consequence of the market.

<sup>2</sup> Thirteen additional, large vessels covered by Proposed Action 5, Alternative 4, are prohibited from participating in the fisheries of the United States, until September 30, 1998, by an annual appropriations Act of Congress, section 616, P.L. 105-100, and would be permanently prohibited by enactment of S.1221, the American Fisheries Act or enactment of the Senate version of the Commerce/Justice/State fiscal year 1999 appropriations measure, S.2260 (section 614(a)(1)), pending before the 105th Congress. *See Senate Report 105-235.* The House companion appropriations measure, H.R. 4276 (section 616(a)(2)), would continue the ban on these vessels for fiscal year 1999, and the ban would, of course, be subject to renewal by future appropriations measures.

- A detailed legal analysis, provided under separate cover, demonstrates that Proposed Action 5, Alternative 4, complies with the National Standards and limited entry provisions of the Magnuson-Stevens Act, an important consideration for Congress, which has only recently provided for reauthorization of that statute. **Legislative adoption of Proposed Action 5, Alternative 4, would thus be consistent with the existing policies and principles of fisheries management as provided by Congress in that Act.**
- The ACC and the CRAB Group note that \$20 million would be provided by the proposal set forth in the Elements to purchase vessels for U.S. Government uses. The circumstances of the BSAI crab fishery are at least as worthy of such support as are those of the pollock fishery. **Accordingly, the ACC and the CRAB Group request that \$20 million be appropriated to purchase BSAI crab vessels for U.S. Government uses. Equally in each case, reduction of excess capacity would be facilitated.**

In closing, the ACC and the CRAB Group reiterate their appreciation for the opportunity to comment on the Elements, and note their continuing, strong support of S.1221, the American Fisheries Act, as introduced. These organizations also support the provisions of S.2260 that would permanently bar from U.S. fisheries those vessels that have abandoned the U.S. flag to operate abroad. **However, a particular misinterpretation of S.2260 could lead to serious problems, and should be prevented. Accordingly, the ACC and the CRAB Group request a technical amendment to S.2260 that would expressly preclude fishery management councils and the Secretary from authorizing reentry of prohibited vessels into any fishery for which a buyback of licenses or vessels has been requested by an appropriate council or State or conducted by the Secretary.**

  
Arni Thomson  
Executive Director  
Alaska Crab Coalition

  
Gordon Blue  
Coordinator  
CRAB Group

**KRIS POULSEN & ASSOCIATES**

COMMERCIAL FISHING VESSELS • M/V BERING SEA • M/V ARCTIC SEA • M/V NORTH SEA

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September 22, 1998

The Honorable Slade Gorton  
730 Hart Senate Office Building  
Washington, D.C. 20510

RE: Agenda Item C-9, Implications of S.1221

Dear Senator Gorton,

I am a member of the Bering Sea crab industry and am very concerned about the implications of S.1221 for this industry. In reviewing the current language of S.1221, it no longer resembles the initial language and now has grave implications for the Bering Sea crab industry, which is comprised mainly of large vessels with homeport in Seattle.

In particular, there are three items which are extremely offensive and unacceptable for the Bering Sea Crab industry:

1. A landing in 1997 as the only requirement for a license for crabbing. Anything other than a landing in both 1996 and 1997 is unacceptable, as it forecloses future consideration of a permit buyback program.
2. The allowance of cooperatives within the trawl industry.
3. The total lack of input crabbers and other affected sectors were allowed in this process, and the fact that these issues should be decided by the North Pacific Fishery Management Council.

I would like to give you some historical background as to the reason why I, and the vast majority of crabbers find fault with the preceding three points.

1980-1983

These years formed the "King Crab Crash" which resulted in a 66% decrease in average crab vessel revenue. Many vessels converted and crossed over to trawling at this time due to grim future prospects in the crab industry. These trawlers have rarely fished crab since this time, and have never relied upon it financially. The trawl "A" season

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and opilio crab season (Over 70% of income is derived for the respective industry during these seasons) have historically occurred in conjunction. For this reason, trawlers have not economically depended upon crab since the early 1980's. The 39 trawlers under consideration are pioneers of the trawl industry and a huge expense to the crab industry, both from revenues lost due to bycatch mortality and periodic directed fishing.

#### No Trawl Zone 1981-1985

Trawlers and major processors fought to have the historic crab sanctuary (no-trawl zone) opened to trawling. This zone has been an extremely important area for the protection of king crab from the effects of trawling. This area was opened to trawling in 1981 resulting in a huge amount of bycatch and waste of king crab by trawlers, creating significant losses for crabbers. The Alaska Crab Coalition (ACC) was formed in order to combat this blatant disregard of the entire crab industry. A no-trawl zone was re-established in 1986 by the ACC. However, it was much smaller and did not cover some critical area for the red king crab. If it had not been for the ACC, these trawlers who call themselves "pioneers" would have destroyed the crab resource.

#### Future of Groundfish Committee (FOG Committee) 1987-1988

The FOG Committee was composed of representatives from all fishing industry sectors. The task of this Committee was to find ways in which to deal with imminent overcapitalization in all Bering Sea fishing industries. The FOG Committee recommended to the North Pacific Fishery Management Council (NPFMC) a moratorium on new entrants. This recommendation would have created a much more healthy Bering Sea fishing industry, and S.1221 or any license limitation would not be necessary. However, the trawlers and major processors fought this action delaying the moratorium 6 years with no curtailment of new entrants into any fisheries.

#### Individual Transferable Quotas (ITQ's) 1990-1995

ITQ's were discussed for certain Bering Sea fisheries (Halibut, Crab, and Groundfish) very seriously during the first half of this decade. In particular, crab was a likely candidate of such a program due to safety reasons (Bering Sea Crab fishing is the most dangerous industry in the U.S.). The current Halibut/Blackcod fishery shows the increased safety benefits of an ITQ. ITQ's would allow fishermen to fish around the weather, instead of fishing through



unsafe weather under the current olympic style fishery. However, the trawlers and major processors sunk this crab ITQ program. Now, the trawlers and processors are legislating their own two pie ITQ program through a cooperative. This cooperative will allow them to transfer quota from vessels just as an ITQ would and free up crossover boats to fish the major crab fisheries.

#### Industry Funded License Buyback Plan (LBP) 1996-1998

The LBP was designed by members of the crab industry to deal with the overcapitalization of the crab industry, which could have been dealt with many times in the past. However, the trawlers and major processors always wanted a little more and would not allow the gates to crab or trawling be closed. The LBP is designed to buy enough licenses to maintain the fleet below 200 vessels. The addition of 39 trawlers to the crab industry, combined with a cooperative fishing agreement for these trawlers, greatly increases capacity in the crab industry. Basically, the trawlers are scuttling attempts by the crab industry to limit capacity. In addition, they will ironically use proceeds from the crab to pay back their \$70 million buyback loan.

#### Current Situation

The current average crab vessel revenue has fallen to the same level as in 1983, when many crabbers permanently crossed over to participate in the groundfish industry. However, crabbers now have no other fishery to cross over to and the entire crab industry is teetering on the economic brink. Instead of being granted some form of relief, we are in jeopardy of having 39 pollock vessels grandfathered into our fishery and able to fish full-time. Average crab vessel revenue is now only \$600,000 (this is almost certainly below average break even) while trawlers average three times this amount. S.1221, or an LLP amendment that allows speculative pollock boats into crab fisheries, will lead to mass bankruptcies for the crab industry and a loss of life by many crab fishermen.

#### Conclusion

Allowing 39 additional trawlers to enter the crab industry is entirely unfair. These vessels made an economic decision in the early 1980's to become trawlers, and have not relied upon crab since. The crab industry is already massively overcapitalized, without the addition of these 39 trawlers. The addition of these 39 trawlers with the cooperative will make the average crab fisherman

go bankrupt. There are also 128 crab vessel with trawl licenses. This license to trawl is worth well over \$1 million per license. However, these 128 crabbers are willing to give up this right if, and only if, trawlers are willing to give up the right to crab.

It is an outrage to crabbers that trawlers are allowed a cooperative, which will allow them to fish all crab seasons. This is also an outrage to crabbers since the crab industry has fought long and hard for both limitation of vessels and some form of cooperative or ITQ. We have never been granted this privilege because the trawlers want a piece of our industry as well.

Lastly, it is an outrage that this process has circumvented the North Pacific Fishery Management Council (NPFMC) system and gone through congress with no input from other industries. Do crabbers matter that little to our own representatives? The NPFMC was put in place so that these situations would not occur. Instead, you have over ruled the recent Inshore-Offshore allocation decision, and created a huge mess which stretches well beyond the Bering Sea trawl industry. All S.1221 does is transfer the problem from the Bering Sea trawl industry to other sectors of the fishing industry such as crabbers.

It is ridiculous that the trawlers and major processors are able to have their way, grandfathering 39 trawlers in the crab industry, given the fact of their blatant disregard for the conservation of crab stocks in the Bering Sea.

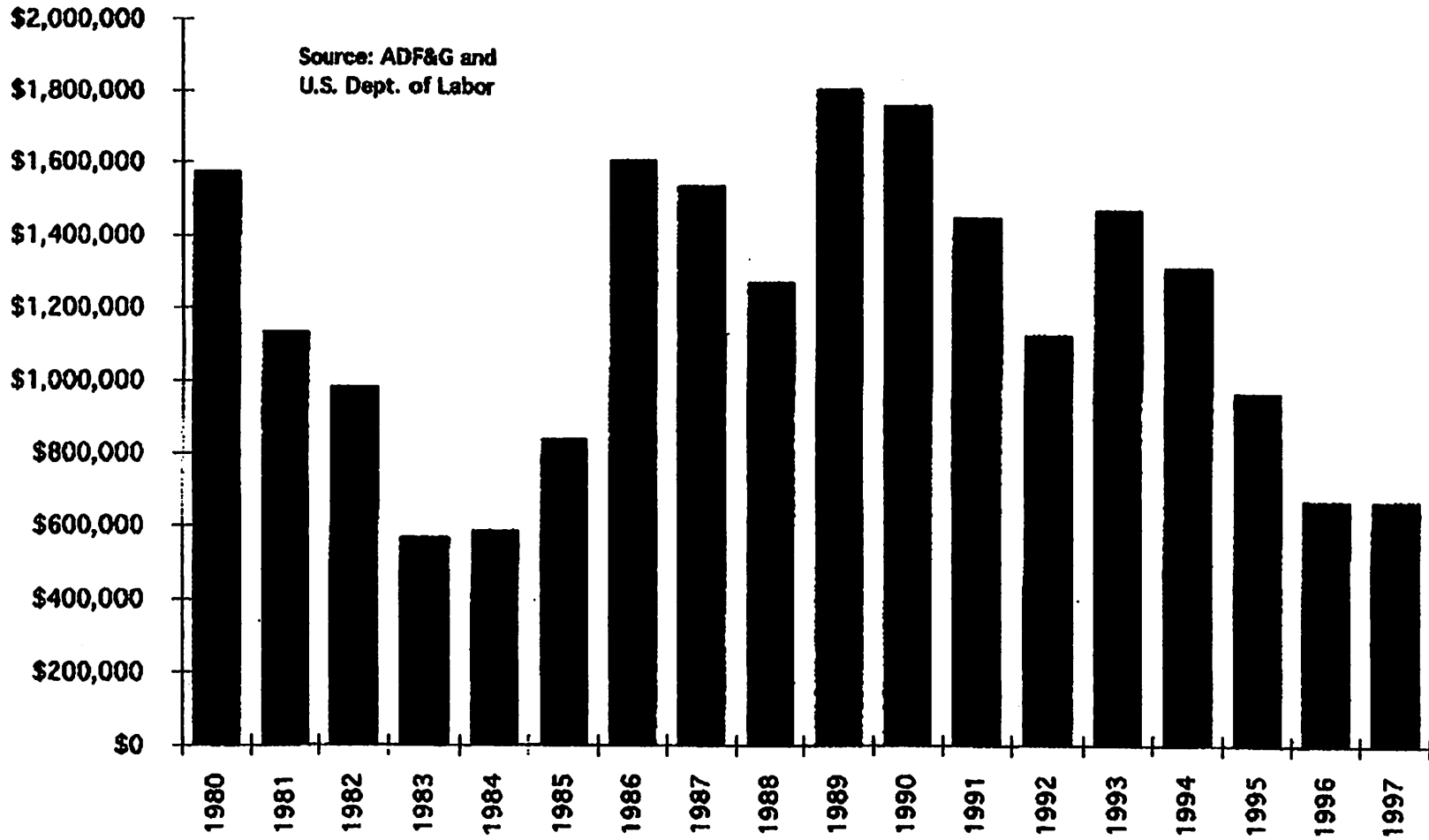
Sincerely,



Edward Poulsen  
Kris Poulsen & Associates

cc: Rick Lauber, Chairman NPFMC  
Frank Rue, Commissioner ADF&G

### Average Crab Vessel Revenue Adjusted for Inflation



from OCT 98 mtg  
notebook

# KRIS POJESSEN & ASSOCIATES

COMMERCIAL FISHING VESSELS • MV BERING SEA • MV ARCTIC SEA • MV NORTH SEA

1143 N.W. 45TH STREET • SEATTLE WASHINGTON 98107 • OFFICE: 206-783-6708 • FAX: 206-784-2502

RECEIVED  
SEP 29 1998  
N.P.F.M.C

September 29, 1998

Mr. Rick Lauber, Chairman  
North Pacific Fishery Management Council  
605 West 4th Avenue, Ste. 306  
Anchorage, Alaska 99501-2252

RE: Agenda Item C-1, License Limitation Plan Amendments

Dear Rick,

The purpose of this letter is to explain the necessity of Alternative 4 of Proposed Action 5 (Require recent crab fishery participation), scheduled for the October Council meeting in Seattle. Alternative 4 is a necessity for three reasons: The proposed industry funded Bering Sea/Aleutian Islands crab license buyback, current conditions of the crab industry, and agreements made between the crab and groundfish industries in the early 1990's.

### BS/AI Crab Industry Funded Buyback

History has shown that the most debilitating issue facing any buyback program (industry or government funded) is latent capacity. The greater the latent capacity, the greater the chance of failure. Historical examples of buyback programs fraught with latent capacity are: Washington State Salmon Buyback, East Coast Groundfish Buyback, British Columbia Salmon Buyback, and the United Kingdom Decommissioning Scheme. None of these programs were able to retire any substantial amount of effective capacity. All of these fisheries were license limited with loose entry requirements resulting in latent capacity (for example, it has been estimated that 75% of current East Coast Groundfish licenses are latent). Most of the time this occurs because license limitation is chosen as a solution to declining harvests and increasing effort. However, by the time the license limitation plan is in place it is too late. More vessels are licensed than the amount which traditionally fished the resource, an economic collapse typically occurs, and a huge amount of latent capacity exists as few vessels can depend upon the resource. Those that never where dependent on the fishery continue fishing for their dependent fishery with license in hand from the previously licensed fishery.

The Bering Sea crab industry is showing all the telltale signs of continuing this trend. The Northern Economics analysis projects 365 vessels to qualify for BS/AI crab fisheries. However, the number of vessels which depend upon crab (i.e. are not financially viable without it) is in the low 200's. This can be shown by determining which fisheries the traditional crab fleet depends upon for financial viability. For the last five years, vessels have averaged \$573,619 during Opilio, while averaging only \$94,200 and \$71,400 for King and Bairdi crab respectively. Put another way, 77.6% of average vessel revenue is generated in the Opilio season.

The implications of this are that a vessel can not depend upon either King crab or Bairdi. This is further evidenced by the closure of King crab in both 1994 and 1995 and closure of Bairdi in 1997. Basically, the traditional crab fleet which depends upon crab fisheries for financial viability can be determined by looking at those vessels which consistently fish Opilio crab.

The number of vessels making Opilio landings between 1995-1998 has averaged 235. Analysis of the State of Alaska's Commercial Fisheries Entry Commission lists show that there is some speculation going on even within this group of crabbers. Due to this speculation, the true number of core crab vessels which are economically dependent on crab is most likely somewhat less than 200 vessels. This is also shown in the analysis under alternative 8 which requires landings in each of the years between 1995-1998. One would expect that if a vessel is truly financially dependent on crab, the vessel would have made numerous landings in each one of these years. 1998 should be included even though the data only includes Opilio, since Opilio represents 77.6% of all revenue generated by a crabber. The analysis shows only 193 vessels made landings during this period.

I support Alternative 4 which requires crab landings in 1996 and 1997 because it is fair while still eliminating most of the latent capacity present within the industry. Alternative 4 would qualify 245 vessels (after reductions and exemptions). This amount is somewhat greater than the number of vessels financially dependent upon crab. However, it also allows flexibility for those vessels which have extenuating circumstances.

Qualification of any amount of crab vessels greater than 245 will result in undue latent capacity. This latent capacity will hinder, if not destroy, any chance of the industry funded crab buyback. It makes no sense for the crab industry to buy out vessels which are opportunistic and speculative. Little effective capacity could be retired with the amount of money available for the buyback. Basically, vessel owners would be asked to pay more for the program than the benefits they would receive from a smaller fleet size.

However, with qualification of 245 vessels, the industry funded Crab Buyback Plan would have a very good chance of buying out effective capacity. In this way, the Crab Buyback would actually receive greater benefit in decreased fleet size, than they pay out to support the buyback loan.

In summary, Alternative 4 should be implemented because it is a fair way to achieve a fleet of mostly true crabbers (financially dependent on crab). By doing so, the industry funded Buyback will then have a very good chance of approval and becoming a success.

### **Current Conditions of the Bering Sea Crab Industry**

The Bering Sea crab industry is in a very poor economic state at the present time. The attached chart reveals that average vessel revenues are at the same level experienced during 1983-1984 adjusted for inflation. It was during this time that many crab vessels crossed over to become trawlers. The current situation is just as desperate. Although difficult to determine, it is most likely that the average vessel revenue is below the average economic break even point. This implies that vessels are having a very difficult time paying the bills.

Where vessel owners used to maintain vessels to the best of their ability, vessels owners are now forced to scrimp on maintenance. I believe that the prolonged decreased average revenues crabbers are experiencing will become apparent soon for the traditional crab fleet (especially if some severe weather is experienced), as may be evidenced by an increase in vessel sinkings and injuries.

There is a very important difference between traditional crabbers which are dependent on crab and those latent vessels which are not dependent. Latent vessels do not need to earn enough money during crab season to cover their fixed costs, while traditional crabbers do. Thus, it makes sense for vessels from other industries to participate in the short King and Bairdi seasons, even when average revenue levels are very low.

For example, as long as a vessel is able to cover fuel, bait, and food expenses (as well as applicable insurance) it makes sense for a vessel to fish a short season such as King or Bairdi. These variable costs are quite low for these fisheries since they are so short. It should be expected that many vessels will then enter these fisheries to cover a portion of their fixed costs (i.e. interest, taxes, licenses, legal, accounting, phone, a portion of insurance, and vessel maintenance). These vessels which are not dependent on crab are mainly trawlers and longliners as well as 24 large crab vessels fishing in other countries, which have healthy industries. For example, trawlers averaged \$1,731,770 in

1996 and over \$2 million in 1995. Basically, they are able to cover all fixed costs in their dependent fisheries while making pure profit in King and Bairdi.

Unfortunately, the traditional crab fleet must be able to cover nearly all fixed costs during the Opilio season. This has been exceedingly difficult as average revenues during the Opilio fishery have dropped dramatically. In 1995 average Opilio revenue was \$711,462 then dropping almost in half to \$365,811 in 1996 and remaining depressed in 1997 at \$409,292. The situation looks just as bleak for the future in regards to Opilio. A lack of recruitment means that we have already seen the peak in abundance, and quota levels will begin to drop off dramatically. Unfortunately, the nagging influence of the Japanese economic crisis will continue to depress all crab prices. Canadian and Russian harvests of Opilio and King continue to depress prices as well.

What this means is in a few years traditional crab fishermen will be forced to rely on another resource as Opilio quotas are slashed and prices do not compensate for the decline. However, there are no new crab resources to develop. Bairdi is currently closed and shows no sign of recovery. This leaves King as the future mainstay of the traditional crab industry. However, with increased King crab abundance and revenues, latent capacity will come flooding in resulting in an inability of crabbers to pay for their fixed costs.

The result of the above will be an economic disaster for the traditional crab fleet if Alternative 4 is not implemented.

### Industry Agreements on Crossovers

During June 22-28 of 1992, the North Pacific Fishery Management Council met and took final action on the vessel Moratorium. The July 7, 1992 Council Newsletter states, "There are no further restrictions on a qualified vessel crossing over from one fishery to another (groundfish, crab, or halibut) during the moratorium, regardless of past participation." This agreement was struck between the various fishing industries at this time.

We are now at a point where halibut has gone Individual Transferable Quota, and both the groundfish and crab industries are attempting to eliminate the crossover provision. This is fine as long as both sides are willing to eliminate the ability to crossover. An important fact to consider is that it is relatively easy for both trawlers and longliners, as well as any other vessel which so desires, to lease crab pots and make a landing in the crab fishery. At the same time, it is not an easy task for a crabber to attach trawl gear to the vessel and make a landing.

For the above reason, crossovers should be eliminated, and Alternative 4 of Proposed Action 5 should be implemented. Alternative 4 will eliminate many of the speculative vessels which do not depend on crab, but made a landing due to the ease of doing so with the desire to obtain a license for a fishery in which they rarely fish.

### Conclusion

The Bering Sea/Aleutian Islands crab industry is currently in an economic recession due to low prices and an abundance of vessels. Many of these vessels fish speculatively and opportunistically, which results in economic hardship upon the traditional crab fleet which is economically dependent upon crab. For the industry funded Crab Buyback Plan to have any chance at success and to avert the very real possibility of an economic collapse of the traditional crab industry, Alternative 4 of Proposed Action 5 should be implemented.

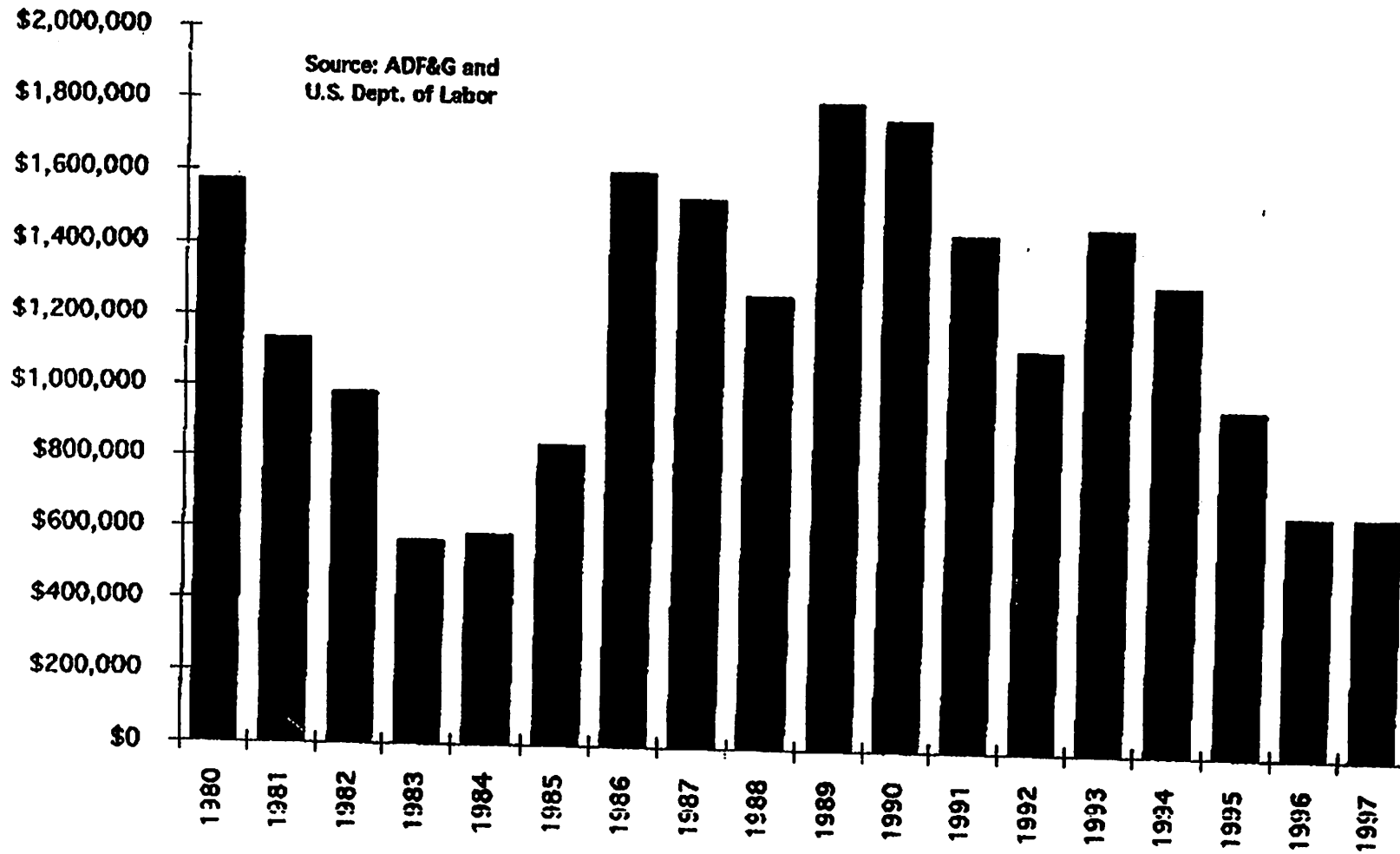
Sincerely,



Edward Poulsen  
Kris Poulsen & Associates



### Average Crab Vessel Revenue Adjusted for Inflation





# ALASKA CRAB COALITION

3901 Leary Way (Bldg.) N.W., Suite #6 • Seattle, WA 98107 • (206) 547-7560 • FAX (206) 547-0130

DATE: November 5, 1998

TO: Mr. Rick Lauber, Chairman  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup> Avenue, Suite 306  
Anchorage, Alaska 99501-2252

FROM: Arni Thomson, Executive Director

RE: COMMENT ON AGENDA ITEM C-1, SENATE BILL S. 1221, AND  
POTENTIAL IMPACTS ON CRAB FISHERIES MANAGEMENT AND  
THE CRAB LICENSE LIMITATION PROGRAM

This Comment provides an analysis of the harvesting and processing shares in the onshore sector of the BSAI pollock industry. This Comment does not concentrate on the offshore sector. The reason is that S. 1221, as enacted in the omnibus appropriations measure for fiscal year 1999, set in motion the means of achieving the original, worthy objectives of the proposal, Americanization and decapitalization of the offshore sector. While one may question the taxpayer subsidy provided for these purposes, the fact remains that it is other aspects of the legislation, i.e., those not originally contemplated and not made the subject of public hearings, that threaten the BSAI crab fisheries with severe, adverse conservation and economic consequences, while at the same time unjustly enriching a relatively small number of individuals and companies. It is the effect of these provisions, relating principally to the onshore component, that is the subject of this Comment.

The seven processing companies and 29 of the affiliated pollock catcher vessels, many of which are owned by the major processors, are also involved in the BSAI crab fisheries. Unless the NPFMC reconsiders and the Secretary concurs, an additional 11 catcher vessels, 7 of which are partners in the mothership, Ocean Phoenix, will also be licensed along with the other 29 (a total of 40), in the NPFMC crab LLP program, in January 2000. (See attachment.)

These vessels represent significant, previously latent fishing capacity. Twenty-nine of these could be eliminated from the crab LLP under the pending Alternative #4 amendment to the LLP. Without adoption of Alternative #4 on a reconsideration vote of the NPFMC, these vessels could become regular participants in the Bering Sea snow crab fishery, the "bread and butter" of the 235-vessel, Bering Sea crab fleet, under the cooperative-related provisions of S. 1221, as enacted in the federal omnibus appropriations measure for fiscal year 1999. When finally invited to participate in an S. 1221 meeting in Washington D.C. on September 17, 1998, the ACC proposed the Alternative #4 landing requirement as a protection measure. However, the parties

involved in the negotiations strongly opposed any significant protections for the BSAI crab-dependent fleet, and subsequently lobbied to undo such protections as had been secured. (See Comment of the Alaska Crab Coalition and the CRAB Group on "Basic Elements of Agreement on S. 1221 - 9/11/98, dated Sept. 16, 1998, also submitted to the NPFMC, Agenda C-1.) **Thus, S. 1221 authorizes quota shares for catcher vessels, and there are no restrictions on transfers to other vessels that would prevent freeing-up the crab LLP qualified pollock catcher vessels to fish in crab and other groundfish fisheries, except as may be provided by the NPFMC with the approval of the Secretary of Commerce in accordance with the new law.**

The following is a summary analysis. It is based on a list of pollock catcher vessels, their owners and major markets, submitted by Brent Paine of United Catcher Boats to the U.S. Senate on September 17, 1998, for the Manager's Amendment to S. 1221, as potentially eligible to be harvesting vessels in the proposed pollock cooperatives and the NPFMC groundfish LLP. The list itself is based on NMFS groundfish catch records for the BSAI, 1995, 1996 and 1997. (See attachment.)

There are seven major shorebased companies effectively identified in S. 1221. They are: Alyeska and Westward Seafoods, UNISEA, Trident Seafoods, Tyson Seafoods, Northern Victor, and Peter Pan Seafoods. The acknowledged major companies are the Alyeska and Westward companies (controlling interest in each held by Maruha), UNISEA and Trident, each having a reliably estimated share of 30% (give or take 1% or 2% for each), of onshore pollock production and marketing (13.5%, each, of the total pollock TAC). **The aggregate processing and marketing share of the three major companies is equivalent to approximately 40% of the total BSAI pollock TAC.** Northern Victor and Tyson share the remaining 8-9%, at an estimated 4% each (and Tyson also has a substantial share of the offshore quota). Peter Pan Seafoods has an estimated share of 1-2% of the onshore pollock production.

**The seven onshore pollock companies not only dominate the shorebased pollock industry, but they also have over 60% of the processing and marketing share of the Bering Sea crab industry. In 1998, these companies processed and marketed 175,000,000 pounds of opilio, produced by 158 of the 229 vessels registered in the fishery.**

According to the list of pollock catcher vessels (and other reliable industry sources), there are an estimated 77 vessels with "established markets" that catch and deliver pollock to the plants on a scheduled rotation basis during the pollock A and B seasons. UNISEA has 12, Alyeska and Westward have 16 (9 of which are vertically integrated), Trident has 32 (12 of which are vertically integrated), Tyson has 6 (all vertically integrated), and Northern Victor has 8. (See the S. 1221 United Catcher Boats list of vessels, owners, and markets.)

	1998 Pollock	Boats	1998 Opilio	Boats
Unisea	30%	12	12%	30
Alyeska & Westward	30%	16	12%	27
Trident	30%	32	22%	56
Northern Victor	4%	8	2%	7
Peter Pan	2%	3	14%	35
Tyson	4%	6	1%	3
Totals	100%	77	63%	158

In 1998, these 77 vessels and related processing plants will have produced and marketed 365,000 metric tons of pollock (average ex vessel price, \$154/mt) worth an ex vessel value of \$56,210,000. According to industry estimates, each of the 3 major companies will have purchased and/or produced an estimated 110,000 mt of raw product for \$17 million, to process and market value-added surimi and some fillets.

The average ex vessel revenue, from pollock only, for the 77 vessels, is \$730,000. Add to this a vessel's three-year average catch of other groundfish, an estimated \$100,000 to \$150,000 and the conservative estimate of the average ex vessel revenue for a BSAI pollock trawler is \$830,000 in 1998.

By their own standards, 1998 has been considered a tough year for the pollock industry. However, as a result of S. 1221, and a de facto 42% increase in the shorebased allocation of pollock, to 50% of the TAC, revenue estimates for 1999 look much brighter for the 77 fishing vessels and the related shorebased plants.

Assuming the total TAC remains the same in 1999, and the price does not decline, the inshore component will share 497,800 mt of pollock in a similar ratio, worth an ex vessel value of \$76,538,000. The large plants could each increase their catch and production from 110,000 mt to 150,000 mt, and this would increase their dockside delivery value from \$17 million to \$23 million -- **a 35% increase in gross revenue for shorebased plants.**

Similarly, the 77 catcher vessels could increase their average gross revenue from pollock in 1999 from \$730,000 to an estimated \$994,000 -- **a 36% increase in gross revenue for shorebased catcher vessels.** Add to that their average catch of other groundfish, \$100,000 to \$150,000, and the average vessel revenue for a BSAI pollock trawler could be \$1.1 million in 1999, very similar to the shorebased pollock fleet's three year average gross revenue, an estimated \$1,010,905. (See attachment, ACC presentation to the NPFMC, October 8, 1998, Comparative Economic Analysis of Bering Sea/Aleutian Islands Inshore Trawl Catcher Vessel Revenues Vs. Crab Vessel Revenues, 1995-1997.)

In addition to S. 1221 legislating an increase in the onshore allocation of pollock from 35% to 50% of the TAC and reduced costs and improved profits that can develop from the cooperative structure, **the bill also creates windfall profits for all sectors of the pollock industry.**

This is clearly illustrated in the bill under (d) **PAYMENTS.—(2)(A)**:

Contained in this section is a payment of \$5,000,000 to Tyson Seafoods, owners of the catcher processors listed in paragraphs 10-14—a negotiated settlement for giving up ½ of 1% of the pollock TAC to the mothership sector in order to secure an industry agreement.

According to reliable industry sources, this negotiated price has established an opening market value for pollock quota shares. **Each one per cent of the Bering Sea and Aleutian Islands pollock TAC is valued at \$10 million.**

With the onshore pollock allocation now increased to 50%, or a net of 45%, after deduction of 10% for CDQs, **the onshore allocation is worth an estimated \$450 million and there is an equal value for the offshore sector.**

Industry sources also recognize that with the S. 1221 restriction on entry of new pollock processing companies, in both the onshore and offshore components, **a similar or greater value has been added to all the processing companies for processing rights**, thereby greatly increasing their financial leverage over non-pollock companies and independently owned fishing vessels. **Unfortunately, some may argue that a precedent has been set for limiting processors in other fisheries.**

To determine the quota share value (or windfall) at the individual vessel level, one simply divides the 45% onshore allocation by the 77 regular rotation onshore catcher vessels. **Each vessel has on average, 0.6 of 1% of the TAC, or a quota share worth an estimated \$4 million to \$6 million.** Of course, the larger catcher vessels will have as much as 1% of the TAC, or \$10 million in quota share, and multiple vessel owners will have multiples of \$4 to \$10 million worth of quota shares.

This market value estimate is not without substantiation. The rule of thumb in the halibut/sablefish quota share market is that quota shares run about four times the annual ex vessel value of the vessel. Note the 1999 estimated average gross revenue for the BSAI catcher vessel is about \$1.1 million. And with the beginning of quota share programs, the market value of the shares usually start high, as the ex vessel value of the fish usually increases the first year. As the resource increases, the value of the quota share also increases, provided that the ex vessel price does not decline.

**The average Bering Sea crab vessel's revenue of \$500,000 or less for 1998, and a permit value of \$1,000 per foot (worth on average, \$114,000 per vessel) pale in comparison to corresponding values for the average pollock trawlers, 40 of which claim, without justification, economic dependence on Bering Sea crab fisheries. If those vessels succeed in gaining limited entry permits for the Bering Sea crab fisheries, it will be due solely to their political influence and it will be contrary to the provisions of fairness and equity, conservation, and safety in the Magnuson-Stevens Act.**

**The influx of 40 additional vessels into the BSAI crab fisheries, according to a recent letter from the Alaska Board of Fisheries to the NPFMC on this issue, could render these fisheries unmanageable.** Conservation impacts on the fragile resources could be extremely severe, with further serious consequences to all participants. Of course, the pollock catcher vessels would be in an advantageous financial position to weather increased competition for the crab resource and yet another period of decline in the crab fisheries. This could lead to widespread business failures within the traditional crab fleet and displacement by the pollock catcher vessels. Consequences for safety, already the worst among all U.S. fisheries, could be severe. The three major processors will begin to compete aggressively for crab production, accelerating the race for fish, as the industry now anticipates that the BSAI crab fishery is the next target of the onshore pollock companies for processor-dominated cooperatives.

In conclusion, it needs to be said that the only crabs the BSAI pollock trawlers have depended on for economic survival the last fifteen years have been the dead ones they have hauled up in their cod ends, their bycatch allocation, that allows them to prosecute their groundfish fisheries. If these vessels become active in the crab fisheries, it is foreseeable they could bifurcate the fleet on bycatch and pot limit measures, creating a conflict of interest on these and other issues that would further exacerbate conservation and rebuilding programs. This has already been evidenced in the bycatch policies of their representatives at the NPFMC.

REVISED 11/5/98

LIST OF BERING SEA S. 1221 COOP-ELIGIBLE POLLOCK/GROUNDFISH TRAWLERS, NPFMC APPROVED, ALTERNATIVE #9 FOR THE LICENSE LIMITATION PROGRAM, FOR BERING SEA KING & TANNER CRAB FISHERIES TOTAL VESSELS: 40

VESSEL NAME	ADF&G	LOA	OWNERSHIP INFORMATION	
AJ	57934	150	Saga Sfds.	WA
ALASKA DAWN	69765	78	William Gilbert	AK
ALDEBARAN	48215	119	Trident Sfds.	WA
ALSEA	40749	124	Halls	OR
AMERICAN EAGLE (OK alt. 4)	00039	120	R. Tynes, J. Wabey	WA
ARCTIC WIND	01112	123	Victor Sfds.	WA
ARCTURUS	45978	119	Trident Sfds.	WA
ARGOSY) (OK alt. 4)	38547	124	Halls	OR
BLUE FOX (Attached, NMFS memo)	62892 or 66039 ?	85	Pacific Draggers Inc	OR
COMMODORE	53843	118	Victor Sfds., J. Hohannesen	WA
DOMINATOR) (OK alt. 4)	08668	124	Trident Sfds.	WA
DONA MARTITA (OK alt. 4)	51672	165	Trident Sfds R. Desautel	WA
ELIZABETH F	14767	81	S. Stutes	AK
FIERCE ALLEGIANCE (OK alt. 4)	55111	167	Westward Sfds	WA
FLYING CLOUD (OK alt. 4)	32473	124	Trident Sfds	WA
GOLDEN DAWN	35687	122	Trident Sfds., APICDA	AK
GUN MAR	41312	137	G. Ildhuso, (Ocean Phoenix)	WA
LADY JOANNE (OK alt. 4)	62922	58	David Wilson	AK
LISA MARIE	70221	78	YDFDA	AK
MAJESTY	60650	98	Trident Sfds	WA
MAR GUN	12110	98	G. Ildhuso, ( Ocean Phoenix)	WA
MARCY J (OK alt. 4)	00055	79	H. Jones	AK
MARGARET LYN	31672	87	R. Czesler (Ocean Phoenix)	WA
MARK I	06440	98	E. Pederson, (Ocean Phoenix)	WA
MUIR MILACH	41021	86	D. Fraser	WA
NORDIC FURY	00200	93	M. Stone, S. Hovik	WA
NORDIC STAR	00961	123	C. Swasand	WA
OCEAN HARVESTOR (OK alt. 4)	00101	108	K. Ness (Trident partner)	WA
OCEANIC	03404	122	E. Langesater	WA
PACIFIC FURY	00033	110	M. Stone, (Ocean Phoenix)	WA
ROYAL AMERICAN	40840	105	O. Austneberg,	WA
SEA STORM	40969	123	W. Pereyra	WA
SEA WOLF	35957	143	AK. Boat Co	WA
SEADAWN	00077	124	F. Yeck	OR
STAR FISH (OK alt. 4)	00012	123	C. Swasand	WA
STARLITE	34931	123	C. Swasand	WA
STARWARD	39197	123	C. Swasand	WA
STORM PETREL	39860	123	Victor Sfds, J. Johannesen	WA
VESTERAALLEN	38342	105	E. Pedersen, (Ocean Phenix)	WA
VIKING EXPLORER (OK alt. 4)	36045	125	Trident Sfds	WA

MAJOR PERMIT HOLDERS: Ocean Phoenix group 7, Swasand/Starbound 4, Trident Sfds 9, Victor Sfds / Johannesen 3, Sub Total, 23 of 40

ADDITIONAL COOP VESSELS CURRENT PARTICIPANTS IN BSAI CRAB NOT QUALIFIED UNDER ALT #9: DONA LILLIANA, GOLDEN PISCES, HALF MOON BAY, POSEIDON, ROYAL ATLANTIC, SUNSET BAY, VANGARD Sub Total 7

LIST OF POTENTIAL BERING SEA POLLOCK CATCHER VESSELS FOR COOPERATIVES

	<u>VESSEL NAME</u>	<u>OWNER</u>	<u>DELIVERS</u>	<u>MARKET</u>
C-	ALYESKA <i>Out on #9</i>	WA'ATCH, INC	MOTHERSHIP	EXCELLENCE
	CALIFORNIA HORIZON	KYDAKA, INC	MOTHERSHIP	EXCELLENCE
	MISTY DAWN	KATAHDIN, INC	MOTHERSHIP	EXCELLENCE
	PACIFIC CHALLENGER	CHET PETERSON	MOTHERSHIP	EXCELLENCE
	PAPADO II	PAPADO, INC.	MOTHERSHIP	EXCELLENCE
	ALEUTIAN CHALLENGER	BOB BRESKOVICH	MOTHERSHIP	GA
	AMBER DAWN	BURTON PARKER	MOTHERSHIP	GA
	AMERICAN BEAUTY	AMERICAN BEAUTY, INC	MOTHERSHIP	GA
	OCEAN LEADER	OCEAN LEADER, INC	MOTHERSHIP	GA
C	- VANGUARD <i>Out on #9</i>	VANGUARD PART	MOTHERSHIP	GA
C	- MARGARET LYN	BOB CZEISLER	MOTHERSHIP	OCEAN PH
C	- MAR-GUN	ILDUSO FISHERIES	MOTHERSHIP	OCEAN PH
C	- MARK I	CHRIS GARBRICK	MOTHERSHIP	OCEAN PH
C	- NORDIC FURY	STAN & SCOTT HOVIK	MOTHERSHIP	OCEAN PH
C	- OCEANIC	EINAR LANGESATER	MOTHERSHIP	OCEAN PH
C	- PACIFIC FURY	STAN & SCOTT HOVIK	MOTHERSHIP	OCEAN PH
C	- VESTERAALLEN	EINAR PEDERSON, TC	MOTHERSHIP	OCEAN PH
	WESTERN DAWN	THOR & STEVE OLSEN	MOTHERSHIP	OCEAN PH
	KAREN EVICH		INSHORE (sp)	TRIDENT
	NIGHTWATCH		INSHORE (sp)	TRIDENT
	OCEAN STORM		INSHORE (sp)	TRIDENT
	ALASKA ROSE	ALASKA BOAT COMPANY	INSHORE	ALYESKA
	BERING ROSE	ALASKA BOAT COMPANY	INSHORE	ALYESKA
	DESTINATION	ALASKA BOAT COMPANY	INSHORE	ALYESKA
	GREAT PACIFIC	ALASKA BOAT COMPANY	INSHORE	ALYESKA
	MORNING STAR	DAVID STANCHFIELD	INSHORE	ALYESKA
	PACIFIC MONARCH	AAS FINANCE LLC	INSHORE	ALYESKA
C-	SEA WOLF	ALASKA BOAT COMPANY	INSHORE	<u>ALYESKA</u>
e-	ARCTIC WIND	ARCTIC WIND	INSHORE	NV
e-	COMMODORE	COMMODORE PART	INSHORE	NV
e-	HALF MOON BAY <i>Out on #9</i>	VESEL HOLDING INC	INSHORE	NV
e-	<del>POSEIDON - NO CRAB LLP</del>	POSEIDON & OWNFRS	INSHORE	NV
e-	ROYAL AMERICAN		INSHORE	NV
e-	<del>ROYAL ATLANTIC NO. LLP</del>	JOHN JOHANNESSEN	INSHORE	NV
e-	STORM PETREL	STORM PETREL PART	INSHORE	NV
C-	SUNSET BAY <i>Out on #9</i>	VESEL HOLDING INC	INSHORE	<u>NV</u>
e-	ELIZABETH F	ELIZABETH F INC	INSHORE	PPSF
C-	LISA MARIE	YUKON-DELTA CDQ	INSHORE	PPSF
	WALTER N	ELIZABETH F INC	INSHORE	<u>PPSF</u>
C-	ALASKA DAWN	WILLIAM GILBERT	INSHORE	TRIDENT
e-	ALDEBARAN	ROYAL VIKING INC	INSHORE	TRIDENT
e-	ARCTURUS	ROYAL VIKING INC	INSHORE	TRIDENT
e-	BLUE FOX		INSHORE	TRIDENT
	COLUMBIA	ROYAL VIKING INC	INSHORE	TRIDENT
C-	DOMINATOR	ROYAL VIKING INC	INSHORE	TRIDENT

C: Denotes pollock cv's moratorium and/or crab LLP qualified to fish Bering Sea crab fisheries

\*Historically many vessels have delivered into more than one sector

25

45



C- DONA LILIANA <i>NO CRAB LLP</i>	NINA FISHERIES	INSHORE	TRIDENT
C- DONA MARTITA	NINA FISHERIES	INSHORE	TRIDENT
C- DONA PAULITA <i>-NO CRAB LLP</i>	NINA FISHERIES	INSHORE	TRIDENT
ENDURANCE		INSHORE	TRIDENT
EXODUS	RONALD COWLES	INSHORE	TRIDENT
C- FLYING CLOUD	TRIDENT 50%	INSHORE	TRIDENT
C- GOLDEN DAWN	ROYAL VIKING INC	INSHORE	TRIDENT
GOLDEN PISCES	ELMER MCNABB	INSHORE	TRIDENT
C- LADY JOANNE	LADY JOANNE INC	INSHORE	TRIDENT
LISA MELINDA	LISA-MELINDA FISH	INSHORE	TRIDENT
C- MAJESTY	ROYAL VIKING INC	INSHORE	TRIDENT
MARATHON	PERRY BUCHANAN	INSHORE	TRIDENT
C- MARCY J	MARCY J INC	INSHORE	TRIDENT
MESSIAH		INSHORE	TRIDENT
MISS BERDIE	STANLEY SCHONES	INSHORE	TRIDENT
MS AMY	STAN SCHONES	INSHORE	TRIDENT
PACIFIC RAM	BLUE SEA FISHERIES	INSHORE	TRIDENT
PACIFIC VIKING	ROYAL VIKING INC	INSHORE	TRIDENT
PEGASUS	CAPE LOOKOUT INC	INSHORE	TRIDENT
PEGGY JO	PEGGY DYSON	INSHORE	TRIDENT
PERSEVERANCE	MARCON FISHERIES INC	INSHORE	TRIDENT
PREDATOR	GARY BERNHARDT	INSHORE	TRIDENT
RAVEN	DAVID HAINES	INSHORE	TRIDENT
SEEKER	JAMES SEEVERS	INSHORE	TRIDENT
TRAVELER	REX HOCKEMA	INSHORE	TRIDENT
C- VIKING EXPLOREK	ROYAL VIKING INC	INSHORE	TRIDENT
ARCTIC I	ARCTIC FISHERIES	INSHORE	TRIDENT
ARCTIC III	ARCTIC FISHERIES	INSHORE	TYSON
C- ARCTIC IV <i>Out on #9</i>		INSHORE	TYSON
C- ARCTIC VI		INSHORE	TYSON
OCEAN ENTERPRISE	TYSON SEAFOODS	INSHORE	TYSON
PACIFIC ENTERPRISE	TYSON SEAFOOD GROUP	INSHORE	TYSON
C- ALSEA	TYSON SEAFOOD GROUP	INSHORE	TYSON
C- AMERICAN EAGLE	RONDYS	INSHORE	UNISEA
C- ARGOSY	REIDAR TYNES & JW	INSHORE	UNISEA
AURIGA	RONDYS	INSHORE	UNISEA
AURORA	ALASKA OCEAN SEAF	INSHORE	UNISEA
DEFENDER	ALASKA OCEAN SEAF	INSHORE	UNISEA
C- GUN-MAR	ALEUTIAN SPRAY FISH	INSHORE	UNISEA
C- NORDIC STAR	ILDIUSO FISHERIES	INSHORE	UNISEA
C- SEADAWN	ALEUTIAN SPRAY FISH	INSHORE	UNISEA
C- STARFISH	FY FISHERIES	INSHORE	UNISEA
C- STARLITE	ALEUTIAN SPRAY FISH	INSHORE	UNISEA
C- STARWARD	ALEUTIAN SPRAY FISH	INSHORE	UNISEA
ALASKA COMMAND	ALEUTIAN SPRAY FISH	INSHORE	UNISEA
C- CATLIN ANN	WESTWARD SEAFOODS	INSHORE	WESTWARD
CHELSEA K	J&R DOOLEY	INSHORE	WESTWARD
C- FIERCE ALLEGIENCE	JIM THILL	INSHORE	WESTWARD
C- PACIFIC KNIGHT <i>Out on #9</i>	WESTWARD SEAFOODS	INSHORE	WESTWARD

\*Historically many vessels have delivered into more than one sector

PACIFIC PRINCE		INSHORE	WESTWARD
PROGRESS	RONDYS	INSHORE	WESTWARD
VIKING	WESTWARD TRAWLERS	INSHORE	WESTWARD
WESTWARD I	WESTWARD TRAWLERS	INSHORE	<u>WESTWARD</u>
CAPE KIWAHDA	BEN HOGEVOLL	INSHORE	
CARAVELLE		INSHORE	
CAREFREE	WILLIAM HOFFMAN	INSHORE	
CELTIC	LOUIS BERNTSEN	INSHORE	
COLLIER BROS	JAMES SCHONES	INSHORE	
GOLD RUSH	MICHAEL JONES	INSHORE	
HICKORY WIND	HICKORY WIND LLC	INSHORE	
OCEAN HOPE 1	US MARINE CORP	INSHORE	
OCEAN HOPE 3	US MARINE CORP	INSHORE	
PERSISTENCE	PERSISTENCE FISH	INSHORE	
ROSELLA		INSHORE	
TOPAZ	EMILHIAN REUTOV	INSHORE	
NEAHKAHNE	FRANK BOHANNON	FT	ARCTIC FJORD
SEA STORM	SEA STORM FISHERIES	FT	ARCTIC STORM
FORUM STAR	FORUM STAR	FT	ASC
TRACY ANNE	TRACY ANNE INC.	FI	ASC
AMERICAN CHALLENGER	AMERICAN SEAFOODS	FT	ASC
AJ	SAGA SEAFOODS PART	FT	ASC, HL
MUIR MILACH	MUIR MILACH, INC.	FT	ENDURANCE
OCEAN HARVESTER	KOKOPELLI FISHERIES	FT	STARBOUND
EXCALIBUR II	KENT LESLIE		
GOLDEN PRIDE			
HAZEL LORRAINE	HL JV		
LESLIE LEE	LESLIE LEE INC		
MEGAN HOPE			
U-RASCAL	CHRIS FIALA		

(4)  
 Total BSAI pollock cv's: 124  
 Total BSAI crab qualified pollock cv's: 50  
 Total BSAI pollock cv's qualified in the original crab LLP: 46  
 Total BSAI pollock cv's qualified under Alt. #9, crab LLP: 90

(30)

## Comparative Economic Analysis Of Bering Sea/Aleutian Islands Inshore Trawl Catcher Vessel Revenues Vs. Crab Vessel Revenues

### Inshore CV Revenue

Year	Total Pollock Revenue	Pollock Vessels	Other Gfish	Other Gfish Boats	Ave. Pollock Revenue	Ave. Other Gfish Revenue	Total Ave. Gfish Revenue
1995	\$84.9M	84	\$20.4M	104	\$ 1,010,000	\$ 196,000	\$ 1,197,000
1996	\$71.3M	92	\$17M	119	\$ 775,000	\$ 142,857	\$ 917,857
1997	\$71.3M	92 (est.)	\$17M	119 (est.)	\$ 775,000	\$ 142,857	\$ 917,857
Averages					\$ 853,333	\$ 160,571	\$ 1,010,905
					Pollock is 84% of Groundfish Total		

### Crab Fleet Revenue (Based On Alt. 4, 245 Vessels)

Year	Total Crab Revenue	Crab Revenue Ave. (Alt.4, 245 Standardized)	# of XO's Fishing Crab	Ave. Crab Revenue of Pollock Vessels	% of Ave. Gfish Revenue	Potential Ave. Loss to Crabber (43 XO's)	Net Ave. Revenue to Crabbers
1995	\$205.6M	\$ 839,184	22	\$60,000 (Bairdi)	5%	\$ 125,295	\$ 713,889
1996	\$130.9M	\$ 534,286	11	\$171,000 (BBKC)	18%	\$ 79,772	\$ 454,514
1997	\$134.7M	\$ 549,796	36	\$110,000 (BBKC)	12%	\$ 82,088	\$ 467,708
Averages		\$ 641,088	Opilio is 73% of Crab Total	\$ 113,667	11.7%	\$ 95,718	\$ 545,370

Actual Crab Vessel Participation Has Ranged From 196-257

References: Economic Status Of The Groundfish Fisheries Off Alaska. NMFS (1997). Alaska Dept. of Fish & Game, Westward Region Shellfish Economic Report (1997).

Crab Revenue Based on Major Fisheries: Bering Sea Opilio and Bairdi, Bristol Bay Red King Crab, and St. Matthews/Pribiloffs Blue and Red King Crab

**From:** Jessica Gharrett <Jessica.Gharrett@noaa.gov>  
**To:** acc-crabak@email.msn.com <acc-crabak@email.msn.com>  
**Cc:** epoulsen@u.washington.edu <epoulsen@u.washington.edu>; Tracy Buck <Tracy.Buck@noaa.gov>  
**Date:** Wednesday, November 04, 1998 3:53 PM  
**Subject:** Re:REQUEST FOR MORATORIUM QUALIFICATION INFORMATION ON CRAB

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✓ 1. Re the F/V Blue Fox (ADF&G 62892). This vessel was formerly named the F/V Golden Pride. Vessel Moratorium Qualification (VMQ) # 7987 and Vessel Moratorium Permit (VMP) # MP2422 were issued to E.L. McNabb, Jr., (the vessel owner), in March, 1996. The MVQ was endorsed for groundfish with hook, pot, and trawl gear; but not for crab. On June 19, 1996, after examination of evidence submitted and reconsideration of the landings history, RAM reissued to Mr. McNabb the MVQ and MVP with the added crab endorsement; for the renamed vessel, F/V Blue Fox. The vessel was subsequently sold to Pacific Draggers, Inc. and H.B. Lee, Inc. An application to transfer the qualification to the new owners was approved in April, 1996. Those owners also applied for, and received, an MVP # MP3086.

Pacific Draggers, Inc. also owned a different vessel named F/V Blue Fox, ADF&G # 66039. That vessel became qualified for the Moratorium when we approved on April 8, 1996 a transfer of MVQ # 7901 from the original qualifying vessel and its owners (Sea Venture ADF&G # 62426 owned by Matthew Doney and John McLeod) to Pacific Draggers, Inc. for the F/V Blue Fox (ADF&G # 66039). Pacific Draggers, Inc. obtained an MVP # MP3074 for this F/V Blue Fox (issued on April 11, 1996). The qualification and permit were endorsed for groundfish with hook, trawl, and pot gear. The MVQ (# 7901) was transferred to New Life, Inc. for use on the vessel F/V New Life (ADF&G 21845). The F/V Blue Fox was sold to Paul Ward and renamed the F/V Grumpy J. Mr. Ward received another MVQ (# 5179) by transfer from L.G. Fisheries, Inc. and the F/V Lady Grace (ADF&G 16866). On 1/19/98, Paul Ward was issued MVQ (# 5179) and MVP (# MP8261) for the F/V Grumpy J.

2. Re the F/V Swell Rider: VMQ # 4700 originated with the F/V Polar Star (ADF&G # 00043). Owner PSF, Inc. used that VMQ to obtain VMP # MP2290. On 1/6/97 the VMQ was transferred to Todd Marine Leasing, Inc. but still named the F/V Polar Star, and an VMP (# 3393) was issued to the new vessel owner. On 12/2/97 RAM approved a transfer of the VMQ from Todd Marine Leasing, Inc. to William Williams and from the F/V Polar Star to (no named vessel). In 4/98 the F/V Polar Star was purchased by William Williams in a Marshall's sale; also, sometime between 12/97 and 6/98 she was renamed F/V Swell Rider. The F/V Swell Rider was sold by William Williams to Bayshore Mgmt., Inc. and on 6/15/98 the VMQ (#4700) was transferred to that vessel and a new VMP (#8310) was issued to the owner.

**Senator Stevens' Remarks  
to the North Pacific Fishery Management Council  
Wednesday, November 11, 1998**

Senator Stevens: Thank you, Mr. Chairman. I'm delighted to be here as a veteran of the same war as you, I believe. I hate to date you that way, Mr. Chairman. Every Veteran's Day, I'm more and more aware of the great privilege we have to have survived, and I do hope you'll take the time at 11:00 to honor those who did not. It's a very interesting thing. I went to a veteran's meeting recently, maybe this isn't quite apropos for this meeting but a fellow stood up and started talking. He said, "Do you remember that stuff they gave us during World War II? Said you wouldn't be too sexually active." He said, "You remember? The good news was it didn't work then." He said, "the bad news is it's working now." Veterans do know how to enjoy life, Mr. Chairman.

It's nice to be here with you, and I appreciate you giving me this time. I did have commitments in Fairbanks yesterday and I know you would have preferred that I come then. My staff, Trevor and Denali, tell me you've done considerable work to prepare for the decisions that you'll need to make in the weeks and months ahead because of the legislation we've just passed. At this time, I hope you will join me in really honoring this young man from Seward who spent so much time while I was involved trying to get eight delayed appropriations bills, four supplemental appropriations bills and 50 separate pieces of legislation ready to go in one omnibus bill. Trevor McCabe chaired the meetings and our appropriations committee, as you know they lasted four full days one week, and three full days the next. He produced the final draft that had the consensus of the industry, the government, and the state, and the Senate adopted it unanimously as part of the omnibus bill. Trevor McCabe has really done a great job, a yeomen's job for the fisheries industry and for the State of Alaska, and I hope you'll join me in recognizing him right now for that.

Alaskans have a great opportunity, I think, with the American Fisheries Act to achieve real decapitalization and stability in the Bering Sea pollock fishery. It's our hope that this is an opportunity for the Council to make some decisions that they've not been able to make since the beginning. Let me clear up some misconceptions about this bill, which we call the American Fisheries Act. As you know, there are some people in this room that helped me draft the first bill that became the Magnuson Act. It became the Magnuson Act because I knew the great role he had played in helping us get that bill passed, but it was a bill for Alaska and for the Pacific northwest. There's no question about that. And I believed in 1976 that we'd found the best solution on how to deal with management off our shores, and this Council of yours is the outcome of the decisions we made then. What we passed now is what I told the Senate was a one-time corrective measure. Its purpose was to correct things that went wrong in Congress, not here. The 1987 Anti-reflagging Act which you did not have a chance to deal with, just didn't work. Much of the Act we just passed is going to be implemented by you and by the National Marine Fisheries. And there is actually authority in this Act for you to supersede many of our recommendations if you disagree with the way we've done it. Besides the U.S. ownership requirement, there's only two areas of this legislation that cannot be changed by your Council until 2004. Those are the allocations and eligibility criteria for the participants. We meant, by that six year delay, to give the pollock industry fishery time to settle out, and really to change directions under this new regime of this legislation. That should allow the Council and Alaska and Washington Representatives and Senators in Congress to focus on something other than pollock for awhile. That's good for us, and I'm very serious when I say that those of us in the Senate, in particular, particularly Senators Gorton and Murray and our delegation, tried to get this bill passed, not as a criticism of this Council. Some people have indicated that was the case. It is not. It was really a criticism of our own action in the 1987 Anti-reflagging Act, and the actions of some in the Coast Guard who misinterpreted what we did. But I think the blame for that too is on Congress. We should have understood that we had to be more specific about what the Anti-reflagging Act meant. We worked together with the Coast Guard now to get this fix passed by Congress and I want to recognize Captain Vince O'Shea, the Coast Guard's representative on the Council, to express appreciation for what the Coast Guard did in assisting us. You may not realize it, but we could not have developed the U.S. ownership standard and the other measures in this bill that clean up the mistakes of the Anti-reflagging Act without the help of the Coast Guard. Their persistence in reviewing the files to see what people had done at the Coast Guard in

**Remarks to the North Pacific Fishery Management Council  
by Senator Ted Stevens, November 11, 1998**

1987, and soon thereafter, and their willingness to open cases that had been closed to let us understand what had happened really helped us more than anyone will know. I think this time we've got the standard right and there will be a full public review period before the standard really goes into effect in 2001. We believe you can help us fix any problems that may develop. Under this Act as you know, nine factory trawlers, almost a third of the fleet, will be removed from the Bering Sea fishery. The Act will establish the limited entry classes for vessels in the Bering Sea pollock fishery and prevent the entry of new vessels or the re-entry of the vessels that have gone off to Russia. It will establish new allocations among the components in the Bering Sea. It will bring more parity as far as the offshore/onshore fisheries, increase the CDQ allocation, and I could talk about that if you like, and should allow both the factory trawler and the mothership sectors to have greater stability from the point of view of profits. It increases the likelihood that vessels fishing the Bering Sea will be able to form fishery cooperatives, and finally slow down what many have criticized, the race for fish. With fishery cooperatives, we've been told the bycatch levels should come down, product recovery rates go up, the costs of production go down, and fisheries should be more safe for the individuals and the safety of the vessels themselves. I think these improvements to the Bering Sea pollock fishery are good. There's some risks involved in what we've done. Risks to other fisheries, and unfortunately and it's my feeling that will be your task to see to it that the Bering Sea benefits are realized, but the benefits do not come at the expense of other fisheries and fishermen. The Fisheries Act prescribes specific limitations to prevent vessels fishing for Bering Sea pollock from using the flexibility of fishery cooperatives to fish more heavily in other fisheries. This Council should not feel constrained if these measures are not adequate to protect those other fisheries. It is our hope you will take seriously the provisions of this bill and recommend whatever measures you think are necessary to protect those other fisheries and other participants and to ensure that the conservation benefits that we intend with this bill and Congress are fully realized. Now, some of the fishermen in the Gulf have asked about fishery cooperatives to help level the playing field in the Bering Sea. You do have the ability to improve the potential for fishery cooperatives if that's the way to go. Fishermen off of Alaska already have the authority to form cooperatives under the provisions under the old 1934 Federal Anti-trust Exemption that was known as the Fisheries Cooperative Act. To help with that opportunity, this new Act provides some important new authority in direction for them if they wish to pursue that. It allows this Council for the first time to waive confidentiality requirements and public release, release information on a vessel-by-vessel basis in the groundfish fisheries. It is our hope that you would use that authority to fulfill the promises of fishery cooperatives and to meet the bycatch reduction requirements of the Magnuson-Stevens Act. This new Act also includes a directive of the Congress to the Council to eliminate latent licenses under your license limitation program. It was a surprise to me and I think many of us in Congress to learn that there are as many as 100 more licenses issued than there are vessels actually fishing in the fisheries off our shore. Our measures to eliminate some of these vessels, particularly the factory trawlers and restrict the catcher vessels was intended to relieve the pressure on the area, but that could be reversed if the potential of these other licenses is not dealt with properly. We have provided the National Marine Fisheries Service and this Council with funds specifically to address some of these problems - six million dollars to implement the American Fisheries Act and an increase of more than 3½ million dollars to implement the Magnuson-Stevens Act off Alaska. We hope that's enough. If it isn't, without tooting my horn too much, I think I have the position to assure you we'll get you the money you need. It is really very fortunate, I think, that the three of us do have these chairmanships right now to help us pursue trying to create a permanent regime for our resources and particularly our fisheries development that can last beyond our time. I hope that by this Act that has been achieved. As I commented at the beginning, as you see more and more Veteran's Days go by, you know the time is passing quickly Mr. Chairman.

We have a situation here this week I know you're working on currently. I never try to tell the Council what to do, but I do express the hope that reduced capacity and the fishery cooperative regimes that we have tried to give you authority to pursue under this new Act will help with the Steller sea lion problems. I have been concerned about the lack of data linking the sea lion to the decline in fishing opportunities. I have specifically requested and Congress has now doubled the amount of federal funds targeted to the Steller sea lion problems and now we're putting almost three million dollars annually into that research. Yet, it's in the papers this morning, I don't see,

**Remarks to the North Pacific Fishery Management Council  
by Senator Ted Stevens, November 11, 1998**

I'm sure you'll agree, we don't have evidence to justify many of the proposals that have been presented to the courts. I urge you once again, as I have on other issues, to just manage on the side of caution. This I think is the worst blip on our screen today as far as the future of fisheries in the North Pacific. We will continue to provide resources, to increase the resources to determine the cause of the decline of the Steller sea lion, but in the meantime, I am getting a little older when I tell you, I do hope you will be conservative on issues relating to the Steller sea lion. You have the pollock stocks to consider, the biomass of which we all believe has gone down significantly in recent years. Your goal, I hope, will be to help the National Marine Fisheries Service avoid any court intervention in the management of our fisheries. I think the last thing any one of us need, anyone needs, that is concerned about the North Pacific is a spotted owl situation off shore. That would lead to the courts managing this Council. And if you think that Congress has done a bad job, what until you see that one. Once that has happened, as you know from the (?) decision, it never ends. It just never ends. So this problem is one that's like walking through an acre of egg shells barefooted. You can't afford to break one of them. I do think that you have a tremendous opportunity however to work with the National Marine Fisheries Service to guide a steady course on that problem.

I appreciate your courtesy in letting me make those comments. If any of you have any questions of me, I'll be glad to entertain them, but I'm sure you don't want me to answer questions from these people back here. We'd be here all day if we start that. Nice to see you all here though.

RECEIVED

AGENDA C-1(e)  
Supplemental

NOV - 6 1998

N.P.F.M.C

To: Chris Oliver  
NPFMC 907-271-2817 fax

From: Walt Raber Phone 207443-5769  
FIU Ocean Spray & fax 207 443 5780  
FIU Providian (Replacement)

Message: I have replaced the Ocean Spray, lost in September 1994, with the FIU Providian. I followed all NMFS requirements to replace the vessel and received a fishery endorsement in August 1998. They allowed the signing of a construction contract dated Dec 5, 1996 as meeting the two year replacement rule, and approved the dimensions (112'10") to be within the 20% enlargement limit. They also allowed the transfer of the maritimum qualification to the FIU Majesty in Nov 1997 to validate the permit since



②

the FIU Providian was delayed due to conditions beyond my control (Shipyard going bankrupt) the permit was validated with a delivery of King Crab and carried the endorsement through a season pollock in 1998. The qualification was transferred to the FIU Providian in April 1998 and a fishery endorsement assigned to it in Aug 1998. Under paragraph (g)-(6) page 204 of the section 201 (Subtitle I Fishery Endorsements) of the American Fisheries Act, it ~~states~~ references replacement vessels otherwise qualified, I feel this allows an inshore eligibility certificate for the FIU Providian.

I also feel the crab endorsement is valid also since FIU Ocean Spray qualified and was active

(3)

until its untimely loss. I had grabbed and trawled actively with the Ocean Spray since my purchase of the vessel in 1991 and was fishing pollock when I lost the vessel. Obviously I would have continued its participation in the Gulf of Alaska, BSAI onshore and offshore components as its recent history indicated. I should be allowed to use the replacement vessel in the same manner. I have millions invested and lenders provided financing based on its eligibility of the license/permit program, which I followed to the letter. Please advise on my position in view of all current legislation.

Sincerely  
Walt Rabe

16 U.S.C. 1861a  
M-S Act § 312

- (ii) make available to such owners information about the industry fee system describing the schedule, procedures, and eligibility requirements for the referendum, the proposed program, and the amount and duration and any other terms and conditions of the proposed fee system.
- (B) The industry fee system shall be considered approved if the referendum votes which are cast in favor of the proposed system constitute a two-thirds majority of the participants voting.

Wagnuson-Stevens

Section  
312(d)(2)(C)

(2) Notwithstanding section 304(d) and consistent with an approved industry fee system, the Secretary is authorized to establish such a system to fund the program and repay debt obligations incurred pursuant to section 1111 of title XI of the Merchant Marine Act, 1936. The fees for a program established under this section shall--

- (A) be determined by the Secretary and adjusted from time to time as the Secretary considers necessary to ensure the availability of sufficient funds to repay such debt obligations;
- (B) not exceed 5 percent of the ex-vessel value of all fish harvested from the fishery for which the program is established;
- (C) be deducted by the first ex-vessel fish purchaser from the proceeds otherwise payable to the seller and accounted for and forwarded by such fish purchasers to the Secretary in such manner as the Secretary may establish; and
- (D) be in effect only until such time as the debt obligation has been fully paid.

**(e) IMPLEMENTATION PLAN.--**

(1) The Secretary, in consultation with the appropriate Council or State and other interested parties, shall prepare and publish in the Federal Register for a 60-day public comment period an implementation plan, including proposed regulations, for each program. The implementation plan shall--

- (A) define criteria for determining types and numbers of vessels which are eligible for participation in the program taking into account characteristics of the fishery, the requirements of applicable fishery management plans, the needs of fishing communities, and the need to minimize program costs; and
- (B) establish procedures for program participation (such as submission of owner bid under an auction system or fair market-value assessment) including any terms and conditions for participation which the Secretary deems to be reasonably necessary to meet the goals of the program.

(2) During the 60-day public comment period--

- (A) the Secretary shall conduct a public hearing in each State affected by the program; and
- (B) the appropriate Council or State shall submit its comments and recommendations, if any, regarding the plan and regulations.